

# Civil Society Dialogue Network

## Discussion Paper No. 9

### The EU and peacebuilding in the Democratic Republic of Congo

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#### Civil Society Dialogue Network

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## Background

At the turn of the century, the bloody ‘war of liberation’ (1996-1997) and the ‘Congo War’ (1998-2002) ravaged the Democratic Republic of Congo (DRC). The two wars involved international and national combatants and comprised regional, national and local conflicts and the large-scale plundering of natural resources. In 2002, the Global and All-Inclusive Accord brought the conflicts to a formal end and established a transitional government to usher in the Third Republic.

Nonetheless, the proliferation of armed groups, some with foreign backing, continued, especially in the east of the country. A series of separate peace negotiations and disarmament, demobilization and reintegration programmes (DDR), sometimes accompanied by military action by the army and/or UN forces, have pacified some, but not all, of the armed groups. The Global Accord set the precedent for later deals: take up arms against the civilian population and be rewarded with power within the political and/or military institutions.<sup>2</sup>

State security agents, sometimes in collaboration with the armed groups they are supposed to be fighting, also prey on the population. Elites in the provinces, Kinshasa, Rwanda, Uganda and further afield can mobilise armed groups and manipulate identity-based sensitivities to further their own politico-economic interests.

Although national and international interest is focused on the east of the country, the DRC in general is not a safe place for the civilian population. The law does not rule and there is little protection for human or property rights. International and national actors treat women and girls as objects of charity rather than rights-bearing citizens and their rights are systematically under-enforced.<sup>3</sup> Men’s violence goes unpunished. The vast majority of the Congolese are grindingly poor. DRC ranks 186 of 197 on the Human Development Index.<sup>4</sup> The kleptocratic class has hollowed out the institutions of the State, and public services have collapsed. President Mobutu’s maxim *debrouillez-vous!*<sup>5</sup> remains – for most Congolese – a question of survival, while a tiny elite enjoy an extravagant jet-set lifestyle funded by untold wealth.

## The EU and the policy of peacebuilding in the DRC

The introduction above highlights the complexity of the Congolese context: ongoing violent conflict in the east is accompanied by country-wide structural conflicts, deep poverty and unresponsive and/or predatory state institutions. The build-up to the presidential elections in 2016 – scheduled for November but with considerable potential for delay - is likely to be tumultuous, and possibly violent.

The DRC is a major recipient of EU aid. Between 2003 and 2011, EU aid came to €1 868 million, of which 72 % was in development cooperation, 23.5 % was humanitarian aid and 4.5 % was political and security-related cooperation.<sup>6</sup> The 11<sup>th</sup> European Development Fund (EDF) package is one of the largest in the world, coming to €620 million. The DRC is also one of the few situations where all the EU’s crisis management and conflict prevention instruments have been engaged at one time or another. The cliché that the DRC is a laboratory for EU foreign policy has a certain truth to it. There is an active ‘international community’ including a

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<sup>2</sup> Davis 2013

<sup>3</sup> Davis et al, 2014

<sup>4</sup> See <http://hdr.undp.org/sites/default/files/Country-Profiles/COD.pdf>

<sup>5</sup> Fend for yourselves!

<sup>6</sup> European Court of Auditors (2013) p.12

large UN mission, MONUSCO.<sup>7</sup> Of the EU member states present, Belgium (the former colonial power), France, the UK, the Netherlands, Germany, Sweden and Spain are the most visible. In the past decade, they have, on the whole, tended to co-operate with each other and with the EU. The USA, China and South Africa are also prominent.

The EU delegation is in the capital, Kinshasa, and a regional crisis response planning officer, whose remit covers the DRC, is based in the EU delegation in Dakar, Senegal. This is more logical than it appears. The DRC, and particularly Kinshasa, is part of West Africa. As a former Belgian colony, the DRC's administration often has more in common with francophone West Africa than the English-speaking East African countries. Unlike member states, which can deploy staff around the country and maintain a small but permanent diplomatic corps in Goma, the EU delegation is constrained by mandate to the capital. Nonetheless, during the period 2007-2008, when there was a rebellion by the *Congrès national pour la défense du peuple* (CNDP) group and subsequent peace processes, the delegation had a staff member on quasi-permanent mission to the east.

