

# Democratic processes and political stalemates in the Great Lakes region

For a stronger engagement  
from the European Union  
in Burundi, the DR Congo  
and Rwanda



**EURAC**  
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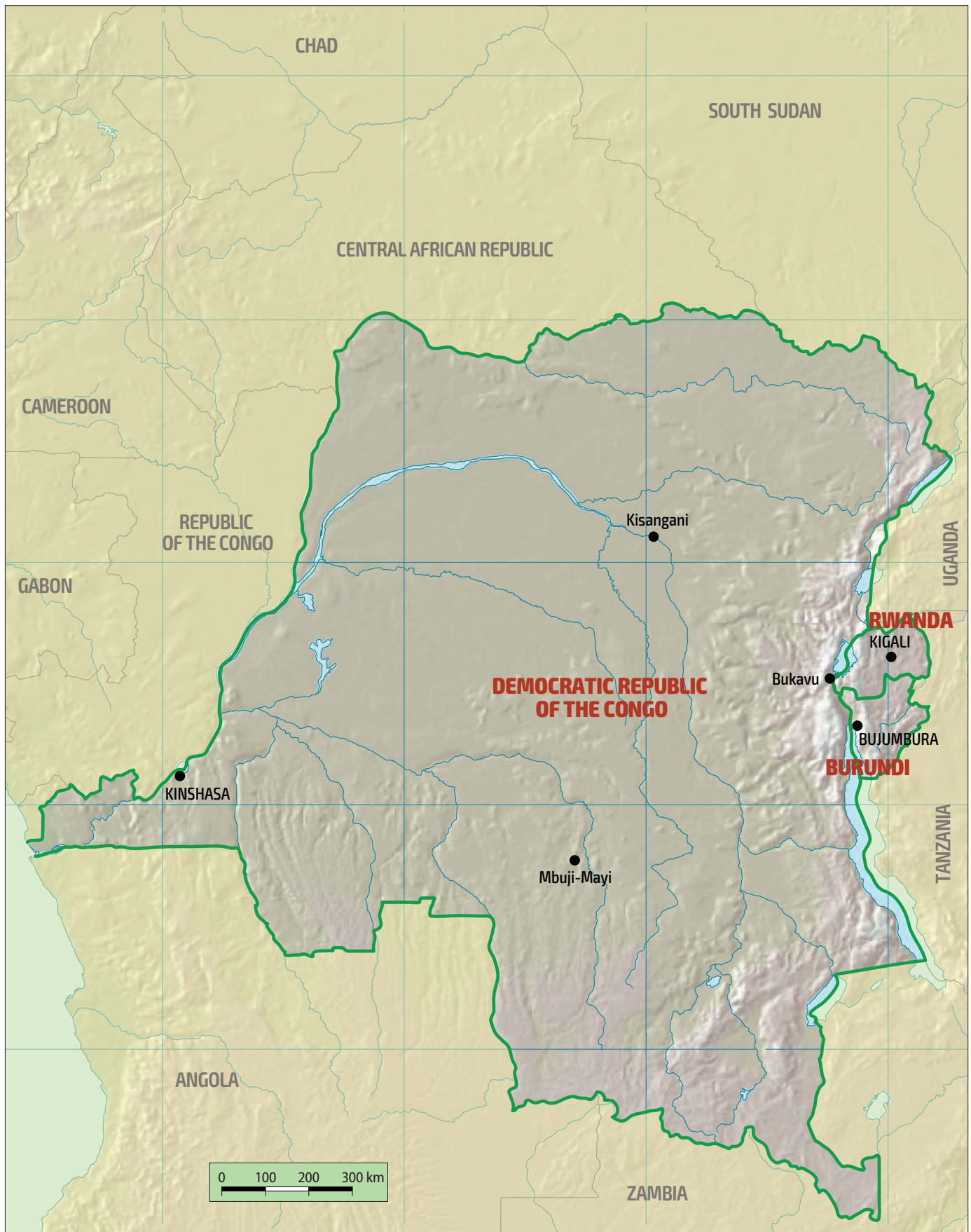




**Cover picture :**  
**Woman voting during 2011 presidential elections**  
**in Kinshasa, DR Congo**  
**Credit: Giampaolo Musumeci**

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# Introduction

In the Great Lakes region, progress in terms of governance, democracy and the rule of law is very limited. Indeed, in each of the three countries in the region - Burundi, the Democratic Republic of the Congo (DRC) and Rwanda - the different **electoral processes** have been systematically **called into question by failed or successful attempts by current governments to modify their Constitutions so as to stay in power**. In fact, each of them has, at different points in time, successfully or otherwise, attempted to **modify constitutional provisions which enshrine the principle of democratic alternation** and those referring to the authorised number and duration of presidential terms or to the presidential voting method. **Political participation** by citizens in this region is furthermore severely **hampered** by the use of violent and systematic state repression against dissenting voices, considerably reducing the democratic space and **jeopardising the public's most fundamental rights and freedoms** such as the freedom of expression and opinion and sometimes even the right to life and physical integrity of those who seek to express themselves. **Impunity** for crimes and human rights violations committed is rampant in countries where the legal system and the security services are seriously dysfunctional, lacking in independence and often corrupt.<sup>1</sup>

The Great Lakes region is currently prey to a number of crises: **crises of institutional governance and legitimacy of leaders** often wielding excessively centralised power and seeking to devoid the democratic principle of

political alternation of its meaning, crises of governance accompanied by **democratic crises** with an excessive lockdown of the democratic space and increasing attacks upon fundamental freedoms and human rights. These originally political crises often degenerate into serious, large scale **security and humanitarian crises** causing a great deal of suffering for the populations of the Great Lakes as well as general instability across the region.

In **Burundi**, since the start of the crisis in April 2015, the date on which Pierre Nkurunziza decided to seek a third term in violation of the Constitution and the Arusha Agreement, the numerous cases of assassinations, summary executions, enforced disappearances and torture have greatly increased. This is fed by ethnically focused hate speech, notably spread by state officials against all dissenting voices, political and military figures, and also members of civil society, the media and the civilian population more broadly. At the end of 2016, statements made by President Nkurunziza failed to rule out a willingness to revise the Burundian Constitution with the intention of allowing himself to run for a fourth term during the next elections in 2020. In light of these extremely concerning developments and despite ceaseless alarm bells rung by local and international civil society, the **European Union** seems to have chosen the dangerous path of disengagement and renunciation. This is illustrated by its recent decision to finally resume financing for the salaries and arrears of Burundian soldiers engaged in the African Union Mission in Somalia (AMISOM)<sup>2</sup> following an agreement

- <sup>1</sup> **Annual Report 2016/2017**, Amnesty International, 2017
- <sup>2</sup> **The EU releases arrears for Burundian soldiers involved in AMISOM**, Radio France Internationale (RFI), 24<sup>th</sup> May 2017 (Article in French)

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**3 Amisom: The AU and Bujumbura reach understanding on the payment of Burundian soldiers,** RFI, 19th January 2017 (Article in French)

**4 Local declaration by the European Union Delegation,** Delegation of the European Union (EU) in the Democratic Republic of the Congo (DRC), 8<sup>th</sup> April 2017 (Declaration in French)

made between the African Union and Burundi,<sup>3</sup> which is totally inconsistent with the European decision in March 2016 to suspend all financial aid to Burundi. In the **DRC**, hopes raised by the political agreement facilitated by the National Episcopal Conference of Congo (*Conférence Épiscopale Nationale du Congo* - CENCO) on the 31<sup>st</sup> December 2016 have been dashed. The clear lack of political will to implement this agreement lies at the heart of the problem, not just on the part of the ruling party, but also from the opposition to a certain extent. This also follows President Joseph Kabila's nomination of a new Prime Minister on the 7<sup>th</sup> April this year, viewed by the EU as "counter to the spirit and letter of the December Agreement",<sup>4</sup> as well as the 9<sup>th</sup> May nomination of a new government which is seen as only narrowly inclusive. The enrolment of the electorate currently carried out by the Independent National Electoral Commission (CENI) presents a number of shortcomings, taking place without the slightest transparency and without sufficient observation from civil society or political parties. The violent repression of civil society actors, journalists and human rights defenders persists, and President Joseph Kabila continues to give no indication whatsoever as to a genuine desire to leave power democratically and peacefully. Finally, on the 4<sup>th</sup> August 2017, in a context in which dissident voices have been forced to silence, the presidential elections will take place in **Rwanda**. A referendum in 2015 approved constitutional modifications which allowed outgoing President Paul Kagame to run for a third term in 2017.

These **crises at local level** are accompanied by a **crisis of governance at regional level**. The regional mediation initiatives for national crises, such as facilitation by Benjamin Mkapa, mediator for the East African Community (EAC) of the negotiations on the Burundian crisis, or the winter 2016 mediation by African Union facilitator Edem Kodjo for the "Congolese National and Inclusive

Dialogue", have all turned out to be dismal failures as these mediations have not resulted in any crisis recovery or credible and meaningful political compromise whatsoever. These initiatives have furthermore worsened the tensions and divisions for which they were unable to provide mutually viable and acceptable solutions.

