



EU support to security sector reform in the DRC

Towards an improved governance of Congolese security forces?

EURAc

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We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights.

Kofi Annan (2005)

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Introduction

The processes of peace, stabilisation and development in the Great Lakes region in Africa are confronted with numerous obstacles. The political and security tensions in the Democratic Republic of Congo (DRC) represent a threat to stability, security and development for the region as a whole. A number of international actors including the European Union (EU) and the United Nations (UN) have been playing an active role in terms of support to the development of Security Sector Reform (SSR), protection of civilians, security and stabilisation programmes.

With this position paper, the European Network for Central Africa (**EurAc**) and its members aim at looking at the role the EU and, to a lesser extent the UN have been playing in the DRC in the last decade in terms of support to SSR, and look forward to the role the EU should be playing in the next years. This analysis is to be put in the context of the **(1)** EU decision to close down its European Common Security and Defence Policy (CSDP) missions EUSEC and EUPOL and to start a new SSR program under the 11th European Development Fund (EDF) and **(2)** the probable gradual reduction of the UN presence in the country, combined with **(3)** persisting threats against civilians' security and on human rights at regional and national levels, presence of armed groups and an intense coming electoral agenda. These dynamics should represent an opportunity for the EU to redirect its approach on SSR by focusing more on governance¹ and political dimensions of the reform.

This document aims to understand and to assess the international community's action and intervention in the DRC. It starts with a brief presentation of what the key points for a successful SSR are with a special focus on justice and governance (**part I**). In **part II**, **EurAc** gives an analysis of the general security situation in the DRC and its challenges. In **part III**, **EurAc**'s intention is to offer an overview of the mandates of EUSEC and EUPOL missions in terms of SSR, justice and governance. It intends to present EU missions' outcomes as well as the strengths and weaknesses of their operationalisation. Finally (**part IV**), **EurAc** analyses what are the perspectives of the EU support to SSR in the DRC.

The recommendations presented here below result from the analysis produced in these four parts.

¹ By "governance" we mean the State capacity to ensure the basic needs of its citizens; a civil society which takes parts in the decision making process the rules, norms, law, procedure and behaviour where State and civilian's interests meet and where resources are managed; a public participative management, accountable and efficient which allowed State and civilian activities in order to pursue common economic and social development goals.



* Cover photo by Giampaolo Musumeci, Photographer, Journalist, Filmmaker, Milan, Italy.

Recommendations

Considering the analysis developed in this position paper and the appraisal of the former European missions (EUSEC and EUPOL), **EurAc** and its members, recommend that the European Parliament, the European Commission and the External European Action Service

- Strengthen the **democratic control of the armed forces** by strengthening their accountability to civil authorities and civil society by: **(1)** giving the capacity to the civil authorities to exercise political control and constitutional oversight of security sector, **(2)** providing capacity within civil society to monitor security sector and provide constructive input into political debate on security policies, **(3)** work together with the Congolese authorities towards better transparency of security-related matters;
- Focus **significant efforts toward the fight against impunity** of the armed forces by: **(1)** condemning all the human rights violations and requiring the conduct of independent investigations, **(2)** conducting independent qualitative evaluation of the armed forces' behaviour, **(3)** ensuring the active participation and involvement of the population directly affected and civil society organisations directly involved in protection programmes;
- Support the Congolese authorities in **developing a specific strategy for the up-coming elections** where the armed forces will have to play an crucial role to allow peaceful electoral process or in case of overflows;

- Use all its political, financial and technical means in order to **engage a strong dialogue with the Congolese authorities under Art. 8 of the Cotonou Agreement** on: **(1)** its commitment to the reform, **(2)** the provision of sufficient resources to sustain the recent improvements in the security sector and to pursue the reform.
- In this light **invite Federica Mogherini to visit DRC** to engage in an high-level dialogue with the Presidency;
- Engage in an **internal reflection on existing EU instruments** with the aim to identify those that are best placed to support the development of a long term reform;
- Identify **the needs in terms of coordination of EU and Member States** actions and interventions in order to avoid overlaps and reinforce the efficacy of each action.

Specific recommendations on army reform:

- Strengthen the **political dialogue** within the framework of the EU mission Progress on **(1)** human rights abuses perpetrated by the FARDC and **(2)** the illegal involvement of high ranking FARDC officers in the exploitation of and trade in natural resources. This dialogue should encourage the Congolese authorities to take sanctions to send the clear message through the FARDC chain of command that impunity in these matters does not prevail anymore.
- Support the **initiative to create a «Comité de suivi»** for the reform of the army that would ensure Congolese ownership of the process;
- Support **the legislative process aimed at implementing the Programming Law** (*Loi de programmation de la réforme des FARDC*) and put pressure on the Congolese Government in order to foster defence budget transparency.

Specific recommendations on police reform:

- Strengthen the **political dialogue** within the framework of the EU mission PARP on **(1)** the conduct of an electoral process respectful of the constitution and **(2)** the alarming shrinking of the democratic space threatening the political expression and participation during the pre-electoral period and the elections in 2016.
- Support existing initiatives put in place by civil society organisations aiming at creating spaces for **reinforcing the relations between the police and the population**;
- Support the awareness raising and dissemination of a **code of conduct for police officers** in the way it has been done for the army;
- Put pressure on the Congolese Government on **the effective implementation of the Programming Law** including the need for better transparency in defence budgeting and spending.

Specific recommendations on justice reform:

- Increase EU support to **programmes aimed at fighting corruption** in order to be coherent with its global transparency objectives;
- Increase EU support to programmes aimed at fostering the **independency of military justice** from the chain of command of the army;
- Put pressure on the Congolese Government to **respect its Constitutional commitments** in the creation of the three levels of jurisdiction that foresee: Supreme Court, State Council, Constitutional Court (in place since 2014);
- Support the **effective implementation of the Rome Statute** into Congolese domestic legislation.

Part I: Theoretical basis for a successful SSR

The Security Sector Reform concept

The concept of Security Sector Reform (SSR) is used to refer to the process through which a country seeks to review and enhance the effectiveness and the accountability of its security and justice providers. The transformation includes “all the actors, their roles, responsibilities and actions, so that they work together to manage and operate the system in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributes to a well-functioning security framework”².

The SSR concept has been largely recognized and conceptualized in guidance by several organisations as for instance the Organisation for Economic Co-operation and Development (OECD), the EU or the African Union (AU). In 2014 the UN Security Council adopted a resolution (2151)³ which established the main principles of SSR. On that basis, the international community agreed on the importance of the some **key elements to drive successfully the SSR** that are described below:



Source: DCAF-ISSAT, *Manuel de formation: introduction à la réforme du secteur de la sécurité*, 2014.

A successful SSR relies mainly on **the local ownership** of all the relevant stakeholders (State or no-State actors) in the country meaning the providers of security and justice services but also all the beneficiaries (population and civil society). Security Sector Reform is the process through which a country seeks to review and enhance the **effectiveness** of the security services in order to enhance the overall well-being of the State and its people. It also includes a dimension of **accountability** which implies the establishment of control and regulation procedures on the whole secu-

rity sector which includes among others the army, the police, the justice and the prisons but also: presidential guards, intelligence and secret services, border and customs services. No SSR program can be successful in the long term if rule of law, proper accountability and governance structures are disregarded.

Three essential dimensions of SSR can be identified:

- **Holistic vision** which includes all the aforementioned actors, and requires understanding the interconnected nature of the various components of the security and justice sector;
- **Technical complexity** as SSR requires a wide range of skills and the adoption of a multi-disciplinary approach. Among the specific skills required are substantive knowledge and experience in specific reform areas (such as policing, defence, intelligence and local Government but also in relevant cross-cutting issues such as gender and human rights), technical expertise in areas such as budgeting, logistics, communication and IT, experience in change and program management;
- **Political sensitivity** because they impact directly on the State's monopoly on the use of force. Engaging in SSR therefore requires a high level of political understanding and sensitivity, analytical, research and negotiation skills, tact and diplomacy⁴.

Specific focus on Justice

Justice reform aims at providing an impartial and independent justice system, the access to justice for the population (and especially the less favoured as for instance women and youth), the effective interpretation and implementation of laws and the proper execution of court decisions⁵.

SSR and justice reform are closely related; without a competent judicial system which is able to interpret the laws and enforce them and to sanction the proven violations, proper functioning of SSR and its outcomes are impeded.

² ISSAT's definition (Online: <http://issat.dcaf.ch/Learn/SSR-Overview>).

³ UN Security Council, *Resolution 2151 on Security Sector Reform*, April 2014 (Website: <http://unssr.unlb.org/Resources/UNDocuments/tabid/255/SMID/498/Itemid/124/Default.aspx>).

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



⁴ For more information and details about SSR theory, please refer to <http://issat.dcaf.ch/Learn/SSR-Overview>.

⁵ OIF, *La réforme des systèmes de sécurité et de justice en Afrique francophone*, March 2010.

As recommended by the OECD in its guidance⁶, the justice reform must achieve the independence, impartiality and effectiveness of all the involved actors and institutions. Moreover an important cooperation between the justice and security forces is needed. Indeed it is important to support good governance and accountability of armed forces through an **effective judiciary system**. The judicial mechanisms allowed a framework of control and the obligation for accountability for security institutions.

Although SSR cannot fully embrace the **justice reform** on its own, special focus on closely related aspects must be included:

- the improvement of criminal justice functioning by strengthening professionalism of the security forces;
- strengthening the role of legal and judicial institutions in control of security institutions (regarding human rights);
- advocacy for more independence of the judiciary;
- improvement in the management and administration of the judiciary (including prison);
- better access to justice for all the population;
- the promotion of conciliation and mediation in post-conflict situation;
- the harmonization of traditional practices with the legal system and formal court⁷.

A special attention must be given to the **prison system** as justice reform and prison reform are closely interconnected. According to the OECD, prisons contribute to protect the community, discourage offenders and implement judiciary decisions, they are therefore very important in the criminal chain. But the detention conditions are often extremely unpleasant, as many human rights violations, violence and ill-treatment occur daily.