From 1996 to 2011, there was an EU Special Envoy (later, Special Representative or EUSR) for the Great Lakes region. Aldo Ajello and his successor, Roeland van de Geer, were both active in peace negotiations in the region. At the time of the Goma talks in 2008, EUSR van de Geer was a core member of the International Facilitation Team. Commissioner Louis Michel was also deeply engaged in peace negotiations at different levels. The EUSR position was discontinued in 2011 and a Brussels-based Senior Coordinator for the Great Lakes region in the EEAS took up some of its functions. A hiatus between ending the EUSR position and creating the Senior Coordinator position, and shifting dynamics in the region meant that the EU was not represented in the talks that led to the Addis Agreement in 2013.<sup>8</sup>

There have been extensive Commission-funded programmes, particularly through the European Development Fund (EDF) and also through the Instrument for Stability (IfS)/Instrument contributing to Stability and Peace (IcSP), and the European Instrument for Democracy and Human Rights (EIDHR).

There have been to date four CSDP missions. EUSEC RD Congo, which is charged with assisting reform of the military and has been reduced to mini-mission, with further reductions planned for June 2015. A second security sector reform (SSR) mission, EUPOL, grew out of the earlier mission EUPOL Kinshasa and contributed to police reform. It closed in September 2014. Two previous CSDP missions, Artemis (2003) and EUFOR (2006) had peacekeeping mandates.

The Strategic Framework for the Great Lakes Region was published as a joint communication from the EC and EEAS in June 2013. Like the policy documents that preceded it, it is based on an analysis of the conflict in Congo and the region. It opens with the following statement:

‘Conflict in the Great Lakes region, centred on the Eastern Democratic Republic of Congo (DRC), has persisted over the past twenty years because of a failure to tackle the root causes of the problem. Weak governance, absence of security and an inability to ensure the rule of law in a large part of the region, combined with poverty and lack of services and infrastructure, has deepened social divisions. Armed groups cause chaos,

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<sup>7</sup> The United Nations Stabilization Mission in the Democratic Republic of Congo is known as MONUSCO, prior to 2010 it was known as MONUC. MONUSCO is used throughout for simplicity as the difference between the missions is not relevant for this paper.

<sup>8</sup> The most recent serious rebellion, by the M23 group, led to the Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the region in February 2013 (the Addis Agreement).

further exacerbating the region's problems by preventing human, social and economic development.’<sup>9</sup>

Many would consider this to be a reasonable assessment of the conflict dynamics. The Strategic Framework defines the EU’s objectives as security and development, including conflict prevention and peacebuilding. It identifies five priorities: supporting states in the region to become more efficient, accountable and capable of delivering basic services; ensuring security in eastern DRC; rebuilding the economy of the region; building co-operation and trust between countries of the region; and ensuring follow-up of the Addis Agreement.<sup>10</sup> The Framework includes policy proposals but, surprisingly, these are for the governments in the region or other international actors rather than for the EU. For example, SSR has been a key area of EU engagement in the DRC. The Strategic Framework was written after the Political and Security Committee decided to phase out the two CSDP missions in Congo, but offers no firm proposals for how the EU might contribute to reforming the military and police sectors in the future. The Framework states that the EU can and should play an active part in supporting the implementation of the Addis Agreement, but makes no concrete suggestions for what the EU would contribute.

The Strategic Framework notes that “human rights abuses, including sexual and gender-based violence, are still widespread”, commits to fight against impunity for these crimes<sup>11</sup> and acknowledges ‘gender-based violence and inequality’ and the EU’s intention to combat these ‘structural causes of violence.’ The language of the document, however, suggests that gender-based violence is understood generally in terms of physical or sexual violence, rather than including the systemic exclusion of women from decision-making and the economy and the routine under- or non-enforcement of the political, civic, economic, human and reproductive rights to which Congolese women and girls are entitled under national and international law.

This is unfortunate as structural violence against women is a major yet largely unacknowledged conflict in the country. Women are routinely excluded from participating in society, governance structures and the economy. This exclusion extends to peace processes and when women do participate they are expected to keep to ‘women’s issues’ – i.e. sexual violence.<sup>12</sup> The EC delegation has an active gender focal point and delegation officials often reflect gender-sensitivity in their work. However, the absence of women as actors in the Strategic Framework suggests that the hierarchy does not truly understand the importance of gender, including women’s participation in peace- and democracy-building, in the DRC.

The Strategic Framework is the first document to lay out a whole-of-EU approach to the DRC. It states that ‘[i]t has no budgetary impact as such.’ In other words, it is to provide an umbrella for ongoing activities, but with the important distinction that it can combine the geographically limited approach of Country Strategy Papers (CSPs) with the regional perspective of Council conclusions. Council conclusions and CSPs from 2003 onwards show that the Commission and Council had clearly overlapping and mutually reinforcing priorities in peacebuilding, particularly in support for peace processes and the rule of law and SSR. European Parliament resolutions from that time also emphasise the importance of peace processes, combating impunity and furthering the rule of law. The Council and Parliament also refer to the EU’s role in peacekeeping, both through CSDP missions Artemis and EUFOR and through the UN

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<sup>9</sup> European Commission and High Representative (2013) p.1

<sup>10</sup> *ibid.* p.1

<sup>11</sup> *ibid.* pp. 4, 11.

