

**Supporting SSR in the DRC: between  
a Rock and a Hard Place**

An Analysis of the Donor Approach to  
Supporting Security Sector Reform in  
the Democratic Republic of Congo

Henri Boshoff  
Institute for Security Studies, South Africa

Dylan Hendrickson  
Conflict, Security and Development Group, King's College London,  
United Kingdom

Sylvie More  
Clingendael, Netherlands Institute for International Relations,  
The Netherlands

Thierry Vircoulon  
Institut français des relations internationales, France

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Netherlands Institute of  
International Relations  
'Clingendael'  
Clingendael 7  
2597 VH The Hague  
Phonenumber: +31 (0)70 3245384  
Telefax: +31 (0)70 3282002  
Email: [cru-info@clingendael.nl](mailto:cru-info@clingendael.nl)  
Website: <http://www.clingendael.nl/cru>

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# Contents

- Executive Summary ..... i**
- List of Acronyms.....iv**
- Methodology .....vii**
- 1. Overview of SSR Approach and Constraints .....1**
- 2. Justice Sector .....5**
  - 2.1 Approach taken to Justice Reform ..... 5
  - 2.2 Donor Support to the Justice Sector ..... 6
  - 2.3 Assessment of Donor Approach ..... 7
  - 2.4 Coordination ..... 8
  - 2.5 Key Challenges for Justice Reform ..... 10
- 3. Police Sector ..... 13**
  - 3.1 Approach taken to Police Reform ..... 13
  - 3.2 Key Challenges for Police Reform ..... 15
  - 3.3 Donor Support to the Police Sector..... 16
  - 3.4 Assessment of Donor Support to the Police Sector..... 17
- 4. Defence Sector ..... 19**
  - 4.1 Approach taken to Defence Reform..... 19
  - 4.2 Donor Support to the Defence Sector..... 21
  - 4.3 Assessment of Donor Support to the Defence Sector ..... 22
- 5. Conclusions and Recommendations ..... 25**
- Annex 1: Initiatives against sexual violence in Eastern DRC ..... 31**
- Bibliography ..... 33**



## Executive Summary

Since the beginning of the Transition Period in April 2003 international partners have invested considerable resources in the Democratic Republic of Congo (DRC)'s justice, police and defence sectors under the banner of support to Security Sector Reform (SSR). Nonetheless the consensus today is that progress in the area of SSR has been limited.

Although the challenges faced in this area are undoubtedly formidable, they do not seem to have been adequately taken into account by partners intervening in this sector. The first challenge is the absence of a robust institutional framework in which to anchor the SSR process. The Congolese State is unable to fulfil basic sovereign responsibilities and its governance system is highly autocratic with political power concentrated in the Presidency. This makes it very difficult to undertake a complex policy initiative such as SSR requiring long-term strategic planning and coordination across different sectors of Government much less in single pillars such as justice, police or defence. Secondly, DRC's security and justice apparatus has always been, and remains today, highly dysfunctional. Historically security and justice institutions have not been structured, managed or financed to serve public interests but rather to protect the elite.

Against this context and the inherent weaknesses of the sector, there are competing domestic and external views on the objectives of SSR. While many donors are pursuing the creation of an accountable, rights-respecting security sector, the Government of DRC is most concerned with creating effective fighting forces. The national authorities have resisted attempts on the part of donors to define an SSR agenda which they feel is being imposed in a sector which is the cornerstone of state sovereignty. The reform process is thus supply-driven and there is no overall leadership provided by the government. This situation, combined with the limited financial investment provided by the national authorities, casts serious doubts on the sustainability of reform efforts initiated by international partners.

There are also differing views amongst donors of what SSR support involves and considerable competition between them which results in the absence of credible coordination and of a common strategic framework for international support. The current structure of the international aid machinery in DRC's security sector privileges the delivery of aid through traditional bilateral frameworks, for which the government has expressed a clear preference. Donor assistance is as a result fragmented and the tendency to work separately favours a training and infrastructure approach. Indeed, international partners currently place a greater

emphasis on reforms designed to meet shorter-term operational requirements, notably to deal with the crisis in the East, to the detriment of longer-term structural reform and initiatives aiming to develop an enabling policy framework and the supporting legislation to make security and justice institutions more responsive to the needs of citizens.

Although most donors working in the DRC have endorsed the OECD DAC's holistic conception of SSR, their support in practice is largely limited to three pillars of the security sector: justice, police and defence.

In the justice sector, donors have provided two types of institutional support programmes since the Transition: short-term, operational support aiming to restart the justice system in regions where it had effectively ceased to function and longer-term structural interventions aiming to support the reform process. These programmes tend to focus on one geographic area. While practical, given the scale of the country, there is a real risk of creating different standards and practices across the country and this approach is at odds with the fact that the solution to numerous local problems involves a well-functioning central justice administration. As regards thematic focus, although the joint Congolese-international partner forum within the justice sector has allowed donors to coordinate more effectively and divide up areas of support, key areas such as combating corruption and reforming the military justice system have been neglected. In contrast there is a proliferation of activities targeting sexual violence.

The fundamental challenge faced by international partners in the justice sector is that the interest of the Congolese authorities – both Government and judicial – in reform appears to a large degree rhetorical and opportunistic: a façade of support for the reform allows the system's actors to attract financial resources and the Government to demonstrate its concern for good governance. In reality, reform is being delayed by both parliament and the executive branch who consider an independent judiciary as a threat: numerous bills are awaiting parliamentary approval and the establishment of the *Conseil Supérieur de la Magistrature* is dragging on. Donors are faced with a 'materialist' conception of justice reform on the part of the authorities, and as a result donor support programmes are focussed on constructing and equipping – in a sector without an operational budget – but have not managed to change judicial practices and mentalities. There is a real need to address judicial practices notably the prevention and repression of corruption.

In the police sector, just as in the justice sector, international partners have played a key role, from the Transition period onwards, in driving the process of the development of a sectoral reform plan. In the police sector, the foreign domination of international-Congolese planning bodies has led to slow uptake of the reform process on the part of the national authorities.

A clear disconnect has been evident between donor-dominated Kinshasa-based discussions on institutional and technical reform and Congolese security chiefs' preoccupation and focus on operations in the East. As a result of this, and because of the fact that internal security is considered less important than defence, progress in the area of police reform has been slow. The draft police law prepared in 2006 has yet to be debated in parliament and the 'Action Plan for Police Reform' is still awaiting Ministerial and Cabinet approval.

Due to the donor focus on institutional and legal reform, questions of crime and citizen safety including the issue of the availability of small arms and light weapons have been neglected.

International partners have also paid little attention to the role of Parliament in terms of budget-approval and oversight, as well as passing legislation essential for police reform. Finally, there has been insufficient recognition on the part of donors that the impact of police reform will be limited without better linking it to justice and penal reform given that it is ineffective to intervene in one part of the criminal justice process if other parts do not function. Similarly, internal discipline of the police cannot be tackled independently to justice reform and specifically that of the military justice system. The likely sustainability of donor support to the reform process – notably investment in buildings, vehicles and IT systems – is called into question by a lack of commitment on Congolese side to pay salaries and maintain the investments made by donors.

In the defence sector, a clear preference has been expressed by the Government of DRC for bilateral support. Since before the Transition period, donors have mostly intervened in this sector through bilateral military cooperation with a particular focus on improving the tactical capabilities of the army through training and equipping, however without harmonising the assistance provided. The EU has attempted to counter-balance this focus by providing support in the areas of army administration and human resource management and pay. Overall, the donor approach can be criticised for shying away from the topic of the overall cost of defence reform and for failing to adequately link support to the Disarmament, Demobilisation and Reintegration (DDR) and SSR processes.

The rivalry which exists between donors in the defence sector has resulted in a lack of effective coordination, notably in the absence of a clear coordinator, and has been exacerbated by the refusal of the Congolese authorities to set up a joint Government-international partner forum such as those which exist in the justice and police sectors. Indeed, given the opaque governance of the security sector – the leadership of the army is at the heart of the Government's patronage network and under the tight control of the President –, the cards relating to defence reform are kept closely to the chest of the authorities.