From a **security perspective**, the deterioration of political crises is extremely concerning in a region already suffering from numerous conflicts. Renewed **political instability**, primarily in Burundi and the DRC, would not only affect the larger Great Lakes region, but also risks jeopardising the significant investments made by Europe towards the consolidation of peace, democracy and development in the region.

In this position paper, the **European Network for Central Africa (EurAc)** first wishes to draw the attention of European policy- and decision-makers to the seriousness and the risks present in the differing contexts of Burundi, the DRC and Rwanda, by closely examining the past and current **democratic processes and political dialogues** in these three countries, with the aim of **understanding the national as well as regional challenges which result**. The role to be played by the EU in these different contexts will then be questioned, with a focus on the **main recommendations from EurAc and courses of action** so that the EU both supports the democratic and electoral processes so as to end the political crises in which each country finds itself, as well as adopts strong and innovative measures in order **to become a strong and vital diplomatic leader and actor** among the different regional bodies in Central Africa.



## RECOMMENDATIONS: COURSES OF ACTION FOR THE EUROPEAN UNION AND ITS MEMBER STATES

Based upon the analysis developed in this document (see Introduction, Part I, Part II and Part III), EurAc wishes to submit the following courses of action and recommendations to the various European policy- and decision-makers, both from a regional governance perspective as well as from the perspective of the different national contexts:

### From a regional governance perspective

- ♦ **Reinstate the position of European Union Special Representative for the Great Lakes region**, under the joint authority of the High Representative of the Union for Foreign Affairs and Security Policy and the President of the European Commission, this position having been removed in 2010. On the ground, the Special Representative will be responsible for the diplomatic representation of the EU in the three countries, with particular attention being given to diplomatic representation at regional level. He/She will have to provide **an active and effective contribution to a coherent, sustainable and responsible EU foreign policy in the Great Lakes region**, and support a coherent global approach undertaken by the Union and its Member States in the region. Finally, he/she will have to work on **establishing and maintaining close contact with the United Nations, the African Union, key African countries, and the main relevant partners** of the different countries in the region and the Union, as well as with regional and sub-regional African organisations, other concerned third countries and other key leaders in the region;
- ♦ **Mandate the High Representative of the Union for Foreign Affairs and Security Policy so that she travels to the region as soon as possible** in order to defend the common position of the EU at the level of the highest Congolese, Burundian or Rwandan authorities. This visit must also contribute to **strengthening the political role of the EU Delegations in these countries** who, pursuant to Article 8 of the Cotonou Agreement, are mandated to lead a regular political dialogue with the authorities of the three countries. This dialogue must allow for **engagement with the presidencies regarding the importance of respecting the Constitution and human rights**, and more broadly, it must support the holding of free, transparent, credible and peaceful elections;
- ♦ **Revise the EU strategy for the Great Lakes region** adopted in 2013.<sup>5</sup> This strategy is visibly failing on several fronts, particularly on account of the ruling class of the different countries calling the principle of democratic alternation into question;
- ♦ **Develop a truly integrated comprehensive approach for the DRC, Burundi and Rwanda**, in order to optimally and coherently use the different instruments available to the EU to support the emergence of a peaceful and sustainable democratisation process. This integrated approach means that the EU has a set of common objectives shared by all of the competent services which are translated into clear policies, and that the most appropriate instruments are used to achieve these objectives in each of the sectors concerned (political dialogue, reforms/governance, supporting civil society, technical and budgetary assistance, etc.).

<sup>5</sup> Joint Communication to the Council. [A strategic framework for the Great Lakes Region](#), European Commission (EC) and European External Action Service (EEAS) JOIN (2013), 19<sup>th</sup> June 2013

## From the perspective of the different national contexts

### BURUNDI

#### On the political and diplomatic level

- ♦ **Extend European targeted sanctions (travel restrictions and asset freeze) previously adopted on the 1<sup>st</sup> October 2015 against four people** and target new individuals who are part of President Nkurunziza's inner circle and who are **responsible for human rights violations**, particularly state agents often traveling to Europe;
- ♦ Make use of the EU's diplomatic influence to **put pressure upon members of the United Nations Security Council (UNSC)**, notably the European states, permanent and temporary members, and more particularly the UNSC Sanctions Committees, so that **UN sanctions are immediately applied against Burundian officials responsible for human rights violations**;
- ♦ **Reconsider and cancel the decision to resume financing for the salaries of Burundian soldiers participating in AMISOM**, given that any financial support for the Burundian army is contrary to the European decision to apply a regime of sanctions against the Burundian government, in accordance with the application of Article 96 of the Cotonou Agreements;
- ♦ Urge the EU High Representative for Foreign Affairs and Security Policy to **support, renew and strengthen the credibility of regional mediation efforts made by the East African Community, notably by naming the new European Union Special Representative for the Great Lakes region** who will have to collaborate with other regional and international partners in order to find a sustainable solution for the crisis which respects the Burundian Constitution, the Arusha Peace Agreement and international law;

- ♦ **Organise the informal meeting for the evaluation of the procedure laid out in Article 96 of the Cotonou Agreements as quickly as possible**; in this evaluation, the EU must question the Burundian government as to its plan for normalising the situation vis à vis human rights and fundamental freedoms, including the recent adoption of new legislation covering international non-governmental organisations (NGOs) and national non-profit organisations and their vision for the development of the country.

#### On the level of protection of fundamental freedoms and human rights

- ♦ **Communicate in a much stronger and more coherent manner** the commitment and determination of the EU to **defend the rights and freedoms of the Burundian citizens**, such as freedom of expression, association and assembly; **Condemn policies of harassing, arresting and detaining** political opponents, human rights defenders (in accordance with the *European Union Guidelines on Human Rights Defenders*<sup>6</sup>), members of civil society and their families; **Demand the immediate and unconditional release of all prisoners of conscience**, as well as dropping all charges against them;
- ♦ **Express grave concern** regarding the adoption of **new legislation on international NGOs and national non-profit organisations**, which seem to impose undue restrictions on freedom of expression, association and assembly and provide radical new powers to the government to control these organisations and suppress critical voices;
- ♦ **Publicly condemn the adoption of a new law on the creation of a national body of volunteers** which seems to legalise the activities of the violent youth militia controlled by the ruling

<sup>6</sup> Ensuring Protection - European Union Guidelines on Human Rights Defenders, EEAS, 2008



party, the 'Imbonerakure', which has been widely accused by international human rights organisations and the UN of having seriously violated fundamental rights while operating with total impunity;

- ◆ Urge EU member states to **provide reinforced flexible and direct financial aid** to civil society organisations as well as provide the possibility of delivering **emergency visas to human rights defenders and organisations at risk** in Burundi, in order to help guarantee their physical and psychological integrity in all circumstances.

#### On the security level

- ◆ **Urge the Burundian government to respect UNSC Resolution 2303** and allow the **deployment of United Nations police units** in the country to monitor the security situation and support the work of the Office of the United Nations High Commissioner for Human Rights (OHCHR);
- ◆ **Urge the government of Burundi to re-establish its cooperation and dialogue with the OHCHR, the United Nations Human Rights Council, and the Commission of Inquiry on Burundi**,<sup>7</sup> as well as allowing OHCHR employees to access detention facilities;
- ◆ Use the EU's diplomatic influence to put pressure on European member states of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC) so **that the Court opens an inquiry into the murders, imprisonments, acts of torture, rapes and other forms of sexual violence as well as cases of forced disappearance** which have taken place in Burundi since 2015.

## DEMOCRATIC REPUBLIC OF THE CONGO

### On the political and diplomatic level

- ◆ **Express more strongly the EU's refusal to see President Kabila run for a third term**; Clearly and strongly **communicate** to the Congolese government its concern that the **Congolese Constitution must not be changed**, and that the articles enshrining the principle of democratic alternation, such as the authorised number and duration of presidential terms or the presidential voting method (Articles 70 and 220), are actually fully respected, and lastly that no referendum must be organised to proceed with any such constitutional changes, and that otherwise there could be serious ramifications for relations between the EU and the DRC;
- ◆ **Reaffirm much more strongly and coherently** to the President, the new government, the Presidential Majority, and all opposition groups, the necessity of **collaborating transparently and openly** and finding a mutually acceptable compromise in order to **implement the Agreement of the 31<sup>st</sup> December 2016 as quickly as possible** "in good faith and in its entirety" in order to promptly begin preparations for credible and peaceful elections by the end of 2017 as set out in the above agreement;
- ◆ Should the situation worsen further and no significant progress towards a peaceful solution to the current crisis be made, **consider employing additional means of exerting pressure** and communicate the EU's willingness to trigger the mechanisms for **stronger political dialogue laid out in the Cotonou agreement**.