<sup>12</sup> Davis et al, 2014

mission (MONUSCO).<sup>13</sup>

CSPs include detailed analysis of the country and form the basis of programming under the European Development Fund (EDF). The CSP for the DRC for 2003-2007 (the 9<sup>th</sup> EDF) identifies implementing the Global Accord, supporting the institutions of the transitional government and reforming the justice sector for that period as priorities.<sup>14</sup> The subsequent CSP (2008-2013) highlights the importance of tackling insecurity in the east, reforming the defence, police and justice sectors and of ending impunity.<sup>15</sup>

The European Court of Auditors (ECA) examined the EC's interventions in the DRC and published its report in 2013. The ECA found that the analytical basis, including the conflict analysis, was appropriate but that programmes did not meet their objectives as they did not sufficiently take into account key challenges such as lack of political commitment to reform, fraud and corruption. The ECA found that the EC undertook appropriate policy dialogue with line ministries and civil society.<sup>16</sup>

Although consultations with civil society often appear rather *ad hoc* and superficial, certain key officials have, over time, developed a genuine engagement with key civil society actors, particularly from the peacebuilding field.<sup>17</sup> 'Civil society' in the DRC has been weakened by co-optation and intimidation, a lack of resources and a dependency on foreign aid and agendas. It also reflects some of the deep social divisions in the country. 'National civil society' does not really exist but there are, nonetheless, numerous important actors engaged in long-term, sensitive peacebuilding processes and with key insights into violence and peacebuilding, particularly in the east and in Kinshasa. In 2013 and 2014, the EEAS participated in three exchanges in Brussels, Kinshasa and Bukavu with civil society actors on peacebuilding challenges and opportunities in the framework of the Civil Society Dialogue Network.<sup>18</sup> However, some officials do not accept the notion of in-depth dialogue with civil society organisations in key areas, such as SSR.<sup>19</sup>

## **EU peacebuilding achievements in practice**

If the EU is to emerge as a foreign policy actor, rather than merely a donor, we must consider how the EU institutions engage directly with peacebuilding processes in countries in conflict. As in many other cases, the government in the DRC is party to a range of conflicts and the engagement of the State is critical for their resolution. The analysis presented in the Strategic Framework and other earlier documents clearly recognises this.

The absence of impact evaluations that assess, holistically, the contribution of all of the EU instruments and institutions ('the EU' for this article) together in specific countries evidently poses a serious challenge to evaluating the success or failures of particular approaches. Evaluations of individual projects in such a dynamic environment cannot tell us much about

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<sup>13</sup> The United Nations Stabilization Mission in the Democratic Republic of Congo is known as MONUSCO, prior to 2010 it was known as MONUC. MONUSCO is used throughout for simplicity as the difference between the missions is not relevant for this paper.

<sup>14</sup> République Démocratique du Congo – Communauté européenne. (2002).

<sup>15</sup> République démocratique du Congo – Communauté européenne. (2007)

<sup>16</sup> ECA 2013

<sup>17</sup> Personal observations, 2007-2014.

<sup>18</sup> The Civil Society Dialogue Network is a project of the European Peacebuilding Liaison Office and the EEAS. For more information on these meetings, including the recommendations, see <http://www.eplo.org/civil-society-dialogue-network.html> Disclosure: the author was engaged by EPLO to advise these processes.

<sup>19</sup> Personal observations, 2014.

what the EU does as a whole. It is well beyond the scope of this paper to attempt to do this. Rather, we shall select certain aspects of direct EU engagement, that is those interventions that involve EU actors directly. We do not include in this section the support that the EU extends to national and international non-governmental organisations (NGOs), although this support to important work has been for a long time the most important contribution to peacebuilding, or to UN agencies. Long-term financing of well-designed NGO projects that address root causes and localised conflicts that could ignite or damp down national or regional conflicts is an important part of a peacebuilding approach, but is insufficient by itself. To be a peacebuilding actor, the EU evidently needs to be able to engage directly, not only through third parties.

This section considers briefly what the EU has done to date in different peacebuilding areas, focusing on peace mediation, security and justice sector reform.