At present SSR support in the DRC is essentially a collection of loosely-connected, largely donor-driven activities, implemented in isolation from essential political reforms, which are not resulting in the kinds of capacity and behavioural changes that could lead to significantly improved public security provision. It is key, for example, to complement training and other assistance with support that will tackle the culture of impunity. Moving beyond the predominantly bilateral approach, donor activities need to be more systematically informed by considerations of accountability, coherence, justice and national ownership within a framework of common action. Furthermore, international partners need to find ways of making SSR in the DRC a nationally-led process and should start by taking seriously the reform plans tabled by the Congolese in the areas of justice, police and defence, working to bridge differences in views and approach that may exist between them and the government rather than simply picking and choosing those elements which fit with their priorities. Finally, donors should avoid overloading the government reform agenda and stick to strategic priorities for SSR given urgent needs on the ground and the very real capacity and resource limitations on both the government and donor sides.

## List of Acronyms

ASF	<i>Avocats sans frontières</i>
CMJ	<i>Comité Mixte de Justice</i>
CNDP	<i>Congrès National pour la Défense du Peuple</i>
CSD	<i>Conseil Supérieur de la Défense</i>
CSM	<i>Conseil Supérieur de la Magistrature</i>
CSRA	<i>Comité de Suivi de Réforme de l'Armée</i>
CSRP	<i>Comité de Suivi de la Réforme de la Police</i>
DRC	Democratic Republic of Congo
EC	European Commission
EU	European Union
EUPOL	European Union Police Mission in the Democratic Republic of Congo
EUSEC	European Union Security Sector Reform Mission in the Democratic Republic of Congo
FARDC	<i>Forces Armées de la République Démocratique du Congo</i>
FDLR	<i>Forces Démocratiques de Libération du Rwanda</i>
GIAT	Global and Inclusive Agreement on the Transition
GMRRR	<i>Groupe Mixte de Reflexion sur la Réforme et la Réorganisation de la Police Nationale Congolaise</i>

ICTJ	International Center for Transitional Justice
IG	<i>Inspecteur Général</i>
MONUC	<i>Mission de l'Organisation des Nations Unies en République Démocratique du Congo</i>
NGO	Non-Governmental Organisation
OECD-DAC	Organisation for Economic Cooperation and Development -Development Assistance Committee
PARJ	<i>Programme d'appui à la réforme de la justice</i>
PNC	<i>Police Nationale Congolaise</i>
RCN	<i>Réseau de Citoyens Justice et Démocratie</i>
REJUSCO	<i>Programme de Restauration de la justice à l'est du Congo</i>
SALW	Small Arms and Light Weapons
SSAPR	Security Sector Accountability and Police Reform Programme
SSR	Security Sector Reform
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNPol	United Nations Police



## **Methodology**

This paper is the result of a collaborative effort of researchers and former practitioners with experience in the DRC currently working for Clingendael – the Netherlands Institute for International Relations based in The Hague, the Conflict, Security and Development Group at King's College London in the United Kingdom, the *Institut français des relations internationales* based in Paris, France, and the Institute for Security Studies, South Africa. Hans Hoebeke, Senior Researcher at Egmont, The Royal Institute for International Relations, Belgium was extensively consulted during the preparation of this paper.

The authors of this paper have drawn upon their professional experience in the DRC and/or ongoing analysis of developments there. This has included interviews, conducted both in country and at donor headquarter level, of political representatives and working-level practitioners of donor country and multilateral institutions, independent experts, Congolese civil servants across the justice, police and defence sectors as well as non-governmental organisation and civil society representatives.

A large number of written sources were consulted during the preparation of this paper. These comprise both official governmental and international partner documents and independent analyses published by researchers, think-tanks and non-governmental organisations. The main sources are listed in the bibliography at the end of the paper.



# 1. Overview of SSR Approach and Constraints

Security Sector Reform (SSR) is rapidly becoming the central pillar of the international agenda for stabilisation and reconstruction in the Democratic Republic of Congo (DRC). Since the signing of the Global and Inclusive Agreement on the Transition (GIAT) in 2003, there has been a proliferation of donor-supported initiatives in the justice, police and defence sectors. The United Nations (UN) Secretary General's December 2009 report pins hopes for a return to stability in the DRC (which would in turn enable MONUC to draw down its peace-keeping forces in 2011) on SSR, in particular defence sector reform. MONUC's mandate is currently being redesigned to strengthen its SSR coordination function in a bid to increase the coherence and impact of these international efforts.

The massive international intervention in the DRC has dramatically increased the stakes around the success of SSR, raising at the same time important questions about whether current approaches will meet donor expectations which have tended to be unrealistic. Although some donor initiatives have shown promise, these have tended to be narrowly focused and the consensus is that progress on SSR has been limited. The DRC is in a situation similar to many other conflict-affected states, namely that the *need* for reform of the security sector and state *capacity* to reform (at least along the lines donors would like to see) are inversely proportional. This poses a challenge therefore to conventional approaches to SSR which presume the existence of a relatively functional state framework to guide and manage reforms.

The generalised breakdown in state institutions which has occurred in the DRC since the mid-1990s along with growing political and social cleavages have further exposed the inherent limitations of the country's security institutions which have always been organised to protect elite instead of public interests. This has created a very difficult environment for any kind of reform, much less the complex governance-related transformations implied by SSR (in the OECD-DAC sense of the term). Although the Government of DRC has obtained assistance from both neighbouring countries and various donors to rebuild its security apparatus, in the case of the latter this has come with conditions. In the face of pressing needs on the ground, donors have taken it upon themselves to define an SSR agenda for the DRC, though with mixed results.

Not surprisingly, the Government of DRC has resisted many of these donor interventions which it feels are being imposed in a sector which is the cornerstone of state sovereignty, and hence very sensitive. While donor initiatives have led to certain improvements in the capabilities of security forces in the DRC since 2003, this has not resulted in significant changes in how security policies are made and implemented by the government or increased domestic ownership of the reform process. Donors have placed greatest emphasis on reforms designed to meet shorter-term operational requirements to deal with the crisis in the East. There has been slower progress on longer-term initiatives to transform how security policy is managed – for example, those intended to strengthen the parliamentary Defence and Security Commission or enact new security legislation.

In addition, rather than one approach, there are a number of competing external and domestic perceptions of SSR in the DRC: while many donors see the priority as creating accountable, rights-respecting security forces, the Government of DRC is most concerned with creating effective fighting forces, primarily by enhancing military capabilities. There is no clear lead on either the government or donor side which has been accepted by all relevant actors. Although many donors support MONUC's desire to play a stronger coordination function and participate in the political and technical-level SSR coordination forums that MONUC's SSR Unit has established, MONUC experiences difficulties in coordinating internally on SSR and some donor countries still prefer to deal directly with the government. Furthermore the government itself is not in favour of MONUC taking on an SSR coordination role. Current approaches to SSR in the DRC are therefore both fragmented and technical in nature, resulting in a range of separate, often competing donor-supported reform projects. Each are potentially important pieces of an SSR programme, but in the absence of a strategic framework for SSR and a clear political vision to underpin it they do not add up to a coherent whole.

In these circumstances, it is tempting to think that the constraints to SSR could be overcome if only the Government of DRC could be convinced to put a more comprehensive security strategy into place or exhibit more 'commitment' to reform, if donors were to coordinate more effectively or additional financial resources to fund reform could be found, or indeed if civil society could be enabled to exercise a stronger 'demand' for improvements in state security and justice provision. This kind of thinking belies a number of important structural impediments to SSR in the DRC which have not been adequately taken into account in the context of external SSR assistance programmes.

The first of these, to which reference has already been made, is the lack of a robust institutional framework in which to anchor the SSR process. SSR cannot be expected to progress quicker than efforts to restore a functioning state in the DRC. At present, the state is not able to effectively fulfill basic sovereign responsibilities such as maintaining law and order, ensuring a stable fiscal environment or paying its employees. Public service provision across most sectors is either very weak or non-existent, as a result of which most services have been privatized. Political power is concentrated in the Presidency, with few arms of government enjoying the autonomy and powers they require to formulate and implement policy. This makes it very difficult – if not impossible – to push through complex policy initiatives such as SSR which require long-term strategic planning and coordination across different sectors of government, much less single reform pillars such as justice, police or defence which are in their own right very complex 'sub-sectors' to reform given the governance conditions which currently prevail in the DRC. Many donors who talk about SSR have seemingly not come to terms with the scale and complexity of the changes that this reform agenda implies.