### On the level of protection of fundamental freedoms and human rights

- ◆ **Communicate strongly and coherently** the commitment and determination of the EU to **defend the**

<sup>7</sup> **Burundi: Commission of Inquiry presents initial activities and observations**, Office of the United Nations High Commissioner for Human Rights (OHCHR), 13<sup>th</sup> March 2017

**8** Joint communiqué from the African Union, the United Nations, the European Union and the International Organisation of La Francophonie on the situation in the Kasai provinces in the Democratic Republic of the Congo, EEAS, 28<sup>th</sup> March 2017  
Statement by the Spokesperson on the murder of United Nations experts in the Democratic Republic of the Congo, EEAS, 29<sup>th</sup> March 2017

**9** Resolution 2277 of the United Nations Security Council on the situation concerning the Democratic Republic of the Congo, United Nations Security Council (UNSC), 30<sup>th</sup> March 2016

**10** Resolution 2348 of the United Nations Security Council on the situation concerning the Democratic Republic of the Congo, UNSC, 31<sup>st</sup> March 2017

**rights and fundamental freedoms of Congolese citizens**, and communicate the necessity of guaranteeing freedom of opinion, expression, association, assembly and freedom of the press, fair access to the media, including State media, the safety of all political actors and freedom of movement for all candidates as well as for observers and witnesses, journalists, human rights defenders and civil society actors;

- ◆ **Reiterate the EU's strong condemnation of the ban on peaceful demonstrations and policies of arresting and detaining political opponents, human rights defenders and members of civil society, and continue to demand that the government fully respect the requirements set out in the Cotonou Agreement as well as in the New Year's Eve Agreement, and proceed with the immediate and unconditional release of all prisoners of conscience as well as dropping all charges still held against them.**

#### On the security level

- ◆ Reaffirm that the EU has a **zero-tolerance policy for any excessive use of force and incitement to violence by officers of security forces and the army** who furthermore receive training or other support, particularly financial, from the EU or its member states; **Be prepared to reduce this financial support** if these agents are found responsible for the excessive use of force or incitement to violence;
- ◆ Use its diplomatic influence to ask **Member States of the UNSC**, the European States in particular, permanent and temporary members, to establish an **independent inquiry into the massacres and serious human rights violations which have taken place in the region of the provinces of Kasai**, particularly those linked to the discovery of mass graves, but also the murders

of two experts from the United Nations Group of Experts and the disappearance of their four Congolese escorts.<sup>8</sup> Furthermore, the EU must **support the commitment of Congolese organisations defending human rights to carry out their own independent inquiries** and must put pressure upon Congolese authorities so that they allow such enquiries. The EU must extend targeted sanctions to any who might impede such international or local inquiries from being carried out;

- ◆ Use its diplomatic influence to **ask Member States of the UNSC**, the European States, in particular permanent and temporary members, to establish an **independent inquiry into the Beni and Lubero massacres**, which should not interfere with local community conflict resolution initiatives but rather act as a complement;
- ◆ **Encourage the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO) to respect its obligations:**
  - \* In accordance with **Resolution 2277<sup>9</sup> of the UNSC**, particularly Article 29 b) and Article 35 i) a), and thus further develop its human, logistical and technical capacities in order to '*ensure, within its area of operations, effective protection of civilians under threat of physical violence [...] in the context of elections*';
  - \* In accordance with **Resolution 2348<sup>10</sup> of the UNSC**, in particular Article 28 b) and Article 34 ii) which describes the strategic priorities of MONUSCO as follows: '*support to the implementation of the 31st December 2016 agreement and the electoral process, [...] in order to contribute to the stabilisation of the DRC*'.

### On the level of technical support for the electoral process

- ♦ In accordance with the Agreement of the 31<sup>st</sup> December and the Congolese Constitution, and in compliance with the African Charter on Democracy, Elections and Governance, **call upon the government of the DRC and the CENI to monitor the transparency and credibility of the electoral process**, by:
  - \* **Immediately publishing a detailed, complete and credible electoral calendar** while taking into account the deadlines for the organisation of the electoral sequences as set out in the Agreement of the 31<sup>st</sup> December;
  - \* Promptly proceeding with an effective update of the electoral rolls via a **transparent, credible and reliable enrolment process**;
  - \* Facilitating the **obtainment of accreditation and access to different phases of the process for electoral observers** from civil society as well as for political party witnesses;
  - \* Quickly establishing a sufficient and credible electoral budget and a disbursement plan to ensure that elections are held in December 2017 at the latest.

### On the level of fighting corruption

- ♦ Encourage the Member States of the EU to **investigate and prosecute EU companies and individuals** who, whether through planning, directing or financing, **contribute to acts of corruption, money laundering or fraud**; **Develop strict and detailed European guidelines** for European companies and investors who are working or investing in the DRC, in accordance with the Organisation for Economic Cooperation and Development (OECD)<sup>11</sup> *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and the UN Guiding Principles on Business and Human Rights.<sup>12</sup>

### RWANDA

#### On the level of protection of fundamental freedoms and human rights

- ♦ **Communicate strongly and clearly** the EU's commitment and determination to **defend political pluralism, the independence of the legal system and access to a fair trial, as well as all human rights and fundamental freedoms of Rwandan citizens**, and that freedom of opinion, expression, association, and assembly be assured, as well as freedom of the press, fair access to the media, including State media, and also the safety of all political actors, political opponents, human rights defenders and members of civil society;
- ♦ **Reiterate the EU's strong condemnation of policies of arresting and detaining political opponents** and continue to demand that the government fully respect the requirements set out in article 8 of the Cotonou Agreements and proceed with the **immediate and unconditional release of all prisoners of conscience**. The EU must condemn the intimidation and harassment of national journalists;
- ♦ Urge the Rwandan government to **investigate the alleged abuse perpetrated against journalists as well as activists and opposition sympathisers**;
- ♦ Regularly re-examine the financial support provided by the Union to Rwandan government institutions in order to ensure that this support fully promotes human rights, freedom of expression and association, political pluralism and the existence of an independent civil society.

<sup>11</sup> **Convention on Combating Bribery of Foreign Public Officials in International Business Transactions**, Organisation for Economic Cooperation and Development, 21<sup>st</sup> November 1997

<sup>12</sup> **UN Guiding Principles on Business and Human Rights**, OHCHR, 2011



# Part I Political and security crisis in Burundi: Silencing of dissident voices behind closed doors

**13** Burundian authorities 'shut doors' to engagement, cooperation, UN News Centre, 9<sup>th</sup> March 2017

**14** Burundi: The Constitutional Revision Committee has been established, RFI, 13<sup>th</sup> May 2017 (Article in French)

**15** Resolution adopted by the Human Rights Council on 30 September 2016. Situation of human right in Burundi, UN Human Rights Council (UN HRC), 5<sup>th</sup> October 2016 Report of the United Nations Independent Investigation on Burundi (UNIIB) established pursuant to Human Rights Council resolution S-24/1, UN HRC, 20<sup>th</sup> September 2016 Report of the Special Rapporteur on the situation of human rights defenders on his mission to Burundi, UN HRC, 30<sup>th</sup> December 2015

**16** Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening a Preliminary Examination into the situation in Burundi, International Criminal Court (ICC), 25<sup>th</sup> April 2016

**17** Final report of the mission of independent experts to Burundi, UN HRC, 20<sup>th</sup> September 2016

**18** Burundi: The UN Commission of Inquiry on Human Rights regrets the lack of collaboration with the authorities, UN News Centre, 13<sup>th</sup> March 2017 (Article in French) Grotesque rape chants lay bare campaign of terror by Burundi militia – Zeid, OHCHR, 18<sup>th</sup> April 2017

**19** Forced disappearances, Deutsche Welle (DW), 10<sup>th</sup> May 2017 (Article in French)

Burundi is currently deeply embroiled in a **serious political and security crisis** since President Nkurunziza's April 2015 decision to run for a third consecutive term, in violation of provisions relating to term limits laid out in the Burundian Constitution and article 7 of the Arusha Peace Agreement. Furthermore, at the end of 2016, the President even mentioned his **willingness to stand for a fourth term** at the 2020 elections, which the UN believes could worsen the crisis yet further.<sup>13</sup> Reflecting this, the President signed a decree on the 12<sup>th</sup> May this year which establishes a committee tasked with studying which amendments must be made to the Constitution, raising fears that this is for the sole aim of removing the limit on presidential terms, thus allowing the President to run for a fourth.<sup>14</sup>

The **persistence, seriousness and breadth of allegations of human rights violations** are very concerning in a country where violations of the right to life and physical integrity of the person persist, cases of enforced disappearances are on the rise, and absolute impunity prevails, with **no end to the political and security crisis in sight**. This is despite dominating current discussions between the government and the opposition, which have been facilitated with a great deal of difficulty by Benjamin Mkapa, the mediator for the East African Community.