### *Peace mediation*

The EU has funded numerous civil society initiatives aimed at facilitating community dialogues, provided expertise on special thematic areas relevant to the conflicts and their resolution, such as natural resource extraction. The EU has also participated in formal peace negotiations, particularly up to the end of 2008. During and after the rebellion led by the *Congrès national pour la défense du peuple* (CNDP) in the east, EUSR van de Geer, along with other members of the international community, was deeply involved in talks between the government and the rebels. These talks, accompanied by a large-scale peace conference convening civil society actors as well as representatives of the armed groups, culminated in the Goma Agreements of January 2008. These agreements were quickly broken. The Ihusi Accords of March 2009 held until the M23 rebellion, which took its name from the date of the Ihusi Accords and is a successor to the CNDP. However, by 2009, the EU was no longer at the heart of peace mediation efforts. By the time Goma fell to the M23 group in November 2012, the EUSR post had been discontinued. The EU did not participate in the talks leading to the Addis Agreement of 2013, although it is committed to help realise the commitments made in the Agreement.

Changing local dynamics meant that EU involvement in peacemaking was less attractive for the parties after 2008. Nonetheless, the loss of the EUSR position meant that the EU lost an important resource and became less relevant in the region. Unlike delegations, which are bound to a particular territory, EUSRs have a larger geographical remit, which is clearly important in the DRC/Great Lakes conflicts. EUSRs also had a certain ‘plausible deniability’, which added to their utility in this type of context. These characteristics could not be continued with the replacement of the EUSR post with the Senior Coordinator, based in EEAS headquarters in Brussels.

### *Security Sector Reform*

The need for the creation of security forces that protect the Congolese territory, Constitution, institutions and the rights of all citizens is clear; the DRC has never had a security system that served the population rather than the regime.<sup>20</sup> The Constitution requires the army to be a republican force at the service of the people as a whole, which protects the people and their goods. The challenge of reforming the security sector starts with the power-sharing provisions in the Global Accord, that allocated political and military power to belligerents – a model that has been followed with each successive peace deal.

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<sup>20</sup>The author has argued [elsewhere](#) that ‘reform’ is a dangerous euphemism when discussing the security sector in DRC.

The day-to-day challenges of SSR in Congo and resistance to reform are not repeated here but two examples are perhaps illustrative. The Rape of Minova by the Congolese army in November 2012<sup>21</sup> and the subsequent rushed trial in which only two soldiers were found guilty of the rape of over 100 women and 33 girls seemed – to many – symbolic of the abuses of the army and the failure of the state to address them. In 2014, the government responded to a report by the UN Joint Human Rights Office (UNJHRO) on human rights violations reportedly committed by the police, during Operation Likofi, in which police allegedly summarily executed men and boys they presumed to be *kalune* gang-members in Kinshasa, by expelling the head of the Joint Office.

SSR has been a high priority for the EU. Its global approach to SSR has in part been stimulated by its experience in the DRC. The first cross-pillar classified SSR roadmap was reportedly produced, for the DRC, in 2006 and later updated twice. Significant EDF and EIDHR funding has been dedicated to supporting reform of the police service as well as DDR programmes and those aspects of defence reform consistent with Overseas Development Aid (ODA) criteria; this contribution is set to increase with a greater role for EDF funds in police and defence reform foreseen for the Progress programme that is intended to pick up some of the slack in the post-CSDP phase.

As noted above, there have been four CSDP missions to date, two (EUPOL and EUSEC) focusing on reform of the police and defence sectors, both of which had some crossover with justice sector reform projects. This section focuses on the contribution of CSDP missions to peacebuilding in the DRC in light of the 2013 decision to discontinue the missions. This is not to suggest that CSDP engagement is more important or effective than other EU SSR interventions. CSDP is a tool that is – or could be – unique to the EU. Member States do not have similar instruments and, one can make a strong case that it is a mistake to conceive of CSDP missions as peacekeeping missions or UN-missions *lite*. The decision to close the CSDP missions provides an opportunity to reflect on how EU SSR interventions have worked up until now and, more importantly, how they may work in the future.

The decision to close the missions had little, if anything, to do with an assessment of what the missions had (or had not) achieved on the ground. In the absence of external evaluations, critics and especially supporters of the missions had little reliable evidence available to them.<sup>22</sup> According to people involved, Ministries of Finance, led by Berlin, largely drove the decision. With new crises in the Neighbourhood and Sahel and their potential links to migration and terrorism, two small missions in a vast, complex Central African country that is still a mess fifteen years after peacekeepers arrived but that poses little immediate threat to Europe seemed a natural place to make savings, especially without strong evidence of progress.