A second impediment to SSR is the dysfunctional nature of the state security apparatus itself which has historically not been structured, managed or financed to provide security as a public service. To speak of security as a public 'sector' is in many ways misleading as the different security services – defence, police, intelligence, etc. – operate with great autonomy from one another, while there are a range of other parallel or irregular security bodies which are not statutory in nature (and hence not governed by official laws or legislation) but are nonetheless under the control of the presidency or other senior political and military elites. More importantly, in the absence of adequate state funding, many of these security services live 'off the population', from corruption, or through involvement in the illicit extraction of mineral resources.

This has resulted in a situation where more frequently than not the state security services are a source of insecurity rather than security for the population. Because of the culture of impunity which prevails, few soldiers or commanders who are guilty of human rights abuses are likely to be disciplined. The problems have been greatly exacerbated by recent military operations in the East supported by MONUC (Kimia II) intended to disarm FDLR forces, giving rise to massive civilian displacement and casualties. This has placed in sharp relief the dilemmas of SSR in the DRC today: the need for both military training to make the FARDC an effective force against militia groups and adequate governance safeguards to protect against abuses, which are ultimately much more difficult to achieve.

The justice sector suffers from similar operational and governance deficits as the security apparatus. Chronically under-resourced, the judicial system is unable to deliver day-to-day rule of law for the population, let alone tackle serious crime, due notably to a lack of qualified personnel. Furthermore, the independence of the judiciary is highly questionable and corruption is endemic for purposes of enrichment (the magistrates themselves), survival (low-ranking personnel) and day-to-day operation (in the absence of any budget, everyday material and equipment is financed by applicants and defendants, via demands for payment for every official act).

A third impediment to SSR is the very structure of the international aid machinery in the DRC's security sector which privileges the delivery of aid by donor states through traditional bilateral frameworks rather than in coordination with other bilateral and multilateral partners. Furthermore, in most cases, donors have unrealistically short programming cycles of 3-5 years which increases the pressure to achieve quick, visible 'wins' and avoid tackling the more difficult structural problems. The bilateral approach has a number of important consequences, including making it difficult to develop common training standards in the defence sector, for instance, or fostering a lack of transparency on the content of donor assistance. The tendency to work separately favours a 'train and equip' approach to assistance, particularly in the defence sector. It also makes it more likely that assistance is disconnected from considerations of accountability, coherence and justice, for the simple reason that these goals are unlikely to be achieved unless donors develop a strong common position on them.

To date, there has been considerable competition between donor countries and multi-lateral development agencies working in the field of SSR, resulting in the absence of any credible coordination. While the Government of DRC has expressed a clear preference for bilateral agreements on defence support, certain donor countries also prefer this because it offers

privileged access to those in power and enables them to more easily promote their strategic interests in the DRC. In practice, this also enables the Congolese government or individual security services to play one donor off another and makes it easier to avoid fulfilling reform commitments it has signed up to.

At present, the primary 'demand' for reform in the DRC emanates from international actors rather than the Congolese themselves. This not only increases the likelihood that the model of reform being promoted will reflect the priorities of external actors but also has obvious implications for the sustainability of reform efforts. While it is imperative that there is greater local demand for SSR, this demand is unlikely to make a difference as long as the Congolese state is not in a position as regards capacity to meet this demand. This underscores the systemic nature of changes that need to come about at many different levels in DRC (political, social, economic, institutional etc.) in order for there to be sustained improvements in security and justice provision for citizens.

Although most donors working in the DRC have endorsed the OECD-DAC's holistic SSR approach<sup>1</sup> as well as recent guidelines for working in Fragile States<sup>2</sup>, it is not straight-forward to translate these guidelines into concrete actions on the ground due to the difficult working environment. In practice, therefore, much of what is taking place in the DRC today under the name of SSR is focused quite narrowly on the justice, defence and police sectors. Less emphasis is currently being placed on creating the enabling policy frameworks in the security sector along with supporting laws and legislation which will ultimately be necessary if the DRC's security institutions are to become more responsive to the needs of citizens. As pressure grows on MONUC over the next two years to accelerate SSR as part of its drawdown, the risk is that donors will continue to prioritise short-term impact instead of the fundamental structural reforms that are required.

The following sections of this paper (sections 2-4) will examine developments in the justice, police and defence sectors since the signing of the GIAT, including an assessment of the donor approach to reform in each sector and an indication of key challenges faced.

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<sup>1</sup> OECD, *OECD DAC Handbook on Security System Reform: Supporting Security and Justice*, Paris, OECD, 2007.

<sup>2</sup> OECD, *Principles for Good International Engagement in Fragile States and Situations*, Paris, OECD, April 2007.

## 2. Justice Sector

### 2.1 Approach taken to Justice Reform

In 2004, the European Commission (EC) launched a multi-donor audit of the justice system which led to the creation in 2005 of a coordination structure between the national authorities and international partners: *Comité mixte de justice* (CMJ).<sup>3</sup> Co-chaired by the Minister of Justice and the EC and comprising donors and representatives of the judiciary, the CMJ has played a central role in facilitating the formalisation of a plan for justice sector reform and institutionalising exchanges between donors and the Ministry of Justice. From 2005 to 2007, an analysis of needs required for a well-functioning justice system conforming to accepted international principles was carried out, culminating in the 'Justice Reform Action Plan'<sup>4</sup>, validated at the end of 2007 and presented during the SSR Round Table held in February 2008. This plan has four main aims: (i) universal access to justice; (ii) the establishment of the legal and constitutional framework of justice; (iii) combating corruption and impunity; and (iv) the promotion of, and respect for, human rights.

These four aims are divided into 10 programmes<sup>5</sup> consisting of 43 projects in total, at an estimated cost of \$150 million. Most recently, the plan was used to create a ministerial roadmap determining concrete priorities for 2009:

- Recruitment and training of magistrates;
- Operationalisation of community justice and of systems to review legality and constitutionality, via the establishment of magistrates' courts, commercial courts and high courts;
- The partial rehabilitation of the prisons of Makala and Luzumu;
- The rehabilitation of the Ministry of Justice and its central services, as well as reinforcement of its capacity to oversee and review justice policy.

In practice, two concrete actions were taken by the Congolese Government in the justice sector in 2009. These were an initial recruitment drive of 500 magistrates and an anti-corruption operation within the judiciary.<sup>6</sup>

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<sup>3</sup> The CMJ has since been formalised by decree on 27 April 2009.

<sup>4</sup> Available at: [www.justice.gov.cd](http://www.justice.gov.cd).

<sup>5</sup> 1) Directory and mapping of judicial and penitentiary institutions 2) organisational audit of the Justice Ministry and affiliated services 3) Access to justice 4) Promotion and protection of human rights 5) modernisation of the legal framework 6) Action against corruption and impunity 7) Human resources and training 8) Infrastructure and equipment 9) Information and documentation 10) Strategy for increasing financial resources of the justice sector.

<sup>6</sup> The first such purge took place in 2008.

Progress as regards the implementation of justice reform is slow. Firstly, the establishment of the *Conseil Supérieur de la Magistrature* (CSM) – in charge of appointing, promoting and sanctioning magistrates and of ensuring their independence from the executive<sup>7</sup> – is dragging on, caught in internal quarrels (due to a dispute about succession, there are currently two permanent secretariats for the CSM). Secondly, a number of bills are mired in obscure parliamentary process (including the law of application of the statute of the International Criminal Court, the fundamental law for the *Conseil d'Etat* and the *Cour de Cassation*, the new penal code, penal procedure code and penitentiary code, etc.). Finally, few of the eleven working groups set up to operationalise the 'Justice Reform Action Plan' are active.

## 2.2 Donor Support to the Justice Sector

As far as institutional support programmes<sup>8</sup> are concerned, two types of interventions have been supported by the country's external partners since the Transition: short-term interventions of an urgent nature and longer-term structural interventions. The former aimed to restart the justice system in regions where it had effectively ceased to function (for example, by re-establishing the criminal justice system in Bunia, or restoring the justice system in Eastern DRC – the REJUSCO programme); they can be characterised as operational support. The latter aimed, and continue to aim, to restructure the justice system (for example, by supporting the establishment of the CSM); these constitute support for reform. Thus it is not transitional justice which has been prioritised but the transition of the justice system.<sup>9</sup> Certain programmes combine operational support with support for reform, and, as indicated in the table below, the EC takes the role of de-facto leader of the donors in the justice sector, due both to the financial amounts it has contributed and the number of institutional support programmes it has launched.