Specific focus on governance

The security sector is often used by the political leaders to reinforce their power at the expenses of civilian protection⁸. Therefore citizens often face violence and human rights violations. **Strengthening the “governance component of the security forces”** is a mean to contribute to a coherent and strong SSR.

Governance encompasses a large range of private and public actors. The security sector reform should not only focus on State actors (as the executive, legislative and judiciary)

but **must include civil society participation**.

The security system has to be managed as the rest of the public sector that is to say with the duty of accountability and transparency⁹.

Democratic governance is based on few principles including the **rule of law, the right of political participation and transparent and accountable institutions**. Within SSR, these principles can be translated as follow:

- adherence of security bodies to international law and domestic constitutional law;
- accountability of security bodies to civil authorities and civil society;
- acceptance of clear hierarchy of authority between civil authorities and security bodies, clear statement of mutual rights and obligations between civil authorities and security bodies;
- capacity among civil authorities to exercise political control and constitutional oversight of security sector;
- capacity within civil society to monitor security sector and provide constructive input into political debate on security policies;
- transparency of security-related matters (as budget for instance);
- adherence of security sector to the same principles of public-expenditure management as non-security sectors;
- access of security forces to professional training consistent with requirements of democratic societies;
- high priority accorded to regional and sub-regional peace and security by policy makers¹⁰.

The accountability of the armed forces is always very difficult to implement, as the Government or the armed forces rarely accept to be controlled by other institutions or civilian authorities. However democratic control and transparency are essential for a well-functioning security sector.

⁶ OECD, *Handbook on Security System Reform: Supporting Security and Justice*, 2007.

⁷ OIF (2010), *op.cit.*, p.132.

⁸ Marcel Wetsh'Okonda Koso, *RDC: La justice militaire et le respect des droits de l'Homme, l'urgence du parachèvement de la réforme*, AfriMAP & Open Society Initiative for Southern Africa, 2009.

⁹ OECD, *Security System Reform and Governance*, DAC Guidelines and Reference Series, 2005 (Online: http://www.oecd-ilibrary.org/development/security-system-reform-and-governance_9789264007888-en).

¹⁰ Nicole Ball, “Democratic Governance in the Security Sector”, prepared for UNDP Workshop *Learning from Experience for Afghanistan*, 5 February 2002 (Online: <http://www.ciponline.org/images/uploads/publications/3201.pdf>).

Part II: Security situation in the DRC

The Great Lakes region has experienced and unfortunately is experiencing turbulent past and present; security has been a major issue for decades.

Since the end of the Cold War, Central Africa has known recurrent internal and regional conflicts, which led to the extreme violence at the end of the last century: the genocide in Rwanda in 1994, the civil war in Burundi (1993-2005), the wars of 1996-1997 and 1998-2002 in the Democratic Republic of Congo. These armed conflicts have contributed to an instability characterised by high poverty rate, conflicts of identity, fragility of State building process and security matters affecting each country separately, while impacting on the stability and development of the region as a whole. The DRC is probably the country which is most challenging the region's stability, with its ongoing internal instability which is at the basis of a very problematic security context¹¹.

The international community's commitment and intervention in the DRC allowed some improvements in term of stability and security for few years, but many problems remain. Moreover the situation may worsen as the DRC enters a new electoral phase¹² that has the potential to increase the tension throughout the country. As we have seen in the previous months, democratic space, freedom of speech and the conditions for the mobilisation of citizens are clearly deteriorating. In this context, it is crucial that the international community pursues its effort. Indeed, the police and the army will have to play a major role to ensure peaceful elections and a level of security that allows the opposition parties, media and civil society to play their roles during the electoral periods and the population to express their political preferences during the polls. During that period, and to avoid ruining the development progress hardly built in recent years, the security sector must be closely monitored as many challenges related to the security forces remain.

The generalised climate of insecurity has several causes and involves a large range of actors. All the **national security forces** are at the roots of insecurity as for instance the Congolese National Police (CNP), the National Intelligence Agency (ANR), Direction Générale de Migration – Immigration Services (DGM), Forces Armées de la République Démocratique du Congo – Congolese Armed Forces (FARDC).

In addition to a rampant banditry all over the country, State armed forces over which the national authority has little and weak control, remain one of the main source of instability and violence in the DRC.

For decades DRC security and stability have been threatened by the presence of a high number of **armed groups**. Localized armed conflicts in several regions stem from the will of some rebel groups to take control over the natural resources of the country, or to seize political benefit through negotiation with local and/or central authorities¹³. These groups are mainly motivated by economic, political, social or security interests, or continue to be active mainly in the resource rich regions. In some cases, neighbouring countries support rebels involved in the fights in the DRC. They control some parts of the Congolese territory and they commit crimes against the population. The involvement of Rwanda, Uganda, and to a lesser extent Burundi in the DRC's internal affairs, contributes to insecurity in the DRC but also in the whole region¹⁴.

Around 70¹⁵ armed groups have been identified in the entire country, from which the principal are the Lord Resistance Army (LRA), the Forces Démocratiques de Libération du Rwanda (FDLR), the Allied Democratic Forces (ADF), the Forces Nationales de Libération (FNL), the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS), the Bakata Katanga, the Nduma defense of Congo (NDC), the Mai-Mai Yakutumba, the Mai-Mai Nyatura faction and the Raia Mutomboki faction. These groups are particularly active in the resource-rich regions of the North and South Kivu, Katanga Province and Ituri (Oriental Province).

¹¹ Instability in the DRC has already driven 445 000 Congolese out of the country. The UNHCR estimated that there is also about 2,6 million displaced person inside the country. See European Commission, *Fiche info ECHO – RDC*, September 2014.

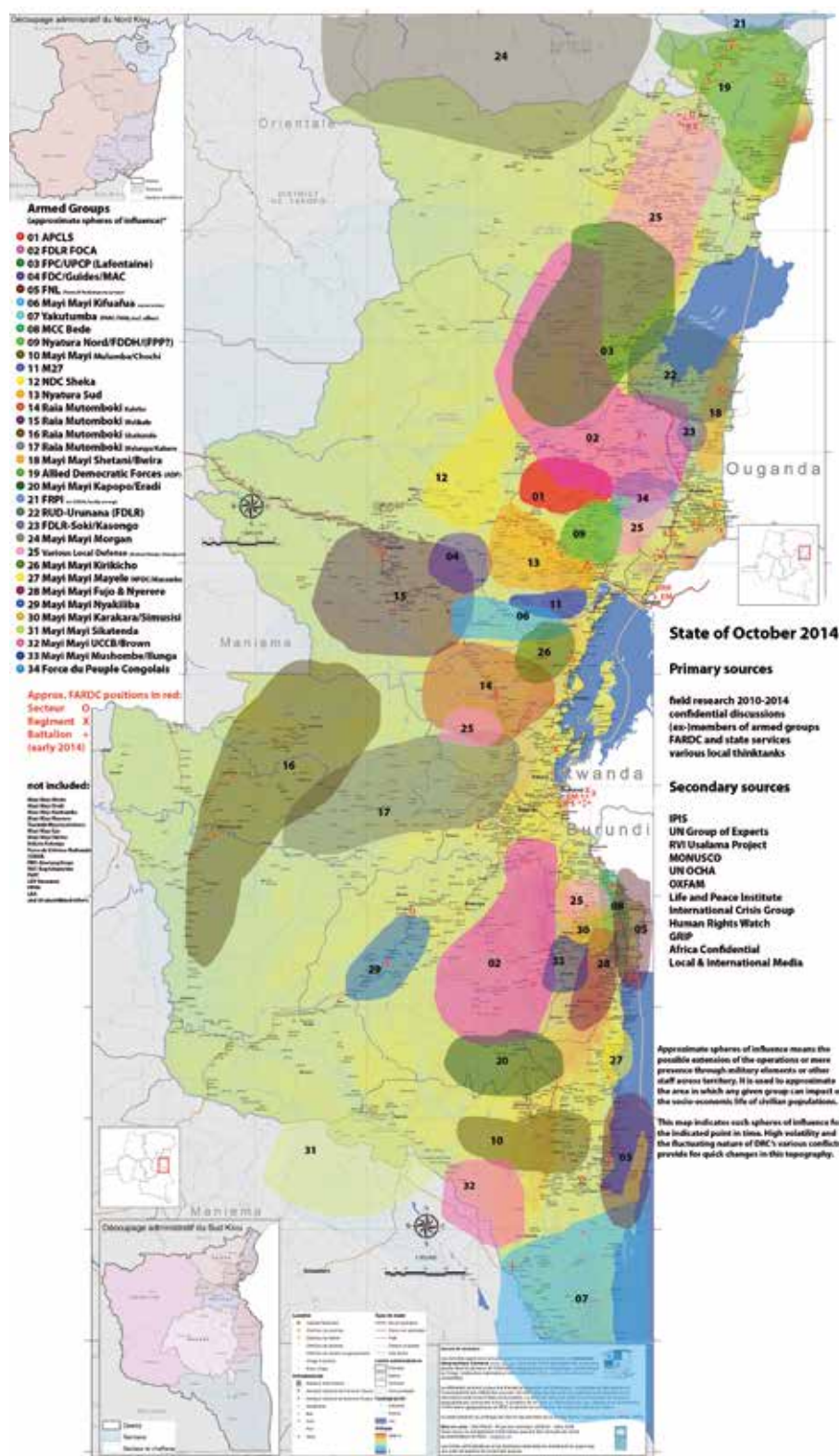
¹² According to the CENI published global calendar, local and provincial elections were supposed to be held in 2015 and legislative and presidential elections in 2016.

¹³ European Commission (2014), *op.cit.*.

¹⁴ Un Group of Experts on the DRC, *Final report 2013* (S/2014/42), 23 January 2014 (Online: http://www.securitycouncilreport.org/atf/cf/%7B65BFC-F9B-6D27-4E9C-8CD3-CF6E4FF-96FF9%7D/s_2014_42.pdf).