It is no secret that SSR efforts by the EU, UN, USA and others have struggled to make tangible progress even in the parts of the Congolese security system that participate in SSR. CSDP missions face numerous challenges, some of which are internal.<sup>23</sup> CSDP missions could perhaps have done more, particularly through a stronger commitment to addressing impunity for human rights violations, a scourge of the Congolese security sector.

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<sup>21</sup> UNJHRO (2013)

<sup>22</sup> It is a sad irony that some of the strongest Member State supporters of the missions have also resisted external evaluations most effectively.

<sup>23</sup> More and Price (2011). For example, it is difficult to recruit French-speaking personnel.

Critics argue that this would not be ‘feasible.’ There is little evidence to show for this position, but to the contrary, ample proof that ‘softly softly’ on human rights has not worked. Worse, the DRC shows that adopting a weak position on human rights early on in an intervention means that is extremely difficult to attempt to influence impunity later. The government has not been won round by persuasion: see the appointments of UN-black-listed generals Fall and Mandevu to lead the Sokola II operations in January 2015.

The EU could and should have adopted a stronger human rights stance from the outset, which would have required a robust political engagement with the government and with other parts of the international community. The UN (belatedly) adopted a human rights due diligence policy, which the CSDP missions could have also adopted. Prior to this, one of the heads of a CSDP mission had shown a stronger stance on human rights in the face of flagrant abuse by the army, which riled the government.<sup>24</sup> This does not show that the position was untenable, simply that the then EC delegation and Member State ambassadors failed to provide the mission with adequate diplomatic support.

Secondly, in response to the government’s expulsion of the UN joint office over the Operation Lifoki, the British government suspended its police reform programme. This decision was taken at a senior level in London, not in-country, although the embassy then convened SSR partners, including the EU, to explain the UK’s position. Most Europeans, and the EU, continued their programmes as they did not work with command and control or directly with the units implicated in the abuse. The government then announced an inquiry, which is not likely to be very credible. The point is that partners can and should suspend programmes on human rights grounds. The EU, like the UN, left human rights compliance as a ‘negotiable’ for too long, allowing the government more time to resist. The EU could have led an international stance on demanding an end to impunity in practice.

CSDP missions have had successes too. Census and identification processes that have identified each member (for now) of the police and regular army are a good example. EUSEC’s chain of payments project may have reduced corruption in the higher echelons of the army. The missions have trained units and helped improve administration and management: vital yet unglamorous SSR work. The missions also had other, less visible but nonetheless important effects. At a very tense time in late 2012/early 2013 in Bukavu, when the rebel M23 group seemed poised to take the city, personnel from EUSEC’s antenna (closed in 2013) were reportedly the only internationals in regular soldier-to-soldier contact<sup>25</sup> with the army units charged with defending Bukavu.<sup>26</sup>

A particularly interesting aspect of the CSDP missions that tends to be overlooked, despite the fact that conflict prevention is included in CSDP’s objectives, is how CSDP missions can and do participate in ongoing negotiations on security arrangements. After the Goma Agreements in 2008, the mandates of both EUSEC and EUPOL were amended to specify how the missions would contribute to implementing the peace deal, including in supporting the EUSR. EUSEC in particular was involved in negotiations concerning security arrangements, including options for DDR.

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<sup>24</sup> Interviews, EU diplomats and officials, Kinshasa, Brussels 2007

<sup>25</sup> Congolese military interacted with serving soldiers from EU member states. Peer-to-peer engagement of this nature is often more effective than military-civilian, because there is a shared frame of reference. Congolese military tend to be very suspicious of civilians, probably in part because of the poor relationships between the Congolese military and the civilian population.

<sup>26</sup> Author interviews, Bukavu February 2013.



## *Justice sector reform*

Justice sector reform has also been a priority for the EU since 2002, recognising the need for credible and effective state institutions as part of the response to systematic human rights violations. The Country Strategy Papers for the 9<sup>th</sup> and 10<sup>th</sup> EDFs have detailed rule of law indicators. The EU has co-chaired the committee overseeing justice sector reform, with the Minister of Justice. It has supported extensive rule of law reform projects through the EDF and justice-oriented initiatives through EIDHR and IfS, often through NGOs.