Name	Funders	Actions	Period	Amount
Restoration of criminal justice in Bunia	EC, France	Construction/rehabilitation/equipping of the prison, courthouse and housing; training.	2003-2004	€1 m
<i>Programme d'appui à la justice (PAJ)</i>	EC	Construction/rehabilitation/equipping of courts in three provinces (Bandundu, Kinshasa, Bas-Congo).	2003-2006	€6 m
<i>Restauration de la justice à l'Est du Congo (REJUSCO)</i>	EC, Netherlands, Belgium, UK, Sweden	Construction/equipping of courts; support for ongoing activities; improvement of relations between justice system and those seeking or subject to justice; action against sexual violence.	2007-2010	€15 m
<i>Programme d'appui à la gouvernance</i>	EC	Support to courts in Kinshasa; audit of ministerial services; construction.	2009-2014	€9 m

<sup>7</sup> Articles 151 and 152 of the Constitution.

<sup>8</sup> Institutional support programmes in the justice sector in DRC are normally composed of three parts: training, construction/equipment, and free legal assistance (provided by paralegals from NGOs or the bar).

<sup>9</sup> The justice system is in transition due to the new constitution of the Third Republic.

(PAG)				
<i>Programme d'appui à la réforme de la justice (PARJ)</i>	EC, Sweden	Support to the administration of justice; universal access; monitoring and evaluation of the justice system; respect for rights of women.	2010-2015	€29 m
Access to justice	UNDP	Support to the CMJ; training, free legal assistance and action against sexual violence in two provinces in the East.	2005-2010	N/A
Projustice	USAID	Support to the CSM; Training, equipping and development of free legal assistance in four provinces (Katanga, South Kivu, Maniema and Bandundu).	2009-2013	\$13 m
Supporting the establishment of the Rule of Law	France	Training of trainers; training in justice for minors; support to the drafting of the penal code and the penal procedure code; provision of equipment for the documentation and research service.	2005-2008	N/A
Supporting community justice in Bas-Congo	Japan	Audit of provincial courts, training of magistrates, rehabilitation of one magistrates' court.	2009-2010	\$346 000
Reform of commercial justice	World Bank	Establishment and equipping of three commercial courts; training; supporting accession to OHADA.	2006-2010	Approx \$1 m

### 2.3 Assessment of Donor Approach

Foreign donors have done well to see the justice sector as a complete system of institutions: support is being given to several areas of the justice system – civil justice, criminal justice, prisons, military justice etc. However this support is not always well balanced. Three areas have been under-estimated or neglected in institutional support programmes:

(i) Action against corruption amongst judicial actors is tragically absent in donors' programmes even though this corruption is the primary obstacle to ensuring equitable access to justice, and its existence demonstrates to all that in a poor country justice is only for the rich. Although corruption within the judiciary is often seen from the political perspective, in everyday life it translates into denials of justice and stark inequalities negatively affecting citizens and economic actors. The few anti-corruption interventions which the donors support are implemented via NGOs.

(ii) Military justice is a strategic element both within the framework of justice reform and in that of army reform. The military penal code claims a very (too) large competence over crimes committed by civilians; furthermore, the lack of discipline within the *Forces Armées de la République Démocratique du Congo* (FARDC) is so high that restoring order within the army

requires a fully operational military justice system, which is currently not the case<sup>10</sup>. The support that this area receives (from the USA and REJUSCO) is not comparable to that received by civilian justice; a correction of this imbalance could be envisaged if progress were made with the implementation of the constitutional agenda (the fundamental law on military justice is at a standstill along with the revision of the military penal code).

(iii) Support to the penal system has been neglected since the support provided by France over two years ago for the rewriting of the penal code. The code has still not been finalised or presented to Parliament.

In contrast, there is a risk of over-emphasis placed on the issue of sexual violence: although donors see the justice system in its entirety, the increase in importance within the international community of this single issue has led to a proliferation of activities targeting it specifically, in the Kivus in particular. Sweden and the United Kingdom (UK) finance only the 'action against sexual violence' component of the REJUSCO programme, and several other judicial interventions focusing on this issue are being developed.<sup>11</sup> If this continues, it risks creating a major imbalance; a certain 'competition between victims' is already noticeable, with the police and judiciary's treatment of this individual criminal issue draining financial resources to the detriment of other judicial issues, other victims, and of civil justice in general.

Considering the immense size of the country, the approach that has been taken is primarily geographic (Japan investing in the Bas-Congo, a number of programmes in the East such as REJUSCO, Access to justice, Projustice etc.). In general, the institutional support programmes have chosen a 'locally global' approach, i.e. they consider all components of the justice system (prison, courts, etc.) as an institutional whole but within a geographically-defined area (province or district).<sup>12</sup> This choice was influenced by the impossibility of adopting a national approach (considering the size of the country) as well as the 'spaghetti dilemma' (trying to eliminate an individual problem within the justice system ends up involving having to treat all the problems within the system<sup>13</sup>). If this 'locally global' approach makes sense in a continent-sized country such as the DRC, it nevertheless is at odds with the fact that the solution to numerous local problems involves a well-functioning central justice administration – which is far from being the case – and that this administration is still in transition between the old system of the Second Republic and that foreseen by the founding constitution of the Third Republic, leaving many institutional details unresolved (such as the exact distribution of competencies between the CSM and the Ministry, or as yet undefined roles for the Provincial Justice Ministers, etc.). Thus, donor intervention is caught in a dilemma between local and national scopes.

The 'locally global approach' requires that due attention be paid to coherence in the different geographic areas as the approach poses considerable risks of creating different standards and practices across the country.

## 2.4 Coordination

<sup>10</sup> Military justice suffers from the same operational problems as civilian justice. The operational military court created by presidential decree in North Kivu was set up without any operational budget and REJUSCO now provides for this, substituting completely for the Congolese State.

<sup>11</sup> See annex on interventions against sexual violence in the Eastern DRC.

<sup>12</sup> Of course certain donors only support part of the justice system (World Bank focusing on commercial justice) or concentrate on a particular issue (UK focusing on sexual violence).

<sup>13</sup> For example, treating the problem of prison overpopulation involves dealing with dysfunctions in the registries and the prosecution, corruption amongst judicial staff, occasionally over-repressive penal policy, etc.

Donors are aware of the need for effective coordination and are bearing its cost: since its creation in 2005, the *Secrétariat d'appui du CMJ* has been supported by three donors (the UK via UNDP, the EC, and Sweden providing bridge financing between two periods financed by the EC). In line with the principle of effective division of labour within the aid sector, all programmes involving the justice system are presented to, discussed at and validated by the CMJ. The CMJ has permitted partners to move beyond simple exchange of information and achieve real joint action (i.e. co-financed interventions such as the REJUSCO and PARJ programmes) as well as the division of work (for example, the UK has withdrawn from the justice sector to concentrate fully on the police in order to balance the division of labour between donors).

Even if the degree of coordination between actors is satisfactory, there remains a persistent dichotomy between two groups: MONUC and donors. Coordination and interaction between MONUC and donors is far from what it could be. Effectively, instead of creating a collaborative relationship, the Rule of Law unit within MONUC has vied for leadership of the sector and has blundered repeatedly in its dealings with the Justice Ministry and other donors. In consequence, the level of coordination between the unit and other partners, including national ones, is far from ideal.

Coordination between institutional support programmes and the work of NGOs leaves a lot to be desired: several donors (EC, USAID, Sweden) finance these programmes in the justice sector at the same time as financing NGOs specialising in the sector (such as International Center for Transitional Justice (ICTJ), Global Rights, Avocats Sans Frontières (ASF), Réseau de Citoyens Justice et Démocratie (RCN), etc.). Strangely, these donors are not working to achieve coherence between these different interventions, nor even to ensure contact between the different actors (USAID, which finances both the activities of ASF in South Kivu and the Projustice programme working in the same province, has not established contact between the two). As a result, the large-scale institutional support programmes exist alongside a myriad of interventions directed at the judiciary and civil society without any real synergy, which creates frustration amongst NGOs as well as avoidable redundancies.