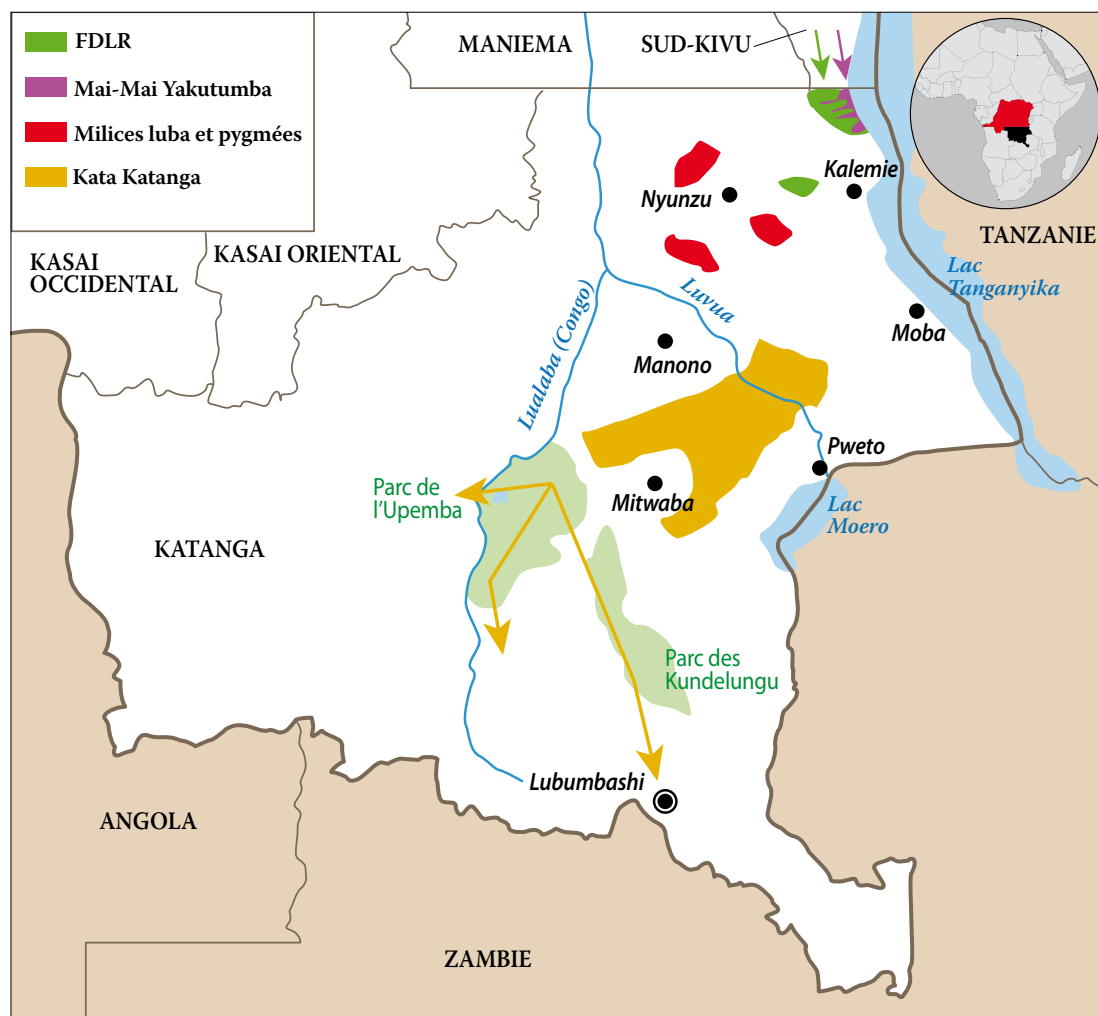
¹⁵ Congo Research Group, *The Landscape of Armed Groups in East Congo*, November 2015 (Online: <http://congoreserchgroup.org/essay-the-landscape-of-armed-groups-in-eastern-congo-2/>).

Map 1 – Main armed groups in eastern DRC (Oriental Province, North Kivu, South Kivu).



Source: <http://christophvogel.net/congo/mapping/>.

**Map 2 – Main armed groups in Katanga
(situation approximative fin 2014/début 2015)**



Source: G. Berghezan, «Groupes armés au Katanga, épicentre de multiples conflits», *Les rapports du GRIP*, 3/2015, GRIP, Brussels, 2015, p.24, <http://www.grip.org/sites/grip.org/files/RAPPORTS/2015/Rapport%202015-3.pdf>.

The presence of a high number of armed groups represents thus a serious threat to the DRC's security. In this generalised context of insecurity and violence, one of the main challenges resulting from their existence and presence is the numerous human rights violations that are perpetrated such as sexual assault on women and little girls, looting, summary executions, forced labour, arbitrary arrests or executions. The presence of a high number of armed groups on the territory coupled with the limits faced by the FARDC who are often not able to contain and defeat the various armed groups, should make understand the enormous challenges and threat to peace and security that the DRC has to face. Ineffectiveness of the army is mainly caused by its lack of professionalism, capacities and cohesion.

Moreover the different waves of **integration of various elements of armed groups in the army**, via processes such as brassage and mixage, are at the basis of lack of army cohesion. Despite some commitments, these attempts often failed, leaving the FARDC destabilised, weakened and divided mainly because of the fact that SSR has remained overall drastically underfunded if compared to the big challenges represented by security in the DRC.

One of the most recent examples of the failure to build a strong unified army was represented by the troubles linked to the M23 movement. This rebellion resulted from the cessation of the former *Congrès national pour la défense du peuple* (CNDP) led by Laurent Nkunda and Bosco Ntaganda that was integrated in the FARDC as part of the 23 March 2009 peace agreement. Although the FARDC objective with integrating the CNDP in the army was to slowly dismantle it, the integration of the CNDP had the opposite result and “empowered the CNDP leadership, making them rich and allowing them to co-opt officers from other armed groups. Ntaganda himself made millions of dollars from mineral smuggling, embezzlement of military funds, and tax rackets”¹⁶. Following the attempts of the Congolese Government to dismantle the CNDP and weaken it by relocating its officers outside the Kivus, in March 2012 General Bosco Ntaganda, who had become a senior officer in the FARDC, led a mutiny of 300-600 soldiers creating thus the M23 movement which could count on a “political leadership [that] was made up mostly of former CNDP loyalists”.¹⁷ M23 briefly occupied the city of Goma in November 2012 and was only defeated after a combination of internal disputes,

minor improvements in the functioning of the Congolese army, a cessation of Rwandan support and the arrival of the Force Intervention Brigade (FIB).

It seems that the current security system guarantees authorities' interest. Clientelism, as the roots of neo-patrimonial system, remains widespread and thus the “power-sharing” with the armed group is maintained in order to increase or at least preserve current leaders' position¹⁸. The FARDC's lack of capacities may be strategically desired by the Congolese regime because it increases their chances of staying in power: “*This logic relies on the neopatrimonial system which keeps the armed forces divided in its loyalties and controlled by political-military networks. It is in the interests of political and military powerbrokers that the FARDC does not become an organisation led along a single chain of command, following professional guidelines and controlled by internal disciplinary measures. Some politicians may fear a coup d'état if the army were to function as a unified professional organisation*”¹⁹.

Moreover several **dysfunctions within the army**. These dysfunctions lead sometimes the army to not fulfil its duty of population's protection. **Human rights violations by FARDC** are often reported. A well-known case of human rights violation occurred in Minova (South-Kivu) in November 2012²⁰. The persistent problem of human rights abuses is coming from the lack of control of the Congolese authorities over their troops which together with number of incapable commanders, failure in the command chain or bad service conditions for the FARDC don't allow to prevent and impede them. Dysfunctions within the army are also reflected by the illegal involvement of high ranking FARDC officers in the exploitation of and trade in natural resources (mainly minerals and timber). This illegal involvement is documented for many years by the UN Group of Experts on the DRC, and has once again been confirmed in the latest report of the Group²¹.

In addition, the malfunctioning of any kind of justice (lack of independence etc.) creates a context of impunity and lack of accountability of the armed forces that benefit elements of the security forces guilty of acts of violence against the population or illegally involved in the exploitation of and trade in natural resources. Despite announced concentrated efforts for the betterment of justice by the Government, no significant improvements

¹⁶ Jason Stearns, *From CNDP to M23: The evolution of an armed group in Eastern Congo*, Rift Valley Institute, Usalama Project, 2012 (Online: <http://www.congoforum.be/upldocs/RV1%20Usalama%20Project%201%20CNDP-M23.pdf>).

¹⁷ *Ibid.*

¹⁸ Evert Kets and Hugo de Vries, “Limits to supporting security sector interventions in the DRC”, Institute for Security Studies, *ISS Paper* 257, July 2014.

¹⁹ *Ibid.*

²⁰ MONUSCO/OHCHR, *Rapport du Bureau conjoint des Nations Unies aux Droits de l'homme sur les violations des Droits de l'homme perpétrées par des militaires des forces armées congolaises et des combattants du M23 à Goma et à Sake, Province du Nord-Kivu, ainsi qu'à Minova et dans ses environs, Province du Sud-Kivu, entre les 15 novembre et le 2 décembre 2012*, May 2013 (Online: http://www.ohchr.org/Documents/Countries/CD/UNJHROMay2013_fr.pdf).

²¹ UN Group of Experts on the DRC, *Midterm report 2015* (S/2015/797), 16 October 2015 (Online: http://www.securitycouncilreport.org/atf/cf/%7B65BFC-F9B-6D27-4E9C-8CD3-CF6E4FF-96FF9%7D/s_2015_797.pdf).

²² OMCT and AEDH, *Les prisons dans les Kivu : arbitraire et atteintes aux droits humains*, juin 2015 (Online: http://www.omct.org/files/2015/06/23232/omct_aedh_rapport_rdc_juin2015.pdf).