It has also supported innovative projects like Rejusco (*Restauration de la Justice à l'est du Congo* or the 'Restoration of the justice system in the east of Congo'), an ambitious projected funded through the 'B-envelope' of the 9<sup>th</sup> EDF. The project came to an end in 2010, and was probably too ambitious for the fragility of the situation for which it was intended. Nonetheless, it was an attempt to reform the whole justice chain in an area in dire need of a functioning justice system, and it has been continued in modified form in the project *Uhaki Safi*. It was also involved in *audiences foraines*, an innovative system of mobile courts that have brought at least some justice to some victims of sexual violence in the east of the country.<sup>27</sup>

### **EU peacebuilding in DRC in the immediate future: the elections**

The DRC may be 'post-conflict' but it remains highly unstable, and not only in the east as the violent demonstrations of January 2015 in Kinshasa and other cities show. The M23 rebellion is over,<sup>28</sup> but there is a long list of armed groups across the east and in Kinshasa (the *kalune* gangs can be seen as a form of Kinshasa *mayi-mayi*<sup>29</sup>) that could destabilise the country by meting out atrocities on civilians. These could be catalysed by local power struggles that escalate out of control, by challenges to business interests, or by competition for political power as violence (and the threat thereof) is an important source of power across the country.

Meanwhile, the war on Congolese women continues unabated and the electoral process will be yet another battleground. The electoral law of January 2015 requires candidates to hold various educational qualifications, depending on the post, and to put down an increased deposit. Both of these elements effectively exclude large sections of the population – including many women - from public office (in addition to the young people who have turned 18 since 2011 and have not been added to the electoral roll). The bill includes some tokenistic nods towards encouraging women's participation, such as requiring electoral lists to include 30% of women and making provision of additional seats for women and people living with a handicap, but this does not extend to the national assembly or senate. It falls far short of actively encouraging female participation, let alone the parity guaranteed by the Constitution.<sup>30</sup>

Although there is considerable research into different armed groups, including their connections to natural resource extraction, there is none to date that investigates their rumoured links with the political class. Credible research in this area would be vital information for preventing violent conflict in the run-up to the elections.

As noted above, the publication of the electoral calendar may mean that some parties try to increase the violence around the local elections, scheduled for October 2015, as a way of delaying the larger calendar. Budgetary constraints are another way in which the elections

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<sup>27</sup> Open Society Justice Initiative (2013)

<sup>28</sup> It could re-emerge as a new group, however.

<sup>29</sup> Local self-defence-groups-turned-bandits in the east.

<sup>30</sup> Observatoire de la Parité en RDC (2015) *Analyse du projet de loi électorale* 14 January 2015.

could either be postponed or diverted. Although the government has expressed its support for the calendar, at the time of writing it has not made clear what level of financing it will make available.

The EU, like many other democratic donors, is in an invidious position regarding the elections. There is a strong case that the EU should not have to finance the third democratic elections in the country and that, by now, these should be a sovereign affair. Member states remember well the experience of 2011, when the EU diverted €47 million from infrastructure projects for the elections, only to be criticised by the government for not supporting the elections.<sup>31</sup> Yet some member states feel that positive moves, such as the electoral law, should be encouraged. It is a difficult decision to take: if the international community does fund the elections, donors are likely to face criticism at home and accusations of interference in Congo; if they do not, they are likely to be blamed for a sliding electoral calendar. Whatever the EU and its member states decide to do, clear communication on the decision and its reasons will be necessary.

Regardless of whether or not the EU finances the elections, it should maintain a clear and consistent communication policy, drawing on the values in the Treaty. This should be accompanied by increased political and financial support for human rights defenders, civil society electoral monitoring campaigns and, in particular, smart campaigns to increase women's participation. These smart campaigns should not simply aim to increase the number of women in the institutions, but to fundamentally reform the power wielded by the elites over the people and by men over women. Increasing the number of well-connected women in public institutions will not make those institutions more democratic: they will simply have more women in them while leaving the destructive power balances untouched. The EU should not fund projects of this kind but only those that seek to democratise the system, make candidates responsive and accountable to their constituents, instil the notion of public service and empower women as citizens, voters, economic actors and representatives.

### **Lessons from the EU's contribution to peacebuilding in the DRC**

The DRC has been a test case for EU foreign policy, including peacebuilding in its various forms. On the plus side, by 2014 it is clear that there is an EU foreign policy in the region, which was certainly not the case when Aldo Ajello took up his position as Special Envoy in 1996.<sup>32</sup> The EU's foreign policy in the country is arguably based on an accurate conflict analysis, reflected most recently in the Strategic Framework. It has developed skills and expertise in certain areas, notably in contributing to reform in the security and justice sectors. Some of this expertise and these instruments are effectively unique to the EU, notably the CSDP missions (which include non-EU experts). It has supported innovative solutions, such as Rejusco and the mobile courts, to some seemingly intractable problems, particularly rampant impunity for human rights violations, as well as more 'traditional' large scale reform processes for the army, police and justice. The EU has engaged in mediation, including at the highest diplomatic levels in 2007-2008, in negotiating security arrangements and in supporting long-term locally grounded resolution processes.