Within the EU, coordination between pillars (Justice, Defence and Police) also falls short. EU bodies in Kinshasa tend to replicate the institutional disputes and divisions between the Council and the Commission at headquarters. EUPOL has recruited one or two lawyers who participate in the CMJ but their presence has not been effective given the opposition by the Ministries of Justice and Security to the question of a 'police of the prosecution' (a judicial police reporting directly to prosecutors, whereas the fundamental police law foresees unification under a single national police force). EUSEC has no legal component similar to that of EUPOL and has therefore not been involved in donor coordination within the justice sector.

## 2.5 Key Challenges for Justice Reform

The support of the Congolese authorities (both government and judicial) for justice system reform is to a large degree rhetorical and opportunistic. Justice reform is a rhetorical priority which allows the system's actors to attract financial resources and allows the government to demonstrate its concern for good governance. Behind this facade, justice reform is being delayed by both parliament and the executive branch who see an independent judiciary as a threat. In March 2010, the government introduced a draft bill in Parliament in order to modify the 2006 magistrates' status on one specific point: its disciplinary power over the magistrates. If voted, this modification will increase the disciplinary power of the executive over the magistrates on behalf of the fight against corruption in the judiciary system.<sup>14</sup>

The will to keep control over the judiciary branch results, in real terms, in a chronic under-funding of the sector. The sector is kept poor by the government which gives it nearly no means of operation (in 2009, the justice budget represented 0.22% of the total state budget).<sup>15</sup> The absence of any day-to-day operational resources condemns the sector to corruption, prevents any real change and makes the donors' intervention purely artificial: they invest in infrastructure in a sector which doesn't even have an operational budget.

Furthermore, the judicial corps has never shown a strong determination to change: the bad practices familiar to everyone (ethnic recruitment, corruption, low qualification levels of judicial staff due to historical circumstances etc.) are not publicly denounced by the judicial authorities<sup>16</sup> or union representatives. No notable progress has been recorded regarding courts' internal operations after the reconstruction and trainings carried out by donors. The judiciary sees international aid as a means of improving its daily work-life (from which stems a large demand for construction and a small demand for training), and not as a means of building 'independence' - the interpretation of which, moreover, remains problematic within the context of structural corruption. Donors are faced with a 'materialist' interpretation of justice (infrastructure: prisons, courts, etc.) and a deeply opportunistic conception of international aid (requests for payment of salaries under the guise of financial incentives) which reveal the 'basic misunderstanding' of justice reform that exists between donors and the judiciary<sup>17</sup>. The majority of problems encountered by current institutional support programmes stem from this 'misunderstanding'. In other words, the institutional support programmes succeed in constructing and equipping (without sustainability) but not in changing judicial practices and even less in changing mentalities, and there is therefore a real risk that these justice sector support programmes are reduced to mere infrastructural programmes under pressure from their Congolese partners.<sup>18</sup>

At the end of the day, the basic prerequisites for institutional reform of this magnitude (political will, national ownership of the process, corporate impetus, capacity to absorb funding) are not met. Furthermore, current institutional support follows the lines of justice reform as defined in the constitution and therefore rests on the dated (2006) hypothesis that

<sup>14</sup> By introducing the draft bill in Parliament, the Minister of Justice stated that this change is part of the notorious "zero tolerance campaign". The magistrates have petitioned MPs not to pass this bill.

<sup>15</sup> The budget of the CSM and of the department of justice are voted and increased by 10% every year, but the amounts allocated in reality never match.

<sup>16</sup> Except for within the framework of purges of the judiciary launched by the executive branch.

<sup>17</sup> To caricature somewhat, justice sector reform means 'a more just justice' for the former but 'a better equipped justice' for the latter.

<sup>18</sup> This was the case in the PAJ programme, of which only the construction/equipment part (and not the training part) was carried out - it is also a distinct trend in the Rejusco programme.

the government will adhere to such a liberal constitution.<sup>19</sup> As a result, current institutional assistance merely keeps the sector on life-support, remaining artificial and unsustainable. Donors should re-evaluate the political, corporate and financial feasibility of justice sector reform as it currently stands.

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<sup>19</sup> This hypothesis has recently been invalidated by the constitutional amendment project circulating in Kinshasa since 2009, which calls into question the independence of the CSM.



## 3. Police Sector

### 3.1 Approach taken to Police Reform

The identification of the *Police Nationale Congolaise* (PNC) as the institution primarily responsible for election security (and the confinement of the FARDC to barracks during the elections) created a clear need for international assistance to the police during the Transition. Donors engaged in election-related police assistance correctly realised that this support would require a wider and more long-term process of institutional and governance reform in order to be sustainable. The formal police reform process thus started with the creation of the foreign-dominated *Groupe Mixte de Réflexion sur la Réforme et la Réorganisation de la Police Nationale Congolaise* (GMRRR) which began its deliberations in 2006. This Group consisted of 23 members, of whom only six were Congolese. All the Congolese members were from the PNC; there were no civil experts, elected representatives or officials from other government departments.

After the elections, the PNC held a workshop at which the reform proposals submitted to the Transition Government by the GMRRR in May 2006 were discussed; feedback was given to the GMRRR in early 2007. Following encouragement from some donors, the GMRRR subsequently organised a three-day National Seminar on Police Reform in Kinshasa in April 2007. The National Seminar was innovative in that civil society, representatives of other state departments, a few elected members of parliament and some members of the judiciary participated in discussions of the GMRRR's proposals for police reform. The final reform proposals included the 'principle of unicity' of the police – taken to mean that the Immigration and Judicial Police would ultimately be integrated into the PNC – and expressed clearly the goal of a republican, civil and apolitical police organisation.

The success of the National Seminar lent impetus to the efforts of international actors to accelerate the process of police reform. The members of the GMRRR moved fast to propose to the Minister of Interior, and to offer to finance, a *Comité de Suivi de la Reforme de la Police* (CSRP) to take forward the process, with no pause to reflect on the weaknesses of the preceding GMRRR process.

The 2007 Prime Ministerial Decree which created the CSRP made explicit that the CSRP role was to plan the reform, and the implementation of the reforms would be the responsibility of the PNC, under the leadership of the Inspector General (IG). As with the definition of the earlier GMRRR's Terms of Reference, the CSRP's focus was almost entirely directed to institutional and legal reforms, with no mention of the central problems of citizen insecurity

and the inability of the police to prevent or reduce crime.

The establishment of a separate body, outside of the police headquarters, well-resourced by donor partners, where members (including PNC officials) of working groups received additional financial remuneration for their work there was bound to pose problems for the acceptance of its plans and proposals by the PNC. The relationship between the CSRP and the PNC leadership was inadequately-conceived, with no thought given to procedures for mandating and reporting-back to police command structures, much less thought to how ongoing reform planning would be communicated to the police officials across the country who remain, to date, completely uninformed about proposed reforms.

The CSRP-centric police reform process was not taken very seriously by the PNC chiefs or senior government leadership responsible for security until fairly recently, for a variety of reasons:

- Defence matters have traditionally been seen as the key element of SSR, and police reforms as less important. With the engagement of the military in combat in the East, police matters were further de-prioritised. While Kinshasa-based donor partners were discussing technical and internal institutional issues such as police census methods or financing mechanisms, the Congolese government security chiefs were dealing with serious conflicts and destabilisation in the east of the country.
- The police reform structures (GMRRR and then CSRP) were seen as dealing with technical matters rather than with the key security challenges facing the country. It was only more recently – during and after *Kimia II* – that the police role in security began to be developed.
- The weak nature of consultation with the PNC by many international partners, who demonstrated either naivety or disrespect for the police leadership by proceeding without sufficient commitment from, or engagement with, the PNC leadership or the Ministry of Interior.<sup>20</sup>
- The majority of PNC delegates in CSRP structures were not able to adequately represent the views of the police leadership.
- The CSRP was seen, in some quarters, as a creation and ‘pet project’ of some donors. This was reinforced by the perception that the money promised for police reform seemed to flow solely to the small group of people working in the CSRP, and not to the PNC as a whole.
- Some international partners engaged in police assistance did not participate actively in the CSRP, thereby weakening the ‘co-ordination’ role envisaged in the founding decree. There was also some confusion over the ‘Security Sector Reform co-ordination’ role assumed by MONUC, as compared with the ‘Police Reform coordination’ role assumed by the CSRP.