²³ Amnesty International, *Annual Report 2014/2015*, London, 2015 (Online: http://vk.com/doc216952249_369698095?hash=73298993f40b68f957&dl=b89b6dc57915514237).

²⁴ Speech on the state of the Nation of 24 October 2013.

have been reached. This can be explained mainly by the lack of means and independence of judiciary system, but also by the unwillingness of the Congolese authorities to play their role in an effective SSR process and to hold its own forces accountable. It is the whole criminal chain from the court to the prison²² that needs to be reconsidered and strengthened. Yet today the whole judicial system remains corrupted and under influence²³.

The **Congolese National Police** also represent crucial challenges for the security of the country. One of the main issues at stake is the demilitarisation of the police, which is still patrolling armed with Kalashnikov in the streets. Their service conditions, which are very poor, lead them to act contrary to the law (bribery, violence against the population, Human Rights violations as during the LIKOFI operation...). Although often, the people feared the police which is seen rather as a threat than as a protection for them.

Several in-depth reforms are needed in the DRC. International partners, and in particular the EU and the UN, have been investing a great deal of resources to support SSR in the DRC since the beginning of the transition period in April 2003. There is widespread consensus that although a number of positive developments are to be acknowledged. However, real progress in the area of SSR has been quite limited. As far as **justice reform**

is concerned, in November 2007 the DRC Government through the *Comité Mixte Justice* published the Action Plan for the reform of justice. The Plan has not been properly implemented and following the organisation of the *Etats Généraux de la Justice* in 2015 the Plan would need serious updating. The Five years Action Plan for the **reform of the police** has been developed and is at the basis of the adoption and the enactment of a programming law (*Loi de programmation*). However the Plan is seriously underfunded. Finally, no action plan for the **reform of the army** has been adopted.

All this happens in a context in which several zones in the country are still not stabilised and an important part of the population is living in a permanent security anxiety.

By signing in Addis-Ababa on 24 February 2013 the Framework Agreement on Peace, Security and Cooperation for the DRC and the region, 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”²⁴. Despite the fact that the Government declared on several occasions that it intended to make SSR a political priority, the general process lacks a sincere commitment to proceed into the reforms. This weak ownership made it difficult to build a specific Congolese vision on peace and security that can gradually become autonomous from foreigner expertise.

Part III: Analysis of EU support to SSR in the DRC

The international community has invested a great deal of resources in SSR in the DRC over the last two decades. The EU and other international partners' support and commitment are now at a crucial turning point as, after 16 years of presence in the country, the UN mission should progressively come to an end and the EU decided to close down EUPOL and EUSEC missions. The rapid and unexpected decision to close the EU missions relates more to a certain "Congo fatigue" that has dominated within the Foreign Affairs Ministries of some EU members States combined with a demand to close "old" CSDP missions in order to open new ones in other areas (in Mali or Central African Republic for instance), rather than

to a real and sustainable achievement of the missions' main objectives²⁵. The challenges related to security forces remain high: if on one side local ownership needs to be reinforced, it is important to ensure consolidation of the accomplished work. In this light the efforts of the international community must be pursued.

Through their respective ambitious missions, the UN and the EU enabled improvements. But, as we will comment further below, progress that have occurred remain limited. While the UN decided in March 2015 to renew MONUSCO's mandate for a year, including its support to SSR component, the EU decided to set up a one year "micro-mission"

MONUC/MONUSCO

The UN are involved in the DRC's SSR since 1999. Two missions successively took place: the MONUC (1999-2010) and the MONUSCO (2010-2015). The MONUC was implemented firstly to guarantee the respect of the Lusaka cease-fire Agreement (1999)²⁶ but its mandate has extended rapidly through the implementation of this accord. MONUC's SSR missions were to support the integration process of the army through brewing mechanism, to train FARDC integrated brigades, to reinforce the police and to help the Congolese Government to improve the judiciary and penitentiary system²⁷. After the 2006 elections the situation changed on the ground, therefore, MONUC's mandate was redefined and transformed into a new MONUSCO program²⁸ in charge of stabilisation efforts in the DRC.

From 2010 to 2015, MONUSCO's mandate was to provide good offices, advice and support to the Government to enable the development and finalisation of a clear and comprehensive SSR implementation roadmap. MONUSCO has the mandate to support army reform, including the establishment of a vetted, well-trained and adequately equipped "Rapid Reaction Force" within the FARDC, as well as police reform, including by contributing to the provision of training to battalions of the Congolese National Police (CNP). Finally, although little used, MONUSCO was also mandated

to play a leading role in coordinating international and bilateral partners who provide SSR support.

Between 2009 and 2014 MONUC and MONUSCO pursued a three-pronged approach to implement their mandate in support of SSR: political engagement at the highest levels, technical and capacity-building assistance and operational support, particularly in the areas of police and military training²⁹. Regarding the army reform, and on the political engagement, MONUSCO has, among other efforts, encouraged the DRC Government between 2010 and 2014 to develop a viable national reform strategy and a programmatic law for the defence sector³⁰.

On police reform, MONUSCO has continuously supported the Executive Secretariat of the Steering Committee on Police Reform for the restructuring of the CNP³¹. Moreover, since 2009, MONUC and MONUSCO have enhanced the operational capacity of the CNP through daily monitoring, advising, technical assistance activities and trainings³². MONUC has trained integrated militia groups elements in the CNP and MONUSCO delivered trainings on community policing, computer science and investigative techniques for gender based violence. These trainings were funded by, among others, the Japanese International Cooperation Agency, Canada, the Peacebuilding Fund, German

International Development Agency, and Department for International Development of the United Kingdom (DFID)³³.

MONUSCO's mandate has been extended unanimously until the 31st of March 2016, by the Resolution 2211 on March 2015³⁴. This Resolution downsizes the troops by 2000 soldiers but maintains a maximum authorized of 19815 militaries, 760 military observers and staff officers, 391 policeman and 1050 personnel of formed police units. MONUSCO's new mandate mainly focuses on the civilian protection, the neutralization of armed groups threatening civilians' security in Eastern DRC, the support to national justice procedure, and the monitoring of arms embargo implementation. The MONUSCO aims at reinforcing the will of the Congolese Government and at encouraging the participation of civil society in the SSR process in order to ensure local ownership of the reform. Recently, although relations between MONUSCO and the Congolese authorities have become increasingly difficult hampering defence reform even further, MONUSCO strengthened its coordinated-actions with the Congolese public authorities on governance of the national armed forces, private security companies and the police forces through several meetings. Active advocacy activities on prison reform have also been implemented³⁵.

²⁵ Agathe Plauchut, *Fin de la mission EUPOL RD CONGO: Quelles perspectives sécuritaires à l'approche des élections?*, GRIP, Avril 2015.

²⁶ See http://www.un.org/Docs/s815_25.pdf.

²⁷ JJ Wondo Omanyundu, *Les FARDC: une armée irréfutable?*, Aalst, DE-SC-Wondo, Décembre 2014.

²⁸ *Ibid.*

²⁹ UN Security Council, 28th Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, S/2009/335; Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, S/2014/45.

³⁰ UN Security Council, Reports of the Secretary-General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo, 2010/512; S/2013/757; 2014/157.

³¹ UN Security Council, Reports of the Secretary-General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo, 2010/512; S/2011/656.

³² UN Security Council, Reports of the Secretary-General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo, S/2009/472; S/2009/623; S/2010/512; S/2011/20; S/2011/656; S/2012/65; S/2013/96; S/2013/388; S/2013/767; S/2014/698.

³³ *Ibid.*

³⁴ Charles A. Bambara, "La réforme sécuritaire, l'Alpha et l'Omega de la paix en RDC", *Echo de la MONUSCO*, n°44 - Avril 2015, p.2 (Online: [http://monusco.unmissions.org/LinkClick.aspx?link=Echos_44+\(2\).pdf&tabid=1192&mid=14867&language=fr-EN](http://monusco.unmissions.org/LinkClick.aspx?link=Echos_44+(2).pdf&tabid=1192&mid=14867&language=fr-EN)).

³⁵ UN Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, S/2015/173.

³⁶ European Union, *Council Joint Action 2009/709/CFSP*; European Union, *Council Joint Action 2010/565/CFSP*.

³⁷ See http://eeas.europa.eu/csdp/missions-and-operations/eusec-rd-congo/index_en.htm.

³⁸ European Union, *Council Joint Action 2009/709/CFSP on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo* (EUSEC RD Congo), 15 September 2009.

³⁹ European Union, *Council Decision 674/CFSP amending and extending Decision 2010/565/CFSP on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo* (EUSEC RD Congo), 25 September 2014; European Union, *Council Decision 2014/674/CFSP amending and extending Decision 2010/565/CFSP on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo* (EUSEC RD Congo), 25 September 2014.

⁴⁰ European Union External Action Service, *EU Mission to provide advice and assistance for security sector reform in the DRC in the area of Defence* (EUSEC RD Congo), Update - November 2014 (Online: http://www.europarl.europa.eu/meet-docs/2014_2019/documents/sede/dv/sede031214factsheeteusec-rdcongo/_sede031214factsheeteusec-rdcongo_en.pdf).

⁴¹ See http://eeas.europa.eu/csdp/missions-and-operations/eupol-rd-congo/index_en.htm.

⁴² European Union, *Council Decision 2011/537/CFSP amending and extending Decision 2010/576/CFSP on the European Union Police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo* (EUPOL RD Congo), 12 September 2011.

aimed at ensuring a smooth phasing out of EUSEC (June 2015-June 2016) and to start with a new program on SSR under the 11th European Development Fund (2014-2019). In this paper, **EurAc** focuses specifically on the EU intervention through its European programmes.

Brief description of EU's support to SSR in the DRC (2005-2015)

Since 2005, the EU has committed to supporting SSR efforts in the DRC, through the EDF (support for the justice and police sectors) and two CSDP missions (2005-2015): EUSEC and EUPOL. The main objective of the EU was to help and support the Congolese Government to ensure security all over the country in order to create a favourable environment for development. In parallel, the EU's engagement in SSR was also supposed to ensure a good coordination among the various bilateral SSR interventions of EU Member States in the DRC.