The Congolese context is extremely difficult. It is home to one of the biggest and costliest UN peacekeeping missions, yet remains unstable in the east and nowhere in the country is the population safe. The uncountable sums spent in aid seem to barely scratch the surface, while some people are making extraordinary fortunes. Within the 'international community', the EU

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<sup>31</sup> The funds, like financial support from other donors, went to the UNDP, the lead agency for election support and not to the government treasury.

<sup>32</sup> Reyntjens (1999)

is not alone in being found wanting. Yet there are key areas in which the EU might perhaps have been able to make a greater contribution to peacebuilding. This section considers some of the lessons from the DRC case and considers how the EU's contribution to peacebuilding could have been stronger.

### ***1) Grounding interventions on respect for human rights***

Although there have been admirable efforts to support the justice sector, the International Criminal Court and other initiatives, the EU has not always put human rights at the heart of its work. It has not, for example, insisted on even basic screening or vetting on human rights grounds of military or police personnel. The EU has not engaged the government at the highest level of political dialogue on critical human rights issues, including the ongoing war on Congolese women. Measures such as Rejusco lacked diplomatic support from the then EC delegation and the member states' embassies. There are numerous policy provisions that enable CSDP missions to put justice for human rights violations at the heart of their mandates and work, but this has not happened in the DRC. Going softly on human rights violations has not resulted in improved national attempts to prevent violations and end impunity. This softly-softly approach has undermined SSR and has failed to promote the values on which EU external action, according to the Lisbon Treaty, is based. A stronger and – crucially – an earlier insistence on excluding human rights abusers (at the very least) and demanding real progress on ending impunity might have led to greater success in SSR.

### ***2) 'Technical' interventions without political engagement do not work***

Secondly, and this builds on the first point, the EU has not yet developed a robust political engagement in the DRC – meaning expressing its resolve to meet certain objectives, to mobilise resources to do so, and to withdraw resources if its objectives are not met. It has developed a common policy and high-level officials from former High Representative Ashton down have made strong statements on key human rights issues, such as compliance with warrants issued by the International Criminal Court. Nonetheless, during the security crisis in 2012 – which coincided with the creation of the EEAS – the EU had no high-level diplomat with a regional mandate who could convene regional and international actors. The argument is not that the EU should always have a representative, but that in late 2012/early 2013, when the UN lacked a Special Representative, the EU could have contributed diplomatic weight to the problem as the EUSR had done in the past.

The entry into force of the Lisbon Treaty has not rendered the delegations independent of the Member States, whose views – which may be divergent – need to be taken into account. In-country, even those Member States in principle most in favour of a more independent EEAS still seem to need to exert influence over the delegation. Bilateral profiles remain important not only for national ministers, bureaucracies and parliaments, but also the profile and career trajectories of individual diplomats. There is, therefore, little interest in greater independence or profile for the EU delegation, which decreases its ability to engage robustly at the political level.<sup>33</sup> For the EU to become more effective, member states should therefore allow the delegation, in particular, more room for manoeuvre.

There is also a more fundamental limit to the EU's role in the DRC. 'Termination' – the ability to walk away – is a recognised source of power for a mediator or negotiator.<sup>34</sup> The EU has never given the impression it could walk away. Rather, it gives a similar image to Belgium in the DRC in that both are perceived to need a DRC foreign policy in order to have any foreign

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<sup>33</sup> Personal observations 2007-2015

<sup>34</sup> Zartman and Touval (2007)

policy. The EU needs to be in the DRC and therefore has no credible power of termination, which makes robust engagement more difficult.

### ***3) CSDP as a multiyear conflict prevention tool***

The official reason given for closing the CSDP mission is that CSDP is a crisis management instrument. As the DRC is now in a post-conflict phase of consolidating institutions, so the argument goes, CSDP missions are no longer appropriate tools. This analysis of the situation is a considerable departure from the more realistic assessment in the Strategic Framework. Even if the east stays reasonably stable, the run-up to the presidential elections – scheduled for 2016 – will be testing to say the least. Recent army appointments suggest strategic placing of allies. How the security services engage with the emerging political struggles, respond to opponents, dissidents, and possible accompanying violence, will be crucial. This does not sit easily with the idea of a state in the process of consolidating democratic, post-conflict institutions. All of this points instead to a problem with the length of mandates in this type of CSDP mission (i.e. without peacekeeping mandates) and an urgent need to reassess the instrument. There is precedent for this in the DRC: in 2011-12, EUSEC's mandate was extended to two years on the grounds that key SSR activities could not be completed within twelve months and therefore could not be started unless the mandate was revised to reflect the reality on the ground.