## SHARP INCREASE IN SERIOUS HUMAN RIGHTS VIOLATIONS AND THE EXPLOITATION OF ETHNICITY AND HATE SPEECH BY LEADERS

A **campaign of harassment, intimidation, violence, and serious, large scale violations of the human rights and fundamental freedoms** of dissident voices is currently underway in Burundi. This has been ongoing since the outbreak of the 2015 political crisis, as noted by alarming and repeated reports<sup>15</sup> from the United Nations, by resolutions from the European Parliament and decisions of the Council of the EU, as well as continued alerts from different Burundian and international non-governmental organisations, in addition to the opening of a preliminary investigation by the ICC in April 2016.<sup>16</sup>

Reliable and up-to-date statistics are difficult to come across. This is notably due to the fact that the Office of the High Commissioner for Human Rights is experiencing great difficulty fulfilling its mandate on the ground, and last autumn the United Nations Independent Investigation Commission was not authorised to enter the country. However, according to the latest figures available, this crisis has already **cost the lives of at least 564 people between April 2015 and August 2016**,<sup>17</sup> the true figure surely now exceeding this conservative estimate by a large margin. According to the UN, another **401,573 people have fled the country**.<sup>18</sup> The Burundian association FOCODE (*Forum pour la conscience et le développement*) further lists between **300 and 900 cases of enforced disappearances** since the beginning of the crisis.<sup>19</sup> A recent report by Human Rights Watch questions the **responsibility of members of the**

ruling party's youth league, the *Imbonerakure*, in the perpetration of a number of these massive violations and the general impunity from which they benefit.<sup>20</sup> The Office of the High Commissioner for Human Rights has furthermore reacted to recent allegations of hate speech by these *Imbonerakure* inciting the rape of opposition women.<sup>21</sup>

On the 19<sup>th</sup> October 2016, seeking to further gag civil society actors and keep human rights abuse hidden, the Burundian Minister of the Interior ordered the **permanent suspension of five civil society organisations**, all of which were members of the 'Stop the third term' (*Halte au troisième mandat*) campaign: the FORSC (*Forum pour le renforcement de la société civile*), the FOCODE, the APRODH (*Association burundaise pour la protection des droits humains et des personnes détenues*), ACAT (*Action chrétienne pour l'abolition de la torture*) and the RCP (*Réseau des citoyens probes*).<sup>22</sup> On the 24<sup>th</sup> October, **five other organisations were suspended**: the COSOME (*Coalition de la société civile pour le monitoring électoral*), the CB-CPI (*Coalition burundaise pour la Cour Pénale Internationale*), the UBJ (*Union burundaise des journalistes*), SOS Torture Burundi and the Burundian Human Rights League 'Iteka'. The latter, from which the previous treasurer Ms Kwizera also worryingly disappeared in 2015,<sup>23</sup> was permanently suspended in December 2016, as was the OLUFAD, an organisation promoting good governance and the fight against corruption.<sup>24</sup>

Certain **advocate** members of these organisations have been **subject to an international arrest warrant** issued by the Burundian justice system in October 2015, such as Pierre Claver Mbonimpa from the APRODH, Pacifique Nininahazwe from the FOCODE, Me Armel Niyongere from ACAT and Vital Nshimirimana from the FORSC.

A new law<sup>25</sup> on international NGOs as well as another law aiming to control the actions of local NGOs were adopted

by the Burundian National Assembly in December 2016 and have been cause for great concern regarding the government's possible intentions to strengthen its **control over the work of NGOs**, which will notably have to receive prior authorisation from the Minister of the Interior for any activity as well as respect priorities set in place by the Government.<sup>26</sup>

In April 2016, the ICC, which has been monitoring the situation since May 2015, after having examined different reports describing 'murders, imprisonments, acts of torture, rapes and other forms of sexual violence as well as cases of forced disappearance', decided to **open a preliminary examination**.<sup>27</sup> On the 12<sup>th</sup> October 2016, the Parliament of the Republic of Burundi announced its withdrawal from the Rome Statute upon which the ICC is based,<sup>28</sup> though this action does not negate the Court's competency to continue the preliminary examination nor the possibility of beginning an investigation in the future.

## GROWING INTERNATIONAL ISOLATION AND FAILING REGIONAL POLITICAL MEDIATION

Since the beginning of the crisis in 2015, Burundi has found itself in an **unprecedented political impasse** and has been **growing increasingly isolated on the international stage**. The East African Community (EAC) has established negotiations within a **dialogue between the different political forces in the country with a view to ending the crisis**, these forces being the government, the opposition, notably the CNARED (National Assembly for the Respect of the Arusha Peace and Reconciliation Agreement and the Rule of Law), the platform for the opposition in exile, and civil society, from which the majority of actors are also living in exile. This **mediation**, advocated by former Tanzanian President Benjamin Mkapa, is currently at a **stalemate**: the government refuses to discuss with the opposition in exile, members of civil

<sup>20</sup> **Burundi: Attacks by Ruling Party Youth League Members**, Human Rights Watch (HRW), 19<sup>th</sup> January 2017

<sup>21</sup> **Grotesque rape chants expose 'campaign of terror' in Burundi – UN rights chief**, UN News Centre, 18<sup>th</sup> April 2017

<sup>22</sup> **Hunting for CSOs intensifies...**, Iwacu, 31<sup>st</sup> October 2016

<sup>23</sup> **Burundi: UN experts condemn growing repression of NGOs and human rights defenders**, UN News Centre, 6<sup>th</sup> February 2017 (Article in French)

<sup>24</sup> *Idem*

<sup>25</sup> **Draft bill to modify law no. 1/011 of the 23<sup>rd</sup> June 1999 modifying decree-law no. 1/033 of the 22<sup>nd</sup> August 1999 on the general framework of cooperation between the Republic of Burundi and foreign non-governmental organisations (FNGOs)**, Republic of Burundi Presidency, 23<sup>rd</sup> January 2017 (Page in French)

<sup>26</sup> **Burundi: Measures being used to 'criminalize' work of human right defenders, warn UN experts**, UN News Centre, 6<sup>th</sup> February 2017

<sup>27</sup> **Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening a Preliminary Examination into the situation in Burundi**, ICC, 25<sup>th</sup> April 2016

<sup>28</sup> **Statement of the President of the Assembly of States Parties on the process of withdrawal from the Rome Statute by Burundi**, ICC, 18<sup>th</sup> October 2016

society are excluded from negotiations<sup>29</sup> and Mkapu has been accused of playing for power. As a new attempt at relaunching the dialogue, the facilitator has finally turned to the EAC heads of state who met on the 20<sup>th</sup> May this year. Without a word on the seriousness of the situation, Yoweri Museveni, the president of the EAC and main mediator in the Burundian crisis, preferred instead to level serious criticisms against the European sanctions imposed upon Burundi.<sup>30</sup>

### TIMID AND CONTRADICTIONARY REACTIONS FROM THE EU AND EURAC'S POSITION

The reaction from the international community, despite being seen by many observers as coming too late, was a unanimous condemnation in 2015 of the third term and the repression and violence which followed with regard to protesters. Since then, the government's **repression has caused hundreds of deaths in complete impunity**, and the EU finally decided, after having **applied several restrictive individual measures** against targeted individuals responsible for violations, to suspend, on the 14<sup>th</sup> March 2016, **its direct aid to the Burundian government** as a result of not respecting its commitments laid out in the Cotonou Agreement.<sup>31</sup> Since then, the EU has shown a certain **lack of coherency vis-à-vis this strong diplomatic decision**, notably in terms of **its incoherent and overly conciliatory attitude towards certain European ambassadors**, namely the French, who are posted in Burundi and who continue to show a certain complacency towards the regime, having spoken out inappropriately in public for instance <sup>32</sup> or even participated in official events.

On the 20<sup>th</sup> May this year, during a summit of the EAC, in reaction to the Ugandan President Museveni's words in favour of lifting the EU sanctions against Burundi, **the EU ambassador in Tanzania declared that 'the sanctions will remain in place so long as the situation remains**

**unchanged'**.<sup>33</sup> This declaration, while welcome and coherent with the regime of sanctions currently imposed upon Burundi by the EU, stands in considerable contrast with the recent actions and decisions made by the EU with regard to the Bujumbura regime, notably on the **issue of financing for the Burundian contingent involved in AMISOM**, which the EU finally decided to resume after a suspension of several months, although this was without any real guarantee given by the AU and the Burundian government that the money paid would actually be paid in its entirety to the soldiers, without passing through state coffers. When it comes to this thorny issue, which is of tremendous importance diplomatically in a context where tighter links with the AU are being sought above all else, the **EU is maintaining a very ambiguous, even dangerous position, as it jeopardises its own coherency and thus credibility by not respecting its decision to suspend all direct aid to the regime.**

Furthermore, the **worrying statements made by President Nkurunziza** at the end of 2016, in which he **did not rule out the possibility of revising the Burundian Constitution** in order to allow himself to run for a fourth term during the 2020 elections, should be taken more seriously by the European Union as they further endanger varied European efforts towards democratisation and peace in this country.