EUSEC

The role of EUSEC was to assist the Congolese authorities in setting up a defence apparatus capable of guaranteeing the security of the Congolese people, while respecting democratic standards, human rights and the rule of law, as well as the principles of good governance and transparency³⁶.

EUSEC's original mandate (2005- 2012) aimed at:

- Supporting the **integration process of militia groups** in the FARDC;
- Improving **human resources** management through census of military forces;
- Implementing the **"chain of payments"** project³⁷.

Then EUSEC gradually extended its mandate and diversified its activities from 2009 with a view to modernising both administration and human resources management³⁸.

During the final phase of EUSEC (2012 - 2015), the mission focused its support on three areas:

- Maintaining **support at strategic level** while implementing activities relating to the **campaign against impunity** and advising the military authorities on the **implementation of an army reform plan**;
- Maintaining support for the **consolidation of the administration** and the establishment of a system of **human resources management**. The mission carried out training

of FARDC operational management staff to help ensure proper troop management; it also tried to improve logistics management;

- Improving the **operational capacities** of the FARDC, by working with the military authorities towards sustainability of the **military education system**, focusing on schools for officers and non-commissioned officers³⁹.

As the EUSEC mission came to an end on the 30th June 2015, a CSDP "micro-mission" is maintained until the 30th of June 2016, in order for the EU to continue supporting the Congolese military authorities in activities which cannot be supported under the 11th EDF, such as strategic advice and support to military schools⁴⁰. The mission will remain with 30 staff in 2015 and will progressively reduce this number to 10 in 2016. The CSDP micro-mission will continue to assist the Congolese authorities in the implementation of national army reforms. The micro-mission will do this by providing advice at the strategic level, support to administrative modernization, setting up of an effective human resource management system and building a permanent high quality military education system including schools for both officers and non-commissioned officers.

EUPOL

The EU conducted its first CSDP police mission in Kinshasa, from April 2005 to June 2007. The purpose of EUPOL Kinshasa was to support the CNP's Integrated Police Unit in Kinshasa once it was up and running under Congolese command⁴¹. The budget available for the mission was about 8,5 million euros.

EUPOL Kinshasa was followed in July 2007 by EUPOL RD Congo. EUPOL's mandate was to support the CNP and the Ministry of Interior through **operational advice** in developing the concepts of the police reform and its implementation. It also supported the **fight against impunity** in the fields of human rights and sexual violence, and reinforced **the interaction between the police and the judiciary**⁴².

The police and justice interface aims at creating a strong link between these two institutions. A General Audit Inspection has been implemented; it covers possible legal, administrative and financial offenses perpetrated by the police. This organ plays a key role in the consolidation of policemen's accountability in concordance with the rule

of law principle. The reform of the judicial police is also included in the program by **technical support** at the level of investigation procedures, drafting of basic texts, coordinating assistance in the decision making process and the fight against violent crime⁴³.

Between 2009 and 2013 EUPOL focused on **the mentoring, monitoring and advising of CNP officers and organised trainings for trainers**⁴⁴. The program also included a specific mission of identification of police officers throughout the DRC in order to achieve among others the **computerization of payroll**. The mission has provided technical assistance to three European projects (EU Delegation in the DRC, France and the United Kingdom) designed to support the security of the 2011 elections in the DRC. In 2014, EUPOL assisted the CNP in the **implementation of the police de proximité concept**, together with other European and Congolese partners such as Belgium, the United Kingdom and the Congolese civil society⁴⁵. Moreover, EUPOL has provided **training and support in criminal investigations to the judiciary police and to the technical and scientific police** in Kinshasa, North and South-Kivu provinces⁴⁶.

In September 2014, EUPOL RD Congo formally closed.

Assessment of EU support to SSR in the DRC

Considering that CSDP missions' external and public evaluations have not been produced for EUSEC and EUPOL, it is difficult to realize an objective assessment for "lessons learned" and recommendations. Nevertheless, **EurAc** proposes its own evaluation of the results for the EU missions. In general, the lack of political will from the side of the Congolese Government to develop a serious SSR plan in the DRC is indicated by many as one of the main obstacles. Questions remain if the EU could have done more and could still do more to use its political dialogue with the Congolese institutions to develop such a political will. Moreover the Congolese National Assembly has barely been able to play a parliamentary oversight role. Whether this is due to the fact that the Congolese Parliament is quite dominated by the *majorité présidentielle* (presidential majority) turning the National Assembly into a weak actor when it comes to parliamentary oversight, or because of the lack of training of the Parliamentarians on the role of control over SSR the Parliament

should play, there is a clear potential to work to strengthen the Parliament and increase democratic oversight over the SSR.

EUSEC assessment

The reform of FARDC is clearly a difficult task to complete as the army must reform itself while at the same time it needs to continue its fight against armed groups and protect civilians. When looking at the main objectives of EUSEC, one can note that in spite of some improvements, big challenges remain as far as the situation of soldiers is concerned.

Regarding human resources management

One of the main achievements of EUSEC has been its support to the **biometric census of troops** carried out by FARDC. At the beginning of the process the Congolese Government had estimated that armed forces were composed of approximately 343 000 men and women. The biometric census led to the actual registration of 145 000 militaries in 2015⁴⁷, which allowed to increase their **salaries** without increasing the budget. Five years ago the soldiers used to be paid 17 USD per month while they are now paid 100 USD per month. The census also allowed to realize that the **numbers of officers or high graded is disproportionate** compared to the numbers of soldiers. According to the biometric census in 2009, the FARDC were composed for 24.94% of officers, 36.88% of warrant-officer and only 38.18% of regular soldiers⁴⁸.

The census led to the distribution of **military identity cards**, which was a prerequisite for the implementation of the project chain of payment. This project aimed at separating the chain of payment from the one of command in order to ensure the pay for soldiers and to reduce corruption. The first step of the project has been successful in providing military identity cards to more than 80% of the troops by 2015⁴⁹. Many improvements regarding the payment of salaries have been reported but pay delays (of several months) are still very common.

The general lack of means made available for the army considerably hinders its capabilities, and weakens its "staff management" which is almost inexistent. The consequences are significant for the soldiers themselves as there is **no system for retirement** for instance. It is estimated today that about 60 000 FARDC are in age to retire. There are also consequences for the soldiers' families, which quite

⁴³ See http://www.eeas.europa.eu/csdp/missions-and-operations/eupol-rd-congo/index_en.htm.

⁴⁴ European Union, Council Decision 2010/576/CFSP on the European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo), 23 September 2010.

⁴⁵ European External Action Service, *EU Police Mission for the DRC (EUPOL RD Congo)*, Update – February 2014 (Online: http://www.eeas.europa.eu/csdp/missions-and-operations/eupol-rd-congo/pdf/factsheet_eupol_rd_congo_en.pdf).

⁴⁶ *Ibid.*

⁴⁷ See http://eeas.europa.eu/csdp/missions-and-operations/eusec-rd-congo/index_en.htm.

⁴⁸ Georges Berghezan, FARDC: le chaos institutionnalisé ?, GRIP, January 2014.

⁴⁹ See http://eeas.europa.eu/csdp/missions-and-operations/eusec-rd-congo/index_en.htm.

often rely on the soldier's pay to survive. For the moment only a very small compensation (17 USD per month per soldiers) is offered to soldier's families to help them to nourish themselves, follow the soldiers when they are deployed and pay for the funeral in case of necessity.

The issue about the **size of the Congolese army** has been often raised. The number of FARDC amounting today at 145 000 soldiers raises a number of questions in a context in which it is estimated that the Government of DRC has resources to pay for 75 000. Yet, since 2012 the Government pursues the recruitment of new soldiers. Considering the current size of the army and the capacity to pay for it, the question arises if the army really needs additional recruitment and if the financial resources should not rather be focused on getting well trained and well paid troops. However this issue is considered to be highly sensitive as it is at the heart of the Congolese sovereignty.

Nonetheless EUSEC successfully impacted on FARDC's capacities. An **IT system for troop management and administration and biometric checks for staff** has been implemented with the mission's support⁵⁰. Indeed EUSEC implemented a Computer System for the Management and Administration of Militaries (SINGAMIL) and improved FARDC's computer network with the establishment of 400 computers in Kinshasa and 400 ones in other military areas across the country. About 600 soldiers have followed computer training⁵¹.

EUSEC also contributed to improve **arms and ammunition management** and storage conditions by constructing 6 armouries and 5 ammunition depots throughout the country⁵². 195 militaries building and 180 offices have also been renovated.

In terms of training, EUSEC supported the nation-wide coverage of the national competition for **recruitment of future trainees to the military schools**. EUSEC has upgraded the **infrastructure, furniture, IT and training equipment in these military schools**⁵³. EUSEC has built for instance 42 classrooms, 4 dining facilities and collective bedrooms (with 1612 beds) within the schools.

The training of the troops by EUSEC mainly focused at the level of army officers while the battalions were taken in charge by bilateral programmes (such as Belgium, France...). There are currently 23 schools for officers all around the country from which only 11 are operational. The training of the battalions concentrated mostly on new recruits.

Several programmes have also been devoted to **the prevention of crimes against civilian** (such as sexual violence prevention). EUSEC supported the development of a new "Code of Conduct" which has been distributed to all the soldiers. A qualitative evaluation undergone by each military region shows encouraging results. However prevention of crimes against civilians should continue to be the first objective of donors' programmes and should be strengthened ensuring the active participation and involvement of the population directly affected and civil society organisations directly involved in protection programmes.

Regarding strategic advice

EUSEC has contributed, jointly with national authorities, to **the drafting of various laws, orders, regulations and directives**⁵⁴:

- ❖ *Loi organique portant l'organisation et le fonctionnement des Forces Armées* – 2011: adopted and published in the Journal Officiel;
- ❖ *Loi portant le statut militaire des forces armées de la RDC* – 2013: adopted and published in the Journal Officiel. It is the driver for the improvement of soldiers service conditions;
- ❖ *Loi de programmation de la réforme des FARDC*: not achieved yet⁵⁵.