The CSRP is now nearing the end of its planning phase: the three-year ‘Action Plan for Police Reform’ (and its associated budget for the reform process) is ready, requiring only Ministerial and Cabinet approval. Only after it has been approved will discussions commence between the government and donors concerning the funding of the reform process. The likelihood of full implementation of the planned reforms is slim: there is not sufficient foreign funding nor interest to cover costs of the full set of proposals valued at \$1 332 868 533, and the Congolese

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<sup>20</sup> Some of the implications of insufficient consultation with the police leadership were demonstrated in late 2009 when the IG refused to co-operate with technical service providers contracted by the International Organization for Migration and EC for the police census, because he felt that he had not been adequately consulted throughout the design and contracting process. This caused significant delays to starting the census.

government has, thus far, shown no willingness to make a financial commitment to the police reform process. The new UK programme of support to police reform is intended to add specialized change management capacity to the reform process; and UNPOL and EUPOL will remain involved. If implementation of the plan takes off as hoped by the international community, the locus of police reform will shift to PNC headquarters. The CSRP will shift to a role of *monitoring* the implementation of planned reforms and evaluating their impact, and to coordinating donor action in the police sector.

Apart from the work of the CSRP, two other Government actions will impact on the future of the PNC: (i) the introduction of a draft police law in parliament and (ii) the integration of CNDP combatants into the PNC.

- (i) The draft police law, which was first prepared in 2006, was only approved by the Council of Ministers and sent by the Minister of Interior to Parliament in the second half of 2009. The delay in discussion may be related to inter-ministerial tensions over the 'unification' of the judicial police with the PNC. The law was not discussed as planned in the September-December 2009 parliamentary session and has not been programmed for the subsequent session beginning in April 2010.
- (ii) The CNDP combatants due to be integrated into the PNC have received some training from MONUC UNPol. Combatants of different ranks (up to the rank of Deputy Provincial Inspector) are being inserted into PNC posts all over the country.

### **3.2 Key Challenges for Police Reform**

One of the major challenges for decision-making in all aspects of SSR, including police reform, is the absence of a managerial culture in which delegation of authority is encouraged or even tolerated. The police remains highly centralised and hierarchical in its culture, with officers, even of senior rank, unwilling to take decisions – they prefer to leave all decision-making to the IG. This results in immensely slow progress, and some issues can be neglected for months and years if the IG is not interested in them. Changing the managerial culture to encourage devolution of decision-making with accountability will be one of the challenges of the reform process.

Another challenge for SSR in general, and for police reform in particular, is the political context and relations between key national actors. Relations between the Head of the PNC (who is close to the President) and the Minister of the Interior are poor and as a result there is a lack of communication between the two. Furthermore, within the security sector, the IG of the PNC and the Chief of Staff of the army are seen to be in competition for positions.

Sustainability of the police reform enterprise can be questioned given the lack of commitment of the PNC leadership and the Government of DRC to find the funds required to pay decent and regular salaries to all members of the PNC. Police salaries have not been improved since the elections and the actual amounts of government money channelled to the PNC are unknown.

There has been little or no internal communication within the PNC – down to the sub-commissariat level – about the envisaged police reform process, and this could lead to unrealistic ambitions and subsequent resistance to the reform process. Among rank-and-file police officials, the main expectation of police reform is that it will improve their salaries and conditions of service; some of these expectations may not be realistic. Internal PNC communication is an aspect of police reform and the internal change management process which needs far greater support. Even beyond the police officials themselves, there is a widespread belief that improved salaries and working conditions for the police will result in a reduction of police corruption and harassment of citizens. This is probably also an unrealistic popular expectation, which will need to be managed through a combination of a strong communication strategy as well as tough anti-corruption measures.

### 3.3 Donor Support to the Police Sector

The UK is the largest donor in the police sector with a large bilateral programme and considerable contribution to European programmes. The bilateral programme is known as the ‘Security Sector Accountability and Police Reform (SSAPR) Programme’ and runs from 2009-2014. The ‘accountability’ aspects cover defence, justice and police, but the majority of the funding (approximately £40 million out of a total of £60 million) is directed at supporting police reform and focuses solely on the PNC (not the Judicial Police or Immigration Police). It aims to support the overall change management process required to underpin the reforms planned by the CSRP. The programme will address the following aspects of police reform, with a focus at national headquarters and in three provinces (Kasai-Occidental, Bas-Congo and South Kivu):

- Change management and leadership
- Radio and Telecommunications
- Police-Community relationship-building
- Internal Communication within PNC
- Police handling of SGBV cases
- Fleet management.

The EC is the other large donor in the police sector and their programme of support is a continuation of support they have been providing since the Transition period. The value of the three-year programme is approximately Euro 11 million. The programme has four main axes:

- Support for the development of a Human Resource Management system for the PNC, primarily through continued support for the police census.
- Support for the planning and co-ordination of police reform: the EC has been the main funder of the CSRP, which has co-ordination as one of its mandates.
- Support for the reorganisation of budget and financial management in the PNC, as well as the management of PNC infrastructure.
- Reconstruction and rehabilitation of some police training facilities.

MONUC UNPol is engaged in a variety of training efforts as well as joint operations with the PNC. It is unclear what assistance South Africa and Angola are offering to the PNC at this time, but they have previously provided training support. Japan has a programme of assistance to the PNC which focuses on assistance at local commissariat level to improve police-community relations. UNDP has supported the development of a *police de proximité* doctrine

in the CSRP and has plans to pilot implementation of this policy in certain sites. However, the draft doctrine has not been discussed within the PNC, Parliament or in public, and is likely to be somewhat sensitive. Finally Canada, the Netherlands and Sweden have smaller programmes of support, some of which touch on aspects of policing, but are not considered part of the mainstream of 'police reform' as coordinated by the CSRP.

### 3.4 Assessment of Donor Support to the Police Sector

Donor approach to police reform has been based on two key ideas:

- That the police were responsible for securing the election, and hence extremely worthy of support during the pre-election and electoral period. In the post-election period, the Constitution provides that the police should be responsible for citizen security, again, a strong imperative for support, given high levels of insecurity experienced by Congolese people.
- That police reform was a less-politically-sensitive arena for engagement than defence reform or intelligence reform, and hence 'easier' terrain for donor support.

This analysis of the donors remains fundamentally correct. However, in practice, donor intervention has not necessarily been designed accordingly.

The donor approach has tended to focus on institutional and system reforms, which are sometimes too grandiose and ambitious for the Congolese context. Much of the reform planning to date has been done by foreigners whose experience is limited to Kinshasa, and hence the applicability of their ideas is limited elsewhere in the country. The 'situation analysis' conducted by the PNC on behalf of the GMRRR in 2005-6 has not been updated and some elements of the CSRP's reform planning were not based on any current factual data on the situation in police commissariats across the country.<sup>21</sup> In addition to information about the PNC, there is an urgent need for reliable information about current criminal victimisation and predicted future crime trends, particularly given the currently-high levels of insecurity experienced by Congolese people. Sound information should underpin the police reform strategy, in line with global best practices of 'evidence-based policing'.

Due to the focus on institutional reform, questions of crime and citizen safety are being neglected in the donor discourse on SSR and police reform. Even where safety issues such as womens' safety and sexual and gender-based violence (SGBV) are discussed by donors, this tends not to be dealt with as part of SSR, but as something separate. The issue of availability and management of small arms and light weapons (SALW) does also not often feature on donors' SSR agendas. Access to SALW poses a massive security risk to the citizens of DRC and of neighbouring countries and should be tackled as part of early reform planning.

As the planning and implementation of police reform gain momentum and spread geographically, it will become clear that it is not possible to proceed with police reform in isolation from other aspects of SSR. Two examples are already obvious:

- Criminal Justice Process (*Chaîne pénale*): it is not effective to intervene only at one point in the criminal justice process (for example, police statement-taking from victims of crime, or police investigation of crimes) without simultaneously acting to improve other elements of the process (such as improving the way courts function, witness

<sup>21</sup> The new UK and EC programmes may however assist the PNC leadership in gathering up-to-date information on the state of the police.

management, prisoner management, record-keeping). Hence Police Reform must be better linked with Justice and Penal reforms. The REJUSCO programme could go some way to demonstrate possibilities for integration at the local level.