In light of these extremely worrying political and security developments, **EurAc believes** that the time has come for the EU to take a much stronger position and in particular to **adopt further restrictive measures against those responsible for violence and serious human rights violations**. The EU must demonstrate its firm commitment to **supporting democracy and protecting human rights in Burundi**, values which constitute the true added value of European cooperation compared to other international partners and in doing so **avoid a new, worsened, large-scale security and humanitarian crisis in the Great Lakes region.**

<sup>29</sup> **Burundi: Exiled parties regret their exclusion from negotiations**, BBC Africa, 17<sup>th</sup> May 2017 (Article in French)

<sup>30</sup> **Burundi: The EAC pleads for sanctions to be lifted**, BBC Africa, 21<sup>st</sup> May 2017 (Article in French)

<sup>31</sup> **Burundi: EU closes consultations under Article 96 of the Cotonou agreement**, Council of the EU, 14<sup>th</sup> March 2016

<sup>32</sup> **In Burundi, the 'strange' interview with the French ambassador continues to draw responses**, Le Monde, 24<sup>th</sup> February 2017 (Article in French)

<sup>33</sup> **Burundi: The EAC pleads for sanctions to be lifted**, BBC Africa, 21<sup>st</sup> May 2017 (Article in French)



## Part II Democratic Republic of the Congo: Democracy in danger and worsened security risks for the country and the region

**I**n the current context of **compounded deterioration of the political and security situation**, the DRC is once more faced with a **dangerous stalemate**. The Presidential Majority, the government and President Joseph Kabila, as well as the opposition parties to a lesser degree, continue to clearly exhibit **reluctance to find a solution to the political crisis**. This new stalemate allows President Kabila to effectively cling onto power and the hope of the upcoming elections being organised before the end of 2017 diminishes daily as a result.

Over the course of the last five months, since the **signing of the Agreement of the 31<sup>st</sup> December** (hereafter ‘the Agreement’) negotiated with the mediation of the CENCO, a serious and continuous deterioration of the political situation has been observed, as well as **an increasingly marked narrowing of the democratic space** in an explosive pre-electoral context.

### **THE POLITICAL DIALOGUE AND THE STRATEGY OF DIVIDING THE OPPOSITION TO ACHIEVE A ‘SLIPPAGE’ (GLISSEMENT) OF THE ELECTORAL CALENDAR**

The negotiations within the national dialogue framework facilitated by the CENCO which preceded the **signature of the New Year’s Eve Agreement on the 31<sup>st</sup> December** last year meant a major crisis in the DRC could be avoided, particularly on the 19<sup>th</sup> December 2016, the end date of President Kabila’s second term, which brought tensions and attention to a peak and was anticipated as

the deadline before large-scale outbreak of street violence. The negotiations in light of the Agreement’s signature thus allowed spirits to be calmed and the explosion to be contained, furthermore **allowing the de facto ‘slippage’ (‘glissement’) of the electoral calendar to continue and allowing the different institutions and the President to maintain their grasp on power as a result.**

At the same time, the Presidential Majority, the government and President Kabila have consolidated their **strategy of weakening and dividing the opposition, redoubling attempts to corrupt and progressively destabilise the forces in play**, particularly the opposition forces, which are plagued by internal power struggles and individual bargaining over positions and the hijacking of previously passed provisions of the Agreement to achieve **widespread control of the democratic process in violation of the Agreement itself**. The strategy of ‘divide and conquer’ certainly seems to have been successful for the ruling party up to now.

This strategy first materialised on the 7<sup>th</sup> April with **President Kabila’s nomination of Prime Minister Bruno Tshibala**, who came from a dissident group of a coalition of different opposition parties named *Rassemblement* led by Felix Tshisekedi, and who was subsequently excluded from the coalition in question. The non-consensual designation of this figure within the opposition has further widened the **divides in and the decay of this opposition**. The signature of the so called ‘*Arrangement Particulier*’ on the

**34** Tweet by *Rassemblement de l'opposition*, Twitter, 15<sup>th</sup> May 2017 (Tweet in French)

**35** UNJHRO note on the main trends in human rights violations in April 2017, MONUSCO, 16<sup>th</sup> May 2017 (Note in French)

27<sup>th</sup> April by the Presidential Majority and the members of the opposition who signed the October 2016 African Union Agreement, in the absence of the leading figures of the *Rassemblement*, has strengthened this **strategy of weakening and dividing the opposition while taking increasingly exclusive control of power**, in violation of different provisions which had in fact been laid down in the Agreement. This 'Arrangement Particulier', which under the mediation of the CENCO has been increasing tensions for months without enabling the political class to achieve a concerted and consensual outcome, is a document intended to define the measures and methods in which the Agreement is to be implemented. *Rassemblement* did not wish to sign the 'Arrangement Particulier' proposed on the 27<sup>th</sup> April this year, criticising the fact that the text to be signed was totally different to that which had been negotiated under the CENCO's mediation earlier in the year. In fact, contrary to the provisions laid down in the Agreement, **the new 'Arrangement particulier' gives President Kabila control over the nomination not just of the prime minister but also the president of the National Council for the Monitoring of the Agreement and the Electoral Process (Conseil National de Suivi de l'Accord - CNSA).**

In line with this, on the 13<sup>th</sup> May this year, the Presidency called upon the political class to each submit a list of delegates to the CNSA within 48 hours. In reaction, the *Rassemblement* comprehensively rejected what it criticised as **yet another attempt to 'gut the Agreement of its substance and block its implementation'**.<sup>34</sup> Finally a new government of 60 ministers was named on the 9<sup>th</sup> May and invested at the National Assembly on the 16<sup>th</sup> May, rejecting a vote of no confidence submitted by the opposition at the same time. Within this government, the Presidential Majority remains dominant and the key ministers have been retained by them.

In this context, and since the passing of historic leader Etienne Tshisekedi on the **1<sup>st</sup> February this year**, the *Rassemblement* has been unable to gather around another charismatic and unifying leader. Certain individuals have been ousted from the movement for treason, others have been bought by power, and yet others such as Moïse Katumbi, prosecuted for undermining internal and external security of the DRC, are in exile. **A steady breakdown of *Rassemblement* is therefore taking place, giving way to tensions, divisions, manipulations and internal strife between different groups and figures, with some opportunists** preferring to seek out positions of power within the new government or within the CNSA, rather than uniting and working towards having elections this year.

### **CONTINUED SHRINKING OF THE DIPLOMATIC SPACE AND SILENCING OF DISSIDENT VOICES**

Furthermore, the **repression and the numerous abuses** perpetrated against activists, certain opponents, members of civil society, several human rights defenders and certain media are still very much current and **the democratic space is shrinking daily**. Since the 1st January 2015, the United Nations Joint Office for Human Rights (UNJHRO) has documented **1626 violations of human rights and fundamental freedoms linked to restrictions of the democratic space** across the whole of the Congolese territory.<sup>35</sup> Again according to the UNJHRO, the most documented violations **are attacks against the right to the freedom and security of the person, the freedom of opinion and expression and the freedom of peaceful assembly**. On the 10th April this year, peaceful demonstrations organised by the opposition and several civil society organisations which called for respect of the political Agreement of the 31st December were banned by the authorities in the main cities of the country and citizens were made to face

heavy deployment of security forces, thus preventing activities from taking place.

In addition, **citizen movements are becoming the preferred and systematic target of these attacks** against freedom of expression: by way of example, each time the citizen movement Lucha organises a civic action to demand an improvement in socio-economic conditions for the Congolese population, its activists are systematically targeted by strong and violent repression, such as was seen in Goma on the 19th April, where seventeen activists were arrested<sup>36</sup> during a peaceful demonstration organised in front of the Central Bank of the Congo. They were freed after four days of detention. Likewise, at Kinshasa on the 27th April, nineteen Lucha activists were arrested and then released after having been severely beaten and mistreated. On the 15th May, four Lucha activists were also arrested<sup>37</sup> at Mbuji-Mayi in Kasai-Central during a peaceful sit-in in front of the provincial office of the CENI to denounce the suspension of the enrolment process in the two provinces of Kasai and Kasai-Central.<sup>38</sup>

### CONCERNS IN LIGHT OF NUMEROUS FLAWS IN THE PROCESS OF IDENTIFYING AND ENROLLING VOTERS

In a recent memorandum made public on the 11<sup>th</sup> April 2017,<sup>39</sup> the civil society platform *Agir pour des Elections Transparentes et Apaisées* (AETA) criticises the **glaring lack of 'transparency, credibility and reliability' in the voter enrolment process**, initiated by the CENI at the end of July 2016 and which has already enrolled over 22 million voters, according to the CENI.<sup>40</sup> AETA however recalls that this enrolment took place even without the CENI publishing its electoral calendar. AETA also highlights **different failings and irregularities recorded throughout the process** such as, amongst others, the scant presence of electoral observers as well as witnesses

from the political parties, cases of fraud and bargaining relating to electoral cards, the low level of awareness raising and civic and electoral education by the CENI, its limited cooperation with civil society and the low level of engagement from the political parties in terms of improving their voters' awareness and education regarding enrolment. As regards the timetable given by the CENI, AETA believes that the **deadlines given are not realistic** and present a risk of overrunning when it comes to the organisation of the first electoral sequence in December 2017, as set down the New Year's Eve Agreement. This new **'elasticity' for the pre-electoral and electoral period** could have **serious repercussions** on the stability of the country.