The *Loi organique* and the *Loi de programmation de la réforme des FARDC* are both extremely important in terms of content. If they were properly implemented, they could drive significant change. But their implementation rely on **the publication of the Loi de programmation** which is the law which will make sure that financial resources are properly allocated. The lack of commitment from the authorities to engage in the reform through the publication of *Loi de programmation* hinders the disbursement of the financial resources needed for the implementation of the reform.

EUSEC supported DRC in **the reorganisation of military regions** as foreseen in the *Loi organique*.

⁵⁰ European Union External Action Service (2014), *op.cit.*

⁵¹ See http://eeas.europa.eu/csdp/missions-and-operations/eusec-rd-congo/index_en.htm.

⁵² European Union External Action Service (2014), *op.cit.*

⁵³ *Ibid.*

⁵⁴ http://eeas.europa.eu/csdp/missions-and-operations/eusec-rd-congo/index_en.htm.

⁵⁵ RRSSJ, *Processus de Paix en RDC : le rêve d'un sourd-muet?*, juin 2015 (Online: <http://www.rrssjrdc.org/wp-content/uploads/2015/07/Processus-de-paix-en-RDC.pdf>).

This law, promulgated in August 2011, has finally been implemented two years later by President Kabila:

- the first zone includes Kinshasa and the former provinces of Bandundu, Bas-Congo and Equateur;
- the second one includes the former provinces of Kasai Occidental, Kasai Oriental and Katanga;
- the third one includes former Province Orientale, and provinces of Maniema, Nord and South Kivu⁵⁶.

Despite these useful improvements, a systemic and structural change within the management of the army⁵⁷ is still needed, and serious **concerns are raised about the sustainability of the results achieved by EUSEC** after its closure.

There is widespread concern around the fact that the **coordination of army reform would need to be enhanced**. Bilateral programmes, although important, risk to fragment efforts and jeopardise results. Despite the *Groupe de travail des partenaires* about armed forces coordinated by the MONUSCO and the *Groupe technique des partenaires* coordinated by EUSEC and focused on justice, it appears that the coordination of the reform remains one of the main challenges. The main objective of these groups was to exchange information between the different actors involved in SSR in the DRC. However it seems that not all the partners are keen in sharing information which makes the success of these groups less evident. This seems to be the case also for the EU that did not always manage to coordinate its action with Member States involved in SSR.

Several questions remain on the future of the reform and its coordination. The civil society platform RRSSJ (*Réseau pour la Réforme du Secteur de la Sécurité et de la Justice en RDC*) has suggested that a **Comité de Suivi should be implemented** for the army reform in the same way that it has been done for the police reform. This could be a good way of ensuring the coordination of the reform by the Congolese themselves once EUSEC will have closed.

EUPOL assessment

The EUPOL mission is often described by the European institutions in successful terms. The program has led to several improvements within the CNP. These improvements should not however mask the continuing problems.

Regarding the conduct of the reform

EUPOL has contributed to improvements insofar as the mission has been able to implement the **appropriate instruments to correctly drive the reform**. A lot of attention has been focused on the ownership of the reform by public authorities and civil society. In this regard several committees in charge of the reform have been established.

The mixed group (*Groupe Mixte sur la Réforme or GMR3*), included representatives of the CNP, of EUPOL, UNPOL and diplomats. The group worked on the elaboration of an organic law and on the implementation of a **new committee in charge of the reform monitoring** named the *Comité de Suivi de la Réforme de la Police* (CSRP). The CSRP was composed of seven Congolese Ministers (Internal Affairs, Defense, Justice, Budget, Finance, Public Service and Gender), Ambassadors (from Belgium, France, United Kingdom, China, Canada), EUPOL and UNPOL chiefs and **members of civil society**. Moreover an executive secretariat was established in order to prepare the implementation of the program. The CSRP aims at **coordinating all the actions regarding the police reform and implementing an ongoing dialogue between all the involved actors**. The executive secretariat was composed of nine working groups, of the Minister of Internal Affairs, of national and international experts (EU, UN...) and of CNP's representatives. In 2010, a special committee had also been dedicated to the "ownership and implementation" of the reform (CAMO). This new committee has now replaced the previous CSRP⁵⁸.

These civilian and political aspects are crucial to the success of a reform and the merit of the EUPOL mission has been to develop a well prepared reform project, with appropriate instruments. This specific programming allowed a **better ownership of the reform by the Government, the CNP and the civil society**⁵⁹.

Regarding human resources

Despite EUPOL's achievements, several challenges remain in order to have an efficient and operational police in the DRC.

The CNP remains in a very critical situation: it is **too militarised** which hinders its capacity to play its role in protecting the population. The "militarisation" of the police is also visible in the designations and grades used which are similar to those used for the army. Furthermore, despite the fact that the 2006 Congolese Constitution does not considerate

⁵⁶ See <http://desc-wondo.org/scoop-desc-imminence-dune-restructuration-des-fardc-et-re-tour-en-force-du-general-amisi-jj-wondo/#sthash.USkrZMMQ.dpuf>.

⁵⁷ EurAc, FIDH et al., *RDC: Prendre position sur la réforme du secteur de la sécurité*, 2012 (Online : https://www.fidh.org/IMG/pdf/rdc_rapport_fr.pdf).

⁵⁸ Information gathered during the conference *EUPOL DRC – Impact on SSR and future prospects*, Egmont Institute, 7 October 2014.

⁵⁹ *Ibid.*

the police as “military” anymore, it remains under the jurisdiction of the Military Court. An update is therefore necessary in the law to correct the contradiction.

The **service conditions** remain very difficult for the policemen: salaries are low and often are not paid for several months. As a consequence cases of population taxation, theft activities and generalised corruption are still very common. Moreover several cases of human right violations perpetrated by the CNP contribute to reinforce the population’s feeling of distrust toward the police⁶⁰.

Programmes such as the DFID one, focusing on the development of a “police de proximité”, successfully managed **to increase the quality of police training with a positive impact in the attitude towards and relation with the population**. An internal evaluation, comparing the situation in 2011 and 2013 also underlined that the trust of the population towards the police increased significantly. DFID’s decision to stop the program taken partly in light of the massive cases of human rights violations perpetrated by the police during the LIKOFI Operation⁶¹ (November 2013 – February 2014), risks to put the above mentioned advances in danger.

Human rights abuses are quite often not sanctioned and impunity of the police remains a big challenge despite the implementation of specific programmes (the creation of the *Inspection Générale de la PNC*, or the “Security Sector Accountability and Police Reform” programme - SSAPR)⁶².

Regarding strategic advice

Much progress has been achieved with the legal framework of the police. EUPOL supported the **creation of new laws**:

- ❖ *Loi portant organisation et fonction de la PNC* – 2011: voted and published in the Journal Officiel;
- ❖ *Loi portant statut du personnel de carrière de la PNC* – 2013: voted and published in the Journal Officiel.

The strength of these laws is that they foresee the development of a clear budget and makes sure that expenses appear in the State’s general budget. However the **unwillingness of the Congolese authorities to disburse the necessary funds** to implement the reform remains a reality. In 2015 for instance, special credits were allocated to the police reform on the global budget but the money was never disbursed. The police reform is planned at national level through the “*Plan*

d’Action Quinquennal” (PAQ) – Five-years Action Plan. The PAQ started in 2013, but at the end of 2015 only 3% of the plan has been realised⁶³, raising questions on the possibility to complete the reform plan by the end 2017.

Following the closing of EUPOL and in light of the huge challenges remaining in terms of police reform, **it is vital that the EU and international partners remain committed** to it. Nevertheless it would not be possible to achieve the latter without a **clear Governmental strategy to increase the police’s financial capacities**⁶⁴. EUPOL has contributed to finance the reform, but it is now necessary that the Congolese Government takes over the funding. The police sector needs a national policy to address a clear framework for the reform as EUPOL has not been able to establish **sustainable structures**⁶⁵.

Moreover, as no “strategic exit” for EUPOL has been planned by the EU and the Congolese Government, achievements may then quickly disappear⁶⁶. **Two major challenges remain** in order to avoid wasting them: first, it is crucial that the Congolese Government **integrates the projects of the International community into the Congolese reform strategy through action plan**; moreover, it is crucial that the Government allocates a **specific budget for the implementation of the reform** and more generally dedicates sufficient funds for the operation of the CNP.

Assessment with a specific focus on justice and fight against impunity

Since 2001, the UE has been developing various projects of support to the justice sector: Support to Justice Program (PAJ, 2001-2003); Support to Governance Program (PAG, 2003-2008) ; Support to Justice Restoration Program (REJUSCO, 2008-2013); Support to Justice Reform Program (PARJ, 2011-2016); Support to Justice Reform in the East (PARJE/ Uhaki Safi, 2012-2016). Altogether, it may represent more than 50 million euros invested in the justice reform.

The Strategic evaluation of the EU cooperation with the DRC (2008-2013) showed some improvements but also a lot of shortcomings in terms of **administration of justice** (buildings, human resource management, finances, accountability)⁶⁷. These shortcomings tend to slow down progress and evolution both in SSR and in the justice sector reform⁶⁸.

⁶⁰ See http://www.peacebuildingdata.org/interactivemaps/drc/#/?indicator=2_2_3.

⁶¹ Human Rights Watch, *Operation Likofi – Police Killings and Enforced Disappearances In Kinshasa*, November 2014.

⁶² RRSSJ (2015), *op cit.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ Nina Steinitz, “Misguided Involvement in Kivu Security – Strategic Interaction between External and Local Security Governance in the Police Reform Process”, speech presented at 6th European Conference on African Studies – ECAS, Sorbonne University, Paris, 10 July 2015.