- **Internal Discipline:** the Military Justice system deals with misconduct of soldiers, police officials and civilians, and is, itself, part of the wider Justice System. It is therefore impossible to tackle police corruption or other types of police misconduct in a reform process which focuses only on the PNC (the PNC does not have its own internal discipline system); military justice and the rest of the justice system need to be addressed at the same time.

The issue of sustainability of international partner support is key. The provision of free meals, transport and access to internet for those officials involved in police reform by international partners may well be an important incentive to encourage enthusiasm for the reform process. However it will never be possible to extend the same privileges to all members of the PNC (as seen above there is a lack of commitment by the Government of DRC to pay decent and regular salaries to all members of the PNC). Sustainability of donor investment in buildings, radio communications equipment, vehicles and IT systems is highly questionable, given the lack of evidence of PNC capacity to maintain investments made in recent years. For example, donors are again refurbishing buildings that were already refurbished by donors during the pre-election period, less than four years ago; and vehicles which were donated a couple of years ago without provision for maintenance lie dysfunctional and unused in front of police commissariats across the country. The question of the contribution of the Government of DRC to the long-term process of police reform should be part of discussions on the budget for the Police Reform Action Plan when it is presented for government discussion by the Minister of the Interior.

There has been little recognition of the potentially-important role of parliament in passing laws related to police reform and of parliament's budget-approval and oversight roles in respect of the police. International partners have expressed little interest in supporting processes that engage law-makers in discussions about police reform. Assisting parliaments to play a meaningful oversight and governance role has not been a focus of donor assistance, despite well-meant statements about the importance of governance to SSR.

Finally, international partners have failed to self-critically reflect on the foreign domination of the 'mixed' international-Congolese bodies which have been responsible for the design of police reform – that domination has led to suspicion and slow uptake of some aspects of reform process; and may compromise long term Congolese 'ownership' of the reforms unless more attention is paid to meaningful local ownership. Most donors interested in police reform failed to substantively engage the new police leadership (the IG and his national leadership team) until recently. They have also failed to engage meaningfully with the new Minister of the Interior.

## 4. Defence Sector

### 4.1 Approach taken to Defence Reform

Since the Transition the Congolese have developed a series of defence reform plans. In September 2007 at the request of the Minister of Defence, a national study - *Schéma directeur de la réforme des forces armées* - was produced by the office of the General Chief of Staff based on work undertaken in sub-groups by the Congolese military with the support of international partners. This was the first strategic vision of the army, its purpose, means and statute, based on a threat assessment.<sup>22</sup> Following a falling out between the Minister and the General Chief of Staff, the *Schéma* was put aside and two different 'plans' were subsequently developed. The Minister's 'plan', which proposed an army consisting of a rapid reaction force of 12 batallions, a *force de couverture* and production and reconstruction functions, was presented at the February 2008 Round Table. International partners were invited to indicate which part of the plan they would like to support.

Following a cabinet re-shuffle in November 2008 which brought a new Minister of Defence, Charles Mwando Nsimba, and a new Chief of Staff, a revised plan for reform was produced in February 2009. This plan, although similar to the previous implementation plan, no longer included provisions for a development army or *armée de production* and benefitted from input from international partners channeled through EUSEC.<sup>23</sup> The plan was eventually approved in May by President Kabila and proposed to parliament in October 2009.

In parallel, four draft laws were submitted to Parliament for review and approval in 2009: *Loi sur la Défense Nationale*, *Loi sur l'Armée*, *Loi sur le Conseil Supérieur de Défense* and *Loi sur le Statut Général des Militaires*. Although these laws may lack precision regarding the roles, responsibilities, size and capacities of the force components, they contain important language on preventing the ill discipline of the FARDC. The laws have not yet been reviewed by Parliament.

In January 2010 Minister Mwando Nsimba presented the main elements of his reform plan to the international community and requested support for it. The plan includes three phases covering a 15-year period: stability and internal reform of the FARDC (2009-11); capacity-building, territorial forces, rapid reaction force, logistics (2011-16); further development of the army, return to normal military routine, participation in peacekeeping operations (2016-24).

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<sup>22</sup> Clément, Caty. 'Security Sector Reform in the DRC' in Hans Born and Albrecht Schnabel (eds), *Security Sector Reform in Challenging Environments*. Geneva, DCAF, 2009.

<sup>23</sup> Ibid.

The three planned military regions will each have (i) a brigade for rapid deployment, (ii) army, air force and navy bases, and (iii) headquarter infrastructure including training centres. The plan includes provisions for down-sizing the army over the next three years. In terms of budget the plan appears unrealistic; the cost of the first phase alone is estimated by the Minister of Defence to be approximately 3 billion US\$.<sup>24</sup>

President Kabila plays a central, pivotal role in the defence sector. Formally, he presides the *Conseil Supérieur de la Défense (CSD)*<sup>25</sup> which according to the new plan will control day-to-day operations in the three military regions. The CSD also influences defence policy by supporting the Ministry of Defence in this area. Thus the President will still directly control both defence policy and operations. In practice, operational planning is carried out by the president's office and lines of command often run directly to the commanders on the ground, completely bypassing the Chief of Staff of the FARDC.<sup>26</sup>

The leadership of the army, and of other Congolese security services, is at the heart of the Government's patronage network. The patrimonial political context is considered a key component of the lack of determination to engage in meaningful defence reform.<sup>27</sup> Indeed, attempts to create a national republican army with clear lines of command and control as well as democratic oversight will challenge the power-bases and income-generating sources of influential people.<sup>28</sup>

There appears to be a lack of real commitment on the part of the authorities to restore control over the defence forces in an impartial manner. One example is the zero tolerance campaign within the army which appears to amount to no more than a façade: the *Cour opérationnelle militaire* established by presidential decree at the beginning of 2008 in North Kivu in order to address crimes committed by the FARDC was given no budget; it functioned only due to external funding provided through the REJUSCO programme.

Progress in the field of defence reform is furthermore exceedingly slow and difficult given that the FARDC is continuously engaged in a number of military operations, notably in the East.

An area where some progress has been noted is the census of military personnel and the establishment of a chain of payment system. But the progress that has been made in these areas is hampered by the integration of militia members and the rotation of troops between units. This maintains a lack of clarity as regards the effective number of troops allowing for corruption in the chain of payment. The meetings of the follow-up committee for integration of the armed groups have been rare.

Unlike in the justice and police sectors, there is no functioning defence reform committee. The *Comité de Suivi de Réforme de l'Armée (CSRA)* discussed at the February 2008 SSR Round Table has been refused by the Government.

<sup>24</sup> Interview with Congolese official, February 2010.

<sup>25</sup> The CSD includes the following members: Prime Minister, Minister of Defence, Minister of the Interior, Chiefs of Staff of the FARDC and of the Army, Air Force and Navy, and the Head of the PNC.

<sup>26</sup> Interview with Congolese official, February 2010.

<sup>27</sup> There is a structural analogy here with the Mobutu period, where the inbuilt operational weakness of the security forces was considered a precondition for the internal survival of the regime. The creation of strong institutions was avoided, with regime survival largely dependent on the support of and intervention by external allies (cfr. the international intervention during the Shaba crises).

<sup>28</sup> Davis, Laura. *Justice-Sensitive Security System Reform in the Democratic Republic of Congo*. Brussels, Initiative for Peacebuilding/International Center for Transitional Justice, February 2009.