Furthermore, **different incidents have disrupted the enrolment process**, such as the destruction of CENI voter registration centres and offices, as well as murders and violent attacks against employees, such as the recent decapitation of Phillipe Lyidimbe on the 3<sup>rd</sup> April, who was a CENI representative in Kasai-Central and supposedly killed by Kamwina Nsapu militia. A worrying development is that in reaction to this the CENI seems to be progressively preparing opinion for a new general postponement of the elections, **using arguments of continuing insecurity** in the Kasai regions, where enrolment which should have begun on the 30th April has been suspended.<sup>41</sup> **Another argument is the cost**, which the president of the CENI judges to be 'extremely high' for these elections.<sup>42</sup> Indeed, the CENI president has recently implied that the Congolese State does not have the means to spend the 1.3 to 1.8 billion dollars to finance the electoral process.<sup>43</sup> AETA and other observers such as the Congo Research Group strongly fear that **these excuses of insecurity and insufficient funds are yet another illustration of the CENI's lack of independence**, the proximity of which to the government leads it to

<sup>36</sup> The RDC must free the 17 Lucha activists and end repeated attacks against the freedom to protest peacefully, Amnesty International, 21<sup>st</sup> April 2017 (Article in French)

<sup>37</sup> Kasai: Arrested because we asked to be enrolled by the CENI like other Congolese people, Lucha, 16<sup>th</sup> May 2017 (Post in French)

<sup>38</sup> Voter enrolment delayed in Kasai after new bouts of violence, Voice of America (VOA), 1<sup>st</sup> May 2017 (Article in French)

<sup>39</sup> Memorandum to the President and members of the Plenary of the Independent National Electoral Commission, Agir pour des Elections Transparentes et Apaisées (AETA), 11<sup>th</sup> April 2017 (Page in French)

<sup>40</sup> The Future: 'Enrolment of over 22 million voters: the IOF encourages the CENI', Radio Okapi, 9<sup>th</sup> May 2017 (Article in French)

<sup>41</sup> Voter enrolment delayed in Kasai after new bouts of violence, VOA, 1<sup>st</sup> May 2017 (Article in French)

<sup>42</sup> The overall cost of 1.3 billion USD for the DRC elections is very high (C. Nangaa), Actualité.cd, 26<sup>th</sup> April 2017 (Article in French)

<sup>43</sup> DRC: Elections grow more distant, the referendum approaches, Afrikarabia, 14<sup>th</sup> May 2017 (Article in French)



**44 Election delay: The CENI prepares expectations**, Congo Research Group 11<sup>th</sup> May 2017 (Article in French)

**45 UNJHRO note on the main trends in human rights violations in April 2017**, MONUSCO, 16<sup>th</sup> May 2017 (Note in French)

**46** *Idem*

**47 DRC: UN investigators confirm the existence of 17 new mass graves**, MONUSCO, 19<sup>th</sup> April 2017 (Article in French)

**48 DR Congo - Situation Report N°6: Complex Emergency in the Kasai Region (17 May 2017)**, Humanitarian Response, 17<sup>th</sup> May 2017 (Document in French)

**49 EU declaration on the situation in the Democratic Republic of the Congo**, Council of the EU, 12<sup>th</sup> December 2016

**50 European Parliament resolution on the rule of law crisis in the Democratic Republic of Congo and in Gabon (2017/2510(RSP))**, European Parliament, 2<sup>nd</sup> February 2017

**51 Conclusions of the EU Council for Foreign Affairs**, Council of the EU, 6<sup>th</sup> March 2017

**52 Local declaration of the European Union Delegation**, Delegation of the EU in the DRC, 8<sup>th</sup> April 2017 (Declaration in French)

**53 Joint communiqué from the African Union, the United Nations, the European Union and the International Organisation of La Francophonie on the situation in the Kasai provinces in the Democratic Republic of the Congo**, Delegation of the EU to DRC, 28<sup>th</sup> March 2017  
**Statement by the Spokesperson on the murder of United Nations experts in the Democratic Republic of the Congo**, Delegation of the EU to DRC, 29<sup>th</sup> March 2017

**54 The European network for Central Africa calls on European ministers for new targeted sanctions against Congolese officials**, EurAc, 28<sup>th</sup> February 2017

**DR Congo: Time for the EU to turn words into action and apply new targeted sanctions against Congolese officials**, EurAc, 3<sup>rd</sup> May 2017

‘seek the slightest pretext to delay the elections and support the *‘glissement’*’.<sup>44</sup>

## GROWING SECURITY INSTABILITY

The excessive violence and general worsening of human rights violations across the entire territory of the DRC are also extremely worrying. In April, the UNJHRO documented a sharp rise in the number of summary and extra-judiciary executions. Furthermore, during the same period, ‘across the whole DRC territory, State agents have been responsible for over 62% of human rights violations, that being 290 violations’.<sup>45</sup>

The events unfolding for months in the Kasai provinces have been particularly lethal. According to the UNJHRO, at least 185 people have been executed by defence and security forces at Kananga, Tshimbulu and Muzodi (Kasai-Central) during military operations against presumed militiamen in March and April 2017.<sup>46</sup> Again according to the UNJHRO, 40 mass graves have also been discovered<sup>47</sup> in the provinces of Kasai-Central and Kasai-Oriental since August 2016. On the 12<sup>th</sup> March this year, the bodies of Michael Sharp and Zaida Catalan, members of the United Nations Group of Experts, were discovered in the province of Kasai-Central. Finally the Office for the Coordination of Humanitarian Affairs (OCHA) states that there have been 1.3 million people internally displaced since the beginning of the conflict in the Kasai regions.<sup>48</sup>

## A STRENGTHENED REACTION FROM THE EU AND EURAC'S POSITION

Generally speaking, these recent political and security developments effectively allow Joseph Kabila to *de facto* maintain his hold on power in violation of constitutional provisions, continuing his firm grip on the democratic process and the increasingly narrow democratic space

as he pulls the strings of a system plagued with corruption, political opportunism and the monopolisation of resources, disdaining the desire of the Congolese people for democratic change.

Since the first targeted sanctions were decided upon on the 12<sup>th</sup> December 2016,<sup>49</sup> and for the first three months of 2017, the EU has remained publicly measured and broadly restrained, given the extent of the crisis and the serious security and humanitarian risks the country had to face. On the 6<sup>th</sup> March this year, after three months of silence and thus following a new European Parliament resolution adopted on the 2<sup>nd</sup> February 2017 which calls upon the Council of the EU to ‘consider extending these restrictive measures’,<sup>50</sup> the Council of the EU finally adopted new conclusions<sup>51</sup> which allowed the EU’s involvement in these issues to gain new momentum by threatening Congolese authorities with new targeted individual sanctions against those most responsible for human rights violations and the obstruction of the democratic process.

This commitment was reaffirmed in a communication on the 8<sup>th</sup> April which views the nomination of Bruno Tshibala as Prime Minister to be ‘against the spirit of the New Year’s Eve agreement’.<sup>52</sup> In addition, in light of the very worrying situation in the Kasai regions, on the 28<sup>th</sup> and 29<sup>th</sup> March this year, the European Union strongly condemned<sup>53</sup> the violence and persecution and requested that the authorities in the DRC lead an independent and serious investigation into the recent human rights violations in this area.

Finally, particularly following EurAc’s repeated appeals<sup>54</sup> to the EU ministers of Foreign affairs to take a swift and concrete decision on the issue of extending targeted sanctions, a real turning point could be observed on the 29<sup>th</sup> May this year with the Council of the EU’s adoption of new individual restrictive measures against

an additional nine people, ‘occupying positions of authority within State administration and in the DRC security forces’ chain of command’ and who are ‘responsible for serious human rights violations’,<sup>55</sup> particularly in the Kasai provinces. The targeted individuals,<sup>56</sup> notably political figures such as Kalev Mutond, head of the Congolese National Intelligence Agency (*Agence Nationale de Renseignements* - ANR), Evariste Boshab, former Vice-Prime Minister and Minister for the Interior and Public Security, Ramazani Shadari, current Minister for the Interior and Public Security and Lambert Mende, Minister for Media and Communications and government spokesperson, are **key actors in the regime** this time round, architects of repression or even perpetrators of abuse and violence. Alongside the sanctions, the Council’s declaration urges the current government to **open up the democratic space and respect the civil and political rights of the Congolese people**, as well as **organise transparent and democratic elections as soon as possible**, in keeping with

the Constitution and the Political Agreement of the 31<sup>st</sup> December 2016’ while demanding that the CENI publish a ‘**consensual electoral calendar and budget**’. This strong and necessary message sent by the Council represents an important and coherent step in the development of the EU’s diplomatic position vis-à-vis the DRC and shows the EU’s strong and coherent commitment to supporting democracy and protecting human rights in the country.