⁶⁶ JJ Wondo Omanyundu (2014), *op.cit.*

⁶⁷ A.D.E., Itad and COWI, *Evaluation de la coopération de l’Union européenne avec la République Démocratique du Congo 2008-2013*, August 2014, pp.47-53 (Online: https://ec.europa.eu/europeaid/sites/devco/files/strategic-evaluation-cooperation-ec-democratic-republic-congo-1334-summary-201408_fr_2.pdf).

⁶⁸ Laura Davis, “The EU and peacebuilding in the Democratic Republic of Congo”, *Civil Society Dialogue Network - Discussion Paper n°9*, p.11 (Online: http://www.eplo.org/assets/files/2%20Activities/Civil%20Society%20Dialogue%20Network/Discussion%20Papers/EPLO_CSDN_Discussion_Paper_The%20EU%20and%20peacebuilding%20in%20the%20DRC.pdf).

Despite the achievements of EU and other donors programmes (USAID Projustice, UN, various NGOs), justice reform requires a **more comprehensive approach**. The past and current justice programmes are focused on either a specific region (most often Eastern DRC) or on a too specific objective which – most of the time – emphasises the repressive role of justice (e. g. fight against impunity, or against Gender Based Violence). Both approaches appear to be too narrow and neglect the need for a global vision: justice must also be considered in its preventive and social role and as a conflict prevention tool (intra-family conflicts, land related conflicts etc.) and a human rights protection mechanism. When focusing on a specific province, lots of efforts can be lost when judges or high-ranked authorities leave for a new assignment, which occurs frequently in the country. Access to justice should be a priority as well. The first steps of a national legal aid strategy have been laid, but the Ministry of Justice should take the lead in implementing the strategy all over the country.

Moreover, it is essential to take into account **the challenges of State fragility**⁶⁹ and the weight of corruption within the Congolese judiciary. As set forth in the Paris Declaration on Aid Effectiveness (2005), fragile States have special needs and requirements when it comes to strengthening their judicial institutions and fighting against impunity. For instance, Courts should never be blindly supported neither by international NGOs nor by foreign public development agencies if these institutions do nothing but confirm corrupted State officials in their positions. Challenges such as fraud and corruption need to be sufficiently taken into account in order for the EU programmes to reach their objectives, and this has not been the case under the 9th and 10th EDF⁷⁰. Technical support and awareness campaigns cannot possibly reach any goal of in-depth structural reform if corruption is not being dealt with simultaneously. As a crucial component of the rule of law, fight against impunity goes for everybody, high-ranking dignitaries and magistrates included.

The EU needs also to **emphasize its human rights related approach** when supporting the justice sector reform. This calls for better screening of the situation on the ground (assessment of Human Rights knowledge within the police and the military) as well as a stronger political dialogue with the Congolese Government over serious human

rights violations⁷¹. With regard to the police and the army, (military) courts could play a key role in accountability within these two forces and towards Congolese citizens. In order to achieve this goal, military justice should be reformed to become independent of the military hierarchical chain and benefit from a holistic support in terms of training, financial and HR management, accountability mechanisms.

The EU should support the **effective implementation of the Rome Statute** into the domestic legislation. It is only in June 2015 that the Congolese Parliament passed the law on the organisation, functioning, and jurisdiction of the Courts, granting civilian courts jurisdiction over the prosecution of serious crimes⁷² according to the Rome Statute. Yet the division of jurisdiction between civil and military courts remains unclear and the reform in this sense still needs to be pushed forward.

Moreover, regarding the enactment of a legal framework, the 2006 Congolese Constitution expresses the **reorganisation of the judicial system** within the country. Three new institutions were supposed to be implemented: a Constitutional Court, a State Council and a Court of Cassation. Today, only the Constitutional Court has been established through the *Loi portant organisation et fonctionnement de la Cour Constitutionnelle* which has been voted, published and implemented. The EU must encourage the Congolese Government to pursue the law reform.

Finally the EU commitment to the justice and security sector in the DRC should consider increasing means in terms of budget and human resources dedicated to high level advocacy and political dialogue.

Assessment with a specific focus on (good) governance

To promote governance is to promote inclusive participation, accountability, and effectiveness of public management. The effectiveness of security services is closely related to **the accountability**. SSR is a highly political issue as one of the core objectives is to modify the public authority hierarchy regarding the use of coercive force. The EU through its CSDP missions has contributed to achieving improvements as far as governance of the armed forces is concerned. Its involvement in the chain of payment project as well as in creating a database of

⁶⁹ See the definition of fragile States given by the OECD Development Assistance Committee: “those failing to provide basic services such as security and protection to poor people because they are unwilling or unable to do so”.

⁷⁰ European Court of Auditors, *EU Support for Governance in the Democratic Republic of the Congo*, Special report n° 9/2013.

⁷¹ For instance *Operation Likofi* led late 2014 in Kinshasa, the troubles around the electoral law revision (January 2015), or the arrest and detention of the Filimbi and Lucha citizen's movements in March 2015.

⁷² See <http://www.assemblee-nationale.cd/v2/?p=5058>.

military equipment and improving logistic management has a high political value.

However a close analysis of SSR highlights that **accountability by the DRC security forces to the population, to civil society and to the Congolese Parliament is still lacking.**

Civilians and civil society understand that they have a role to play in asking the Government to respond of the human rights violations perpetrated by the police and by the army in the DRC and in the process of the reform itself. Their concern relates to the actual possibility to play this role fully. When security forces constitute a source of insecurity rather than the contrary, **Congolese citizens and communities need to be trained** into understanding the reform and the role they can play.

The integration of civil society organisations in the democratic follow-up of SSR is vital. **A people-centred approach** is needed in order to develop an understanding of local communities' security needs and priorities as well as the dynamics and trust or distrust in formal security actors.

⁷³ Transparency International, *The Transparency of National Defence Budgets*, London, October 2011 (Website: <http://www.ti-defence.org/publications/20-category-publications/publications-dsp/124-dsp-pubs-transparency-defence-budgets.html>).

In this respect the **implementation of the *Lois de programmation*** becomes vital: the laws (both in the case of the police and army reforms) contain all the relevant dispositions that, if properly applied, would reinforce the good governance of the security forces. These include for example the need for **transparency in the defence spending** or the strengthening of the oversight role of the Parliament and its Defence Committee. According to a report on defence budget transparency published by Transparency International in 2011⁷³, DRC figures in the worse category of Governments. The index looks at criteria such as the lack of information on defence spendings, inadequacy or inexistence of budget oversight laws, capacities in defence budgeting, and significance of military expenditure.

As far as **Parliamentary oversight** is concerned, the Parliament Defence Committee suffers from a lack of opportunities to play its oversight role and lack of access to information. Often questions to the Government on defence issues remain unanswered in the name of “defence secrecy” relegating in practice the Parliament to an invisible actor in SSR.

Part IV: The future of EU support to SSR in the DRC (11th EDF)

Brief description of the new EU programming to support SSR in the DRC

The EU has decided to pursue its support to SSR in the DRC through its 11th EDF which plans to dedicate 620 million euros of bilateral aid to DRC for a six year term (2014-2020). Moreover the 11th EDF plans to allocate 350 million euros to the Central Africa region through the 2014-2020 Indicative Regional Program (IRP). Out of the global IPR budget, 43 million euros will be allocated to the thematic program “peace and security”⁷⁴.

The new European program developed for DRC through the 11th EDF includes **three main priorities**:

- 1 to fight against poverty;
- 2 to contribute to the peace and stability in the Great Lakes region;
- 3 to strengthen democracy and human rights.

The new EDF programme for DRC should contribute financially to the organisation of 2016 elections.

From these three main objectives, **four thematic priority** have been established among which one is about the **strengthening of governance and rule of law**. 160 million euros (which represent 26% of the total EDF's budget for DRC) is allocated to it. Under this thematic priority, the EU aims at ensuring entrenchment of democracy, fight against impunity and promotion of a just and lasting peace in the DRC.

These results related to governance should be achieved through programmes and projects supporting reforms in the sectors of justice, police and army. Special attention will be given to the management of public finance⁷⁵. Parts of funds allocated to governance may also be used by the EU to support the organisation of 2016 elections.

The thematic priority of governance is divided into three sectors for each of which several Specific Objectives and Results were formulated⁷⁶. These Objectives and Results

have been operationalised into the following programmes:

Justice – Programme PARJE

- ¶ improve the functioning of Justice sector, so that Congolese Judicial system becomes more impartial, independent, efficient and protective of Human Rights and citizen's trust in the judiciary system is restore;
- ¶ support the review and implementation of the **National Plan for Justice Reform**;
- ¶ improve the Ministry of Justice and Human Rights (MIJDH) and new Superior Council of Magistracy's (SCM) **human resources management** and the **management of judicial public finances**, taking into account the gender inequalities issue;
- ¶ support the review and implementation of the **training policy** for managers, agents and others actors in justice depending of MJDH and SCM through the new National Institute for Judicial Training;
- ¶ improve **jail's** coverage over the territory and detention conditions, with special attention paid to children;
- ¶ strengthen the fight against impunity and human rights violations.

As far as **military justice** is concerned, the EU has adopted a **new programme** “Contribution to phase II of the project of support to military justice in the DRC through the strengthening of the Prosecution Support Cells” (2.2 million EUR over a maximum of 36 months).

Police – Programme PARP

- ¶ support **the implementation of the PAQ** for police reform with measures of support and advice to the Ministry of Interior, Security, decentralization and customary affairs (MISDAC) and the General Commissioner of the Congolese National Police;
- ¶ strengthen **financial and human resources** management and, more broadly CNP and MISDAC administrative governance taking into account gender inequalities;
- ¶ strengthen the **training structures and policy for the executives of the CNP** by supporting the creation of the Police Academy and in order to ensure professionalism and

⁷⁴ Xinhua, “L'UE renforce son soutien à l'Afrique centrale avec 350 millions d'euros”, *Africatime*, 24 June 2015 (Online : <http://fr.africatime.com/republique-democratique-du-congo/db/lue-renforce-son-soutien-lafrique-centrale-avec-350-millions-deuros>).