Analysis of the context not only points to the need to revise the instrument to fit the job, it also suggests the need for a greater emphasis on conflict prevention, one of the objectives of CSDP, including assessing its potential for mediation, as noted above. The interpretation of 'crisis management' as short-term and reactive is fundamentally flawed, particularly in relation to SSR and even more so in countries that have never had a functioning, democratic security service. It is also surely a selective reading of the CSDP objectives in the Treaty. EUSEC and EUPOL have been in the DRC for nine years. Reorienting their mandates would make sense, as would using the missions to help prepare the security services for potentially volatile elections.

The closure of the missions also undermines the EU's own 'Comprehensive Approach' to SSR. The EU intends to continue supporting SSR: then Commissioner Piebalgs announced in March 2014 that the DRC would be receiving €620 million in development aid under the 11<sup>th</sup> European Development Fund. Of this, €120 million is destined for 'strengthening governance and the rule of law' – including SSR in the police and defence sectors. Recent months have highlighted that the decision to close CSDP missions is the easy part of the process, working out how to shore up at least some of their legacy is more difficult, particularly in the defence sector. The importance of uniform-to-uniform contact for SSR is well understood. Uniformed staff have a level of credibility with uniformed counterparts, Congolese or international, that civilians, however competent, find very difficult to attain. Police officers, understood as civilians, meet the OECD criteria for Official Development Assistance but military personnel pose a problem. The possibility of using Article 28 of the Lisbon Treaty to have uniformed (military) attachés in the EU delegation was apparently mooted, and might have helped to offset this, but the UK and others reportedly blocked this.<sup>35</sup> Apparently, the reason – like the decision to close the missions – was disconnected from the context, namely that uniformed attachés would make EU delegations too similar to embassies for comfort.

Once the Article 28 plan failed, the fall-back position was that one or two civilian officers in the EC delegation would replace the 70+ uniformed and civilian staff of the two missions. In reality, EUPOL was closed in September 2014 and EUSEC re-conceptualised as a mini-mission (currently with 26 staff) to wind down by June 2015. There seems little or no

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<sup>35</sup> Interviews, EU officials and diplomats, Kinshasa June, September 2014.

opportunity to undertake a transition from the comprehensive approach, including CSDP missions, to aid alone. It is unclear how the EU can possibly maintain the necessary contacts and engagement to ensure that EU support to SSR meets its own requirements in terms of transparency, let alone human rights standards, or support the legacy of the missions' achievements. There are already signs that the national partners have been unable to institutionalise adequately EUPOL's legacy. Although these obstacles have not prevented the EC from earmarking large amounts of aid for SSR, there is some recognition that closing the missions, particularly EUSEC, is hard to do without a proper exit strategy. At the time of writing, it would appear that the current EUSEC mini-mission will be followed by a micro-mission of around ten staff (military and civilian) to June 2016. Once again, the DRC becomes a laboratory for CSDP. However, while earlier experiments had the sense of innovation, of developing new tools to fit the context, EUSEC's recent history in particular points more to a lack of strategic direction or understanding of the context by the decision makers in European capitals.

## **Conclusions**

Fifteen years after the UN peacekeeping mission arrived and in the run-up to the DRC's potentially first democratic change of leader, the EU is stepping back from engagement in the country, as witnessed by the lack of policy commitments for the EU in its own Strategic Framework. There is a certain amount of DRC fatigue and with reason. The pressing crises in the Neighbourhood and the Sahel directly affect EU interests. Questioning why more taxpayers money, particularly in a time of austerity, should be spent in a place like the DRC where there seems to be such resistance to peacebuilding progress from the elites, is not only justifiable but necessary for EU accountability.

Yet the DRC is one of the few places where the EU has had a foreign policy, one which has been largely based on an accurate conflict analysis. The EU has made considerable investment in both new and tried-and-tested approaches to peacebuilding. The approach has had its flaws: for example, a stronger commitment to the Treaty values, particularly on human rights, might have given the EU both more clout and more impact. Greater political engagement, rather than a 'technical' approach, re-conceptualising the CSDP SSR missions as multiyear instruments and measuring their impact could have strengthened the EU's contribution to peacebuilding in the DRC and the region.

In the months leading up to the presidential elections, the EU should clearly communicate its position, grounded firmly in the Treaty values, on how the elections should be run and, in particular, how the government and security services should behave. It should fund credible research into the links between armed groups and politicians, as well as civil society monitoring projects. It should follow closely what happens to human rights defenders and actively promote women's empowerment and democratisation.

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