**The EU must not stop there however; it must now maintain pressure** upon the Congolese authorities and all those violating the fundamental rights of the Congolese people and/or compromising a consensual and peaceful solution with regard to elections being held in the DRC, so that the Congolese **democratic space** is truly **open** and **political participation** of all actors is effective, so that the **fundamental freedoms and rights** of the Congolese people is fully **respected** and that the **process of voter enrolment** is truly **transparent, credible and reliable**.

<sup>55</sup> Democratic Republic of the Congo: EU adopts sanctions against a further 9 people, Council of the EU, 29<sup>th</sup> May 2017

<sup>56</sup> COUNCIL IMPLEMENTING DECISION (CFSP) 2017/905 of 29 May 2017 implementing Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo, Official Journal of the EU 29<sup>th</sup> May 2017

## Part III Elections in Rwanda: Fundamental freedoms sacrificed at the altar of economic prosperit

A 2015 referendum approved constitutional modifications which allowed outgoing President Paul Kagame to run for a third term in 2017. As a result, on the 4<sup>th</sup> August this year, amid rising numbers of intimidations, arbitrary arrests and forced disappearances of opposition representatives and sympathisers, civil society actors and journalists, **presidential elections will take place in Rwanda** and President Kagame is most likely to win.

### POLITICAL DEADLOCK FOR THE REGIME IN THE PRE-ELECTORAL CONTEXT: DISSIDENT VOICES FORCED TO SILENCE AND CIVIL AND POLITICAL RIGHTS VIOLATED

On the 31<sup>st</sup> December 2015, President Paul Kagame announced his intention to run for a third term and to stand at the August 2017 elections, as authorised by the constitutional revision carried out for that purpose, approved several days previously by referendum.<sup>57</sup> The elections must therefore take place on the 4<sup>th</sup> August this year and so far, **opposition to the outgoing president is very limited**. In fact, **three independent candidates** have currently expressed their willingness to stand but **numerous obstacles persist with regard to the possibility for them to register their party and candidacy and start campaigning**, particularly in terms of financing, but also organising public meetings, or even having fair access to the media, which often remain the prerogative of the regime. Currently Rwandan law allows candidates only three weeks to gather funding and

campaign before the elections.

**Diane Shima Rwigira**, businesswoman and former member of the ruling party the Rwandan Patriotic Front (FPR), announced<sup>58</sup> her intention to run in the presidential elections at the beginning of May. However, soon after this announcement, her plan was compromised due to nude photos of her being circulated in the media,<sup>59</sup> which according to several observers goes against one of the provisions in article 99 section 4 of the Constitution, which indicates that individuals eligible for the presidency must 'be of good morals and great integrity'.<sup>60</sup> Beyond this scandal, which came about at an opportune moment for the government, it seems that Ms Rwigira has little to no chance of being able to begin her campaign, as she is an independent candidate without a political framework or officially registered party. Madame Rwigira has therefore called upon the Democratic Green Party for support, the only opposition party recognised by the authorities in Rwanda.

Indeed, the **Democratic Green Party of Rwanda** seems to be the only independent opposition party capable of presenting a candidate at these elections in the form of **Mr Frank Habineza**. However, certain observers express strong scepticism regarding his ability to gather the necessary support, lead an effective campaign and obtain a significant result at the election.

**Philippe Mpayimana**, journalist by trade but relatively unknown in Rwanda on account of having only recently returned from exile, is another possible

<sup>57</sup> Rwanda: Paul Kagame will stand for a third term in 2017, La Libre, 1<sup>st</sup> January 2016 (Article in French)

<sup>58</sup> Rwanda: Diana Rwigira, fourth candidate declared to run in the presidential election, RFI, 3<sup>rd</sup> May 2017 (Article in French)

<sup>59</sup> 35-year-old female challenger of Rwanda's Kagame hit by scandal, Africanews, 11<sup>th</sup> May 2017

<sup>60</sup> Constitution of the Republic of Rwanda (as Amended in 2010), 2003



independent candidate.<sup>61</sup> However, he has neither the funds nor the support and necessary framework required to seriously stand as a challenger to the outgoing president.

The **Unified Democratic Forces party (FDU-Inkingi)** has been unable to register in order to be legally recognised as a political party, despite several attempts before the 2010 elections. Furthermore, several of its **members have been threatened, arrested and imprisoned**. Recently an FDU-Inkingi activist, Jean Damascène Habarugira, disappeared, and the party condemned this as an assassination.<sup>62</sup> Some other figures have been targeted by legal action, such as Victoire Ingabire, the president of the party, who has been held since 2010 serving a 15 year sentence. Illuminée Iragena, an activist linked to FDU-Inkingi, has been reported missing for over a year. Léonille Gasengayire, FDU-Inkingi treasurer, was arrested on the 23<sup>rd</sup> August 2016 and accused of incitement to public insurrection. Human Rights Watch fears that these two women were **victims of forced disappearance**.<sup>63</sup> Likewise, Violette Uwamahoro, the spouse of an opposition figure, disappeared on the 14<sup>th</sup> February this year and was then detained in secret: the police finally announced her arrest on the 3<sup>rd</sup> March.<sup>64</sup> Accused of 'revealing state secrets' and 'forming an illegal armed group', she was finally released on the 28<sup>th</sup> March due to a lack of sufficient evidence.<sup>65</sup>

From a more general standpoint, examining the situation of fundamental freedoms, **there is strong repression against any dissident voices** and political actors are subject to **intimidation, harassment, arrest, arbitrary detention as well as unfair trials**. The independent media has been silenced, very few opposition representatives are able to speak out publicly, and organisations defending human rights have been undermined. **Freedom of opinion, expression,**

**association and peaceful assembly as well as the freedom of the press** are widely **threatened**. By way of example, in 2015, the BBC service in Kinyarwanda was blocked. On the 28<sup>th</sup> May 2016, human rights defender Epimack Kwokwo, programme coordinator for the Great Lakes Human Rights League (*Ligue des droits de la personne dans la région des Grands Lacs - LDGL*), was declared *persona non grata* in Rwanda and was forced to flee to the neighbouring DRC.<sup>66</sup> John Ndararasa, a journalist, re-emerged in Kigali on the 6<sup>th</sup> March 2017, over 6 months after his disappearance in August 2016, and the story he provided to explain his disappearance aroused a number of suspicions.<sup>67</sup> Moreover, in March 2016, Rwanda decided to withdraw from the additional protocol establishing the African Court on Human and People's Rights which allowed individuals and NGOs to bring a matter before the Court directly.<sup>68</sup> Finally, on the 29<sup>th</sup> May this year, the Rwandan electoral commission decided that from now on it would monitor the campaign messages published on social networks by presidential candidates, a very worrying practice which violates the candidates' freedom of expression and seems to be an attempt to eliminate any critical voice regarding the outgoing President Paul Kagame and his party.<sup>69</sup>

## REACTION FROM THE EUROPEAN UNION AND EURAC'S POSITION

EurAc regrets the fact that the head of the EU delegation to Rwanda recently announced<sup>70</sup> during a press conference that **the EU will not send a technical electoral observation mission to Rwanda**, the given reason being that the EU is not in a position to mobilise the funds necessary to set up this mission.