⁷⁵ European Commission and Gouvernement of the DRC, *Programme Indicatif National – 11^{ème} Fonds européens de développement 2014- 2020*, June 2014, p.6.

⁷⁶ *Ibid.*, p.16-19.

renewal of CNP personnel with special attention to meet citizens' expectations.

Army – Programme PROGRESS

- support the implementation of the **military reform plan**, including at legislative and regulatory levels, through measures of assistance and advise to the Ministry of National Defence and Veterans Affairs (MDNAC) and the General Headquarter (EMG), with particular attention to international standards in terms of human rights protection, women and children rights, and accountability of the MDNAC. To achieve this objective the EU plans to support the formation of a multipartite *Comité de Suivi* that will include members of the National Assembly and representatives of civil society and will be in charge of monitoring the implementation of the military reform plan;
- strengthen MDNCA and EMG's governance, and more specifically the **financial and human resources management** by taking into account gender inequalities;
- strengthen the **training structures and policy for the executives of the MDNAC** as a key element of the professionalisation and renewal of FARDC personnel;
- support the socio-economic integration of those who do not meet the conditions to be integrated as an element in the professional army, and support the actions of **demobilisation and reintegration of former combatants** of the rebel movements.

The 11th EDF plans to allocate 25 million euros to PROGRESS for a first three-year term (2015-2017). The programme PROGRESS lies in the continuity of certain actions undertaken by the former CSDP mission (EUSEC), with the exception of those activities which can be considered as typically a matter for military cooperation which cannot be covered by the EDF (which is supposed to be dedicated to development cooperation). That way PROGRESS disengages from direct support to the FARDC's strategic advice and training, and concentrates its assistance on strengthening the capacity of the military administration (MDNCA and EMG). For the non-typically military aspects, a transition period between PROGRESS and EUSEC is ensured until June 2016, announced date for the closure of the CSDP "micro-mission". Compared to EUSEC, PROGRESS focuses more on the internal and external

accountability of army reform. In order to improve external accountability, PROGRESS includes a specific program of education for civilians and will support the creation of a multipartite *Comité de Suivi*.

Assessment of the new EU programming to support SSR in the DRC

In principle the new programming developed in the framework of the 11th EDF will permit **more transparency** compared to the previous CSDP one. Indeed the EU is obliged to conduct an independent external evaluation of EDF programmes. The more transparent assessment of the programmes will allow to underline the "lessons learned" after the first implementation phase in order to reorient the missions if necessary. **EurAc** considers this aspect as a vital development of EU's support to SSR in the DRC as the country enters a new electoral period which risks to lead to increased tensions and acts of violence if the security forces are not trained and commanded to respond to public demonstrations in a professional and coherent way.

As the EDF is a Fund for development, it must focus mainly on the improvement of the population well-being. **It is a good opportunity for the EU to change its approach to SSR** by concentrating on **governance issue** and its corollaries: independence of justice, protection of civilians, inclusion of civil society, human rights protection, and accountability of the armed forces.

Insisting on the accountability of armed forces is crucial, and **EurAc** considers an important step forward the EU proposal to include the population in the democratic control process of SSR. The EU proposal to put in place a multipartite committee composed of the Government, the Parliamentarians and the civil society will improve the focus on democratic governance of SSR that has been raised in this document. **EurAc** welcomes as well the proposal to launch a specific program of education on army reform for the civilians.

The EU must make sure that its approach moves away from the mere technical aspects of SSR and increasingly include dimensions of good governance and accountability in its programmes **at all levels**. Moreover, specific attention must be given to the **coordination of**

the different actors involved in the process.

This can once more prove to be quite difficult in a context in which the Congolese Government's commitment to SSR remains a theoretical one and barely goes beyond the declaration of intents. It is about time for the EU to actively use the opportunities offered by the **Cotonou Agreement** in terms of political dialogue (Art. 8) in order **to put pressure on the DRC Government** to implement its commitment made through the signature of the Addis-Ababa Framework agreement, including the implementation of its army reform plan.

EurAc and its Congolese civil society partners believe that unfortunately the DRC Government has been playing a “double-game” making announcements of reforms (in justice for instance with the implementation of MNS - National Monitoring Mechanism, or by appointing a new Minister for decentralisation in December 2014) which have not been followed by a real implementation phase.

The EU should use its **political and financial leverage** to **make sure that the DRC Government develops a clear SSR national strategy and plans** including the allocation of relevant financial resources for the well-functioning of all security-related institutions.

In order to lead to more significant improvement, future SSR programmes planned under the 11th EDF must be based on the **assessment of former SSR interventions by international partners in the DRC.**

These new programmes must seize the opportunity to build on and consolidate previous achievements whilst establishing a new approach to implement SSR. **A more political approach is needed**, to improve the Congolese Government's commitment to engage in the reforms (ownership), the accountability and governance of Congolese security services as well as its capacity to ensure the protection of the population.

Conclusion

The resources invested by the EU and other international partners of the DRC have allowed a great deal of progress as far as Security Sector Reform is concerned. The establishment of the EU CSDP missions EUSEC and EUPOL have supported the Congolese government in adopting the necessary legislation that is at the basis of a coherent and effective SSR. Moreover the biometric registration of soldiers and the clear division between the chain of payment and chain of command have contributed to create more coherence in the army and have increased the efficiency of the FARDC.

However enormous challenges remain in terms of further developing this reform and consolidating the *acquis* in all three pillars of the SSR: defence, police and justice. The harmonisation of the EU intervention on SSR will definitely pass through the strengthening of the different programmes (PROGRESS, PARJE and PARP) but also through an increased coordination between the EU and its Member States active in the DRC on SSR and the EU and other international partners of DRC such as the US and MONUSCO.

EurAc's analysis insists on the necessity to increase focus and investments on reinforcing democratic oversight over the SSR by strengthening the capacities of and the space for civil society and Parliamentarians' participation in SSR. As an example, the mere fact that a Defence Committee exists in the Parliament is not a guarantee of the actual possibility for Parliamentarians to play a much needed oversight role as often, questions to the Government on defence issues remain unanswered in the name of "defence secrecy" relegating in practice the Parliament to an invisible actor in SSR.

A number of questions need further analysis to enable a coherent EU intervention in SSR. EU programmes appear as a rigid system most of the times piloted by the EU offices in Brussels that have little knowledge and understanding of the realities on the ground.

An increased flexibility would put the EU in the position of better taking into account the reality of a State, such as the DRC, which is fragile and characterised by a high level of corruption. In this respect a higher capacity to adapt to the local reality, to rethink and readapt its programmes and priorities would contribute to an increased coherency and impact. This would also allow targeting the interventions on the real needs of SSR in the DRC and would allow the EU to develop an increased capacity in responding to the local demand and contribute to a better ownership of the local actors.

Another question raised during the process of research to develop this position paper is whether the EU is actually using the right instruments to enable a sustainable impact on the SSR in the DRC. Developing a reform is a long term process that needs to have the ambition not only to involve all the different actors but also to promote and facilitate the development of new mentalities. Reforms require long term commitment and programming, and although the swift of certain programmes from CSDP to EDF contributes to giving a longer perspective to the EU intervention, a thorough reflection in this respect would allow the EU to increase its impact and optimise investments.

Last but not least, the swift from EUSEC to PROGRESS raises questions on the possibility that positive developments in terms of military cooperation, achieved through EUSEC, might get lost. Considering that part of the military activities undertaken by EUSEC cannot be pursued by the EU anymore, they should be taken up by DRC's bilateral partners (such as EU Member States). A new way to coordinate these partners' programmes in the field of military activities should be envisaged, as this is not part of the mandate of PROGRESS. These bilateral programmes should be built on EUSEC's past achievements in order to make them sustainable.

Abbreviations

AEDH	Agir Ensemble pour les Droits de l'Homme
ANR	National Intelligence Agency (DRC)
AU	African Union
CENI	Independent National Electoral Commission
CIMIC	Civil military coordination
CNP	Congolese National Police
CSDP	Common Security and Defense Policy
DDR	Disarmament, Demobilization and Reintegration
DFID	Department For International Development (UK)
DGM	Immigration Services (Direction générale de Migration)
DRC	Democratic Republic of Congo
EDF	European Development Fund
EMG	General Headquarter (Etat-Major Général)
EU	European Union
EUPOL	European Union Congo Police Mission
EUSEC	European Union Security Sector Reform Mission in the DRC
FARDC	DRC Armed Forces
FIB	Force Intervention Brigade
GRIP	Groupe de Recherche et d'Information sur la Paix et la Sécurité
HDI	Human Development Index
IRP	Indicative Regional Program
ISSAT	International Security Sector Advisory Team
ISSSS	International Security and Stabilisation Support Strategy
IT	Information Technology
MDNAC	Department of National Defence and Veterans Affairs
MISDAC	Ministry of Interior, Security, decentralization and customary affairs

MJDH	Ministry of Justice and Human Rights
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MONUSCO	United Nations Organization Stabilization Mission in the DR Congo
OIF	International Organisation of La Francophonie (Organisation Internationale de la Francophonie)
OECD	Organisation for Economic Cooperation and Development
OMCT	World Organisation Against Torture (Organisation Mondiale Contre la Torture)
PARJE	EU Support Programme promoting Justice in the East (Programme d'appui en renforcement de la justice à l'Est)
PARP	EU Support Programme to the Police Reform (Programme d'Appui à la Réforme de la Police)
PAQ	Five-years Action Plan (Plan d'Action Quinquennal)
PROGRESS	EU Support Programme for the Defence Reform
RRSSJ	Network for Security and Justice Sector Reform in the DRC
SALW	Small Arms and Light Weapons
SCM	Superior Council of Magistracy
SSR	Security Sector Reform
TJ	Transitional Justice
UN	United Nations
UNHCR	Office of the United Nations High Commissioner for Refugees