The **economic success** of this small country, traumatised by a devastating genocide, **has set aside considerations regarding the narrowing of the democratic space and the non-respect**

<sup>61</sup> Rwanda: Philippe Mpayimana, third candidate declared to run in the presidential election, RFI, 4<sup>th</sup> February 2017 (Article in French)

<sup>62</sup> Rwanda: The opposition party FDU condemns the assassination of one of its members, Jeune Afrique, 11<sup>th</sup> May 2017 (Article in French)

<sup>63</sup> Rwanda: Opposition activist missing, HRW, 29<sup>th</sup> September 2016

<sup>64</sup> Rwanda: Detained pregnant wife of activist to appear in court, Amnesty International, 21<sup>st</sup> March 2017

<sup>65</sup> Rwanda: Violette Uwamahoro released on bail, RFI, 28<sup>th</sup> March 2017 (Article in French)

<sup>66</sup> Annual Report 2016/2017 – Rwanda, Amnesty International, 2017

<sup>67</sup> Rwanda: Opposition activist missing, HRW, 29<sup>th</sup> September 2016

<sup>68</sup> Rwanda: Individuals and NGOs can no longer directly refer to the ACHPR, RFI, 5<sup>th</sup> March 2016 (Article in French)

<sup>69</sup> Presidential election in Rwanda: The opposition contests monitoring of social networks, RFI, 30<sup>th</sup> May 2017 (Article in French)

<sup>70</sup> Address by Ambassador Michael Ryan on the occasion of Europe Day 9 May 2017, EU Delegation to Rwanda, 10<sup>th</sup> May 2017

**of the civil and political rights and fundamental freedoms of the Rwandan people.** While Rwanda is often pointed out for its lack of political openness, the state of democracy and human rights in this country remains a taboo subject within the international community, and in particular for the EU, **which is very reluctant to comment about this topic.**

The Parliament broke this taboo however, adopting **a resolution on the Victoire Ingabire case on the 6<sup>th</sup> October 2016.**<sup>71</sup> Incidentally, a delegation from the European Parliament which travelled to Rwanda in 2016 was refused prison access to Ms Ingabire, an opposition member who was sentenced on appeal to 15 years of prison in 2013, notably for ‘minimisation of the genocide’ and ‘conspiracy against the authorities through terrorism and war’. This resolution called for a review of her trial, but also served to **denounce the human rights situation in this country more generally**, considering the situation to ‘remain worrying, particularly in terms of political participation and freedom of expression, while independent civil society is still very vulnerable.’ MEPs have furthermore called upon the government to organise ‘peaceful, credible and transparent’ elections in 2017, and have expressed their wish for the EU to organise a long-term electoral mission for the

presidential elections in 2017, which would be ‘responsible for evaluating fundamental freedoms and the political space in particular’.<sup>72</sup>

Beyond this noteworthy commitment on the part of the European Parliament, **the EU has so far remained very silent with regard to the political situation in Rwanda** during this pre-election period and more generally. This is the case **above all as regards different human rights violations and abuses**, perpetrated against Rwandan political actors. The EU, unlike the United States,<sup>73</sup> did not have a strong reaction after President Kagame announced in December 2015 that he had decided to run for another term in the 2017 election, for example.

It is time for this to end, and for the EU to express its strong determination and commitment to **defending political pluralism, the independence of the legal system, and access to a fair trial, as well as the rights and fundamental freedoms of Rwandan citizens**, alongside **ensuring freedom of opinion, expression, association, assembly and the freedom of the press, fair access to the media**, including State media, and **safety** for all political actors, opponents, human rights defenders and members of civil society.

<sup>71</sup> European Parliament resolution on Rwanda, the case of Victoire Ingabire (2016/2910(RSP)) European Parliament, 6<sup>th</sup> October 2016

<sup>72</sup> *Idem*

<sup>73</sup> Who’s afraid of the Rwandan President Paul Kagame? , Le Monde, 12<sup>th</sup> January 2016 (Article in French)

# Conclusion

**T**his document has focused on highlighting the different national contexts and political and security crises linked to the democratic processes, particularly electoral processes, in each of the three countries in the African Great Lakes region: Burundi, the DRC and Rwanda. This study has also brought to light the crisis of regional governance symbolised by the failure of different national political crisis mediation initiatives, carried out by regional actors such as the EAC in Burundi and the AU in the DRC. This analysis has furthermore allowed for an examination of the different national and also regional challenges which result, thus drawing the attention of European political decision-makers to the seriousness of each of these situations. **The main recommendations and courses of action** explained by **EurAc** at the start of this document allow the EU and the different European Member States to assess the efforts which still need to be made using the different means of applying pressure available to them, and shows that they must continue to mobilise so that the different regimes in the region commit to respecting the rule of law, human rights and democracy. This document finally aims to point out the various strong and innovative measures that the EU must adopt in order to **become a strong and vital actor and diplomatic leader** in the Great Lakes region.

Furthermore, it has been observed that the strategy of strengthening diplomatic relations and cooperation with the African Union is now at the heart of the new foreign policy strategy adopted by the EU, which is currently redoubling efforts to keep this emerging strategic relationship with this new partner in a good position, this strategy having been

recently described in a European Commission communication<sup>74</sup> published on the 4<sup>th</sup> May this year. The African Union however, in which the three Great Lakes countries in question are State Parties, has never communicated nor demonstrated a strong and credible willingness to tackle these different crises in the DRC or Burundi for example, instead demonstrating indifference or even complacency vis-à-vis the different regimes. This new friendship should therefore not be used as an excuse to prevent the EU from adopting strong and offensive positions in the future with regard to these regimes, which do not respect their constitution, the fundamental rights of their citizens or the regional agreements which link them to the EU such as the Cotonou Agreements. This willingness to tighten links with this regional organisation should not be allowed to become an incoherent and untenable position for the EU, transforming into a strong reluctance to take action in the future to denounce unacceptable practices and violations which are contrary to the values defended by the EU.

**EurAc** therefore believes that such a strengthening of links with the AU should never justify the lack of a strong and coherent reaction from the EU vis-à-vis regimes which care little for respecting their international obligations, the EU remaining the most influential international diplomatic actor in the region, as well as the largest donor, having contributed significantly for many years to building peace and development in Central Africa. The EU must therefore not allow itself to set aside this commitment. The very credibility of the Union, as an organisation promoting human rights and democracy, is at stake.

<sup>74</sup> Joint communication to the European Parliament and the Council for a renewed impetus of the Africa-EU Partnership, European Parliament and Council of the EU, 4<sup>th</sup> May 2017



## List of abbreviations

<b>ACAT</b>	<i>Action chrétienne pour l'abolition de la torture</i> (Christian Action for the Abolition of Torture)
<b>AETA</b>	<i>Agir pour des Elections Transparentes et Apaisées</i> (Action for Transparent and Peaceful Elections)
<b>AMISOM</b>	African Union Mission in Somalia
<b>ANR</b>	<i>Agence Nationale de Renseignements</i> (Congolese National Intelligence Agency)
<b>APRODH</b>	<i>Association burundaise pour la protection des droits humains et des personnes détenues</i> (Burundian Association for the Protection of Human Rights and Detained Persons)
<b>AU</b>	African Union
<b>CB-CPI</b>	<i>Coalition burundaise pour la CPI</i> (Burundian Coalition for the ICC)
<b>CENCO</b>	<i>Conférence Episcopale Nationale du Congo</i> (National Episcopal Conference of Congo)
<b>CNARED</b>	<i>Conseil National pour le respect de l'Accord d'Arusha pour la Paix et la Réconciliation au Burundi et de l'Etat de droit</i> (National Assembly for the Respect of the Arusha Peace and Reconciliation Agreement and the Rule of Law)
<b>CNSA</b>	<i>Conseil National de Suivi de l'Accord</i> (National Council for the Monitoring of the Agreement and the Electoral Process)
<b>CENI</b>	<i>Commission Electorale Nationale Indépendante</i> (Independent National Electoral Commission)
<b>COSOME</b>	<i>Coalition de la société civile pour le monitoring électoral</i> (Civil Society Coalition for Electoral Monitoring)
<b>DRC</b>	Democratic Republic of the Congo
<b>EAC</b>	East African Community
<b>EEAS</b>	European External Action Service
<b>EU</b>	European Union
<b>EurAc</b>	European Network for Central Africa
<b>FOCODE</b>	<i>Forum pour la conscience et le développement</i> (Forum for Awareness Raising and Development)
<b>FORSC</b>	<i>Forum pour le renforcement de la société civile</i> (Forum for the Strengthening of Civil Society)
<b>FPR</b>	<i>Front Patriotique Rwandais</i> (Rwandan Patriotic Front)
<b>ICC</b>	International Criminal Court
<b>LDGL</b>	<i>Ligue des droits de la personne dans la région des Grands Lacs</i> (Great Lakes Human Rights League)
<b>LUCHA</b>	<i>Lutte pour le Changement</i>
<b>MONUSCO</b>	United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo
<b>NGO</b>	Non-governmental Organisation
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>OCHA</b>	United Nations Office for the Coordination of Humanitarian Affairs
<b>OIF</b>	Organisation Internationale de la Francophonie
<b>OLUFAD</b>	<i>Organisation de promotion de la bonne gouvernance et de lutte contre la corruption</i> (Organisation for the promotion of good governance and the fight against corruption)
<b>RCP</b>	<i>Réseau des citoyens probes</i> (Responsible Citizens Network)
<b>RFI</b>	Radio France Internationale
<b>UBJ</b>	<i>Union burundaise des journalistes</i> (Burundian Journalists' Union)
<b>UDF-Inkingi</b>	United Democratic Forces of Rwanda
<b>UN</b>	United Nations
<b>UNJHRO</b>	United Nations Joint Office for Human Rights
<b>UNSC</b>	United Nations Security Council



Created in 2003, the European Network for Central Africa (EurAc) gathers 40 member organisations from civil society based in 11 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 concentrates its activities on advocacy towards European institutions and policy- and decision-makers, around 3 central themes for the Great Lakes region: (1) peace and security, (2) democracy and human rights and (3) management of natural resources. Transversely from these fields, the improvement of governance and the strengthening of non-State players as a counterpower are priorities of our advocacy work.

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