## 4.2 Donor Support to the Defence Sector

The main international partners in the defence sector are Angola, Belgium, China, The Netherlands, United Kingdom, United States, EUSEC and MONUC. Some examples of donor involvement in the past are:

- Belgium convened a series of seminars for senior Congolese military officers between November 2003 and January 2004 to draw up a defence strategy. Although nothing significant emerged from this initiative, it was the start of trying to create an *esprit de corps*.<sup>29</sup>
- In early 2004 Belgium trained the first integrated brigade and provided some equipment.
- The South African military started a process of auditing and registering the FARDC. South Africa also trained the first Rapid Reaction Battalion.
- MONUC has provided “on the job” training for integrated brigades for immediate deployment.<sup>30</sup>

Many of these types of support were developed because the FARDC did not have the capacity to deal with the conflict in Ituri. Belgium trained the first integrated brigade for deployment in Ituri however the sustainability of this effort was questionable given the lack of funds, logistics and leadership on the part of the FARDC.<sup>31</sup> This was similarly the case for the first Rapid Reaction Battalion. Soon after receiving training from South Africa, the battalion was absorbed into the FARDC but produced no positive impact on FARDC capability.<sup>32</sup>

The majority of support to the defence sector has taken place at the bilateral level. The Congolese Government has clearly stated and demonstrated its preference for bilateral support in the area of defence which tends to focus on more operational aspects such as training and equipment. The Government sees aspects pertaining to oversight and command and control, which tend to be supported by multilaterals such as the EU, as a threat to its control over the security forces. The EU Common Defence and Security Policy mission, EUSEC RD Congo, which intervenes in the defence sector in both an advisory capacity and with assistance in the form of projects (organisation of the chain of payment, biometric identification of personnel, creation of a computerized system for managing personnel, training in the area of administration of the FARDC etc.), has nonetheless made some progress in its engagement.

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<sup>29</sup> Boshoff, Henri. *Summary overview of Security Sector Reform in the DRC*. Institute of Security Studies Situation Report, Pretoria, 6 January 2005.

<sup>30</sup> United Nations. *Twenty-ninth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*. New York, 18 September 2009.

<sup>31</sup> United Nations. *Fifteenth report of the Secretary General on the United Nations Mission in the Democratic Republic of the Congo*. New York, 24 March 2004.

<sup>32</sup> Interview with South African official, Pretoria, February 2010.

### 4.3 Assessment of Donor Support to the Defence Sector

There is a lack of coordination amongst donors within the defence sector and this represents a key problem. This is partly due to the rivalry which exists between donors who are trying to influence the Congolese authorities or the security forces directly. Although Belgium did attempt to take the lead amongst donors in 2003, it was unsuccessful. There has not been an effective coordination platform provided by one country or organisation since then; the UN and EU compete with each other to take the lead. Although EUSEC organises meetings every other week for EU member states, the US and MONUC, key donors are absent such as the Angolans, Chinese and South Africans. These meetings do not yet go beyond simple information-sharing.

The absence of a clear coordinator in the defence sector has favoured the involvement of individual countries seeking to bilaterally influence Kinshasa. Angola, South Africa, and more recently China and the United States, carry out their own military cooperation, outside the collective reference framework and in an opaque manner. The Congolese government has sought to multiply the number of bilateral agreements<sup>33</sup> and has since 2007 publicly expressed its preference for bilateral dealings in the defence sector. Furthermore, the lack of coordination amongst donors allows the Ministry of Defence to duplicate requests for support for specific activities.

There has not been sufficient harmonization between DDR and SSR support on the part of many international partners. The integration of militia leaders and some of their troops into the FARDC and PNC was agreed upon during the peace negotiations. However, in practice, DDR and integration into the security forces have been undertaken without checks of criminal records or vetting measures for those responsible for human rights violations and war crimes.<sup>34</sup> The training of the Rapid Reaction Force by the South Africans took place outside of the planned DDR process which meant that those trained had not gone through *brassage* and had thus not been vetted. The negative impact of sacrificing vetting procedures, and of not taking into account the criminal records of those who are being integrated into the FARDC, on FARDC discipline must be taken into account.<sup>35</sup>

Furthermore the financial dimension of defence reform has been neglected. Attention has been paid to the FARDC's operational costs and projects have been set up in this area, for example EUSEC's support to the chain of payment system. However, the cost of reforming the army, and of the overall SSR process, are taboo topics. Foreign partners recognise that they cannot mobilize sufficient funds for buying military equipment, notably due to ODA restrictions on support to the defence sector. Due to this, to the poor state of the DRC's financial system and to the prevalence of corruption, foreign partners have adopted a strategy of avoiding the subject, and putting the responsibility on the Congolese authorities, while knowing full well that the Congolese Treasury is porous and impoverished. In response,<sup>36</sup> the Congolese government transformed the SSR Round Table into a donors' conference, but without success: few countries announced significant contributions and the Congolese authorities lost credibility by putting forward unrealistic figures.

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<sup>33</sup> Melmot, Sébastien. *Candide in Congo. The Expected Failure of Security Sector Reform*. Paris, IFRI, April 2009.

<sup>34</sup> Ibid.

<sup>35</sup> Interview with South African official, Pretoria, February 2010.

<sup>36</sup> Ibid.

The Congolese authorities are not transparent in this area, refusing (or in all likelihood, unable) to reveal the true number of military personnel (figures vary between 120,000 and 175,000) and the real defense budget (largely managed outside normal budget procedures). This makes it very difficult to have a serious discussion on what would be the appropriate level of financing of the security sector, itself a pre-requisite for the planning and implementation of longer-term reforms.

Finally, there is a lack of consensus between the Congolese authorities and foreign partners as regards defence reform. As highlighted above, the level of commitment for reform can be seriously questioned and there are real questions as to what kind of reform is really possible as long as the FARDC is engaged in serious combat missions in the East. As a result it often appears that reform is more supply than demand-driven. The idea of a defence White Paper is a clear example of this. The Congolese Government does not have a White-Paper type policy on defence but certain donors feel it should. EUSEC took the initiative to develop a defence White Paper during the first part of 2009 but it has not been accepted by the Congolese Government.<sup>37</sup>

The expected draw-down of MONUC forces will perhaps offer an opportunity for a new conversation about what kind of defence capacity the Government of DRC will need when MONUC is gone.

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<sup>37</sup> Interview with EU official, Brussels, October 2009.



## 5. Conclusions and Recommendations

At present, SSR in the DRC is essentially a collection of loosely-connected activities being implemented in the absence of a common strategic framework for international support to the sector. While many of these activities involve the transfer of (potentially) useful knowledge, skills and material to Congolese security and justice actors, this is happening in isolation from essential political reforms and is not resulting in the kinds of capacity and behavioral changes that could lead to significantly improved public security provision. The best example of this are the newly trained FADRC military units, all of which receive basic instruction in human rights and their obligations to civilians, though this is unlikely to lead to improved behaviour as long as a culture of impunity prevails in the FADRC.

For support to SSR in the DRC to be a meaningful international undertaking, the diverse activities that donors are now supporting need to be more systematically informed by considerations of accountability, coherence, justice and national ownership within a framework of common (donor and government) action. Donors need to accept that there are few 'quick wins' in the area of SSR, though there are many areas where concerted changes in the ways that they work can strengthen the impact of their actions over time, not least of all by stimulating greater demand from Congolese actors for SSR. This is also essential from the point of view of determining where the strategic priorities for SSR lie, given urgent needs on the ground and the very real capacity and resource limitations on both the government and donor sides. In the interests of having a more open and productive dialogue with the Government of DRC around development of a realistic and sustainable SSR strategy, international partners involved in SSR or willing to engage need to identify the effort and resources they can commit to a national programme.

Donors need to confront four strategic challenges when thinking about how to engage in SSR:

The first of these is creating the conditions for an end to the violence in the East and a restoration of security (in the broad 'human' sense) for war-affected populations and fighters. The reform of security institutions cannot occur in any meaningful way while violence persists. Not only does the conflict monopolise the attention and limited resources of the government, MONUC and donors, but it has developed a self-sustaining dynamic into which the Congolese security apparatus has been drawn, and which cannot be reversed unless there is a concerted political push at national, regional and international levels.

Ending the war will not bring a lasting end to the violence, however, unless basic security and livelihoods are restored for the conflict-affected populations in the East. This must include the

various armed groups responsible for the brutal predatory targeting of civilians, which are very susceptible to be recruited again into armed groups. For this reason DDR, particularly its reintegration dimension, is key. But there are various potential pitfalls for SSR, not least of all posed by the rapid integration of militia forces into the FADRC without appropriate vetting, logistical frameworks to sustain soldiers, and command and control. This integration has resulted in a larger and stronger army – ostensibly necessary to neutralise the FDLR threat – but in the process posing an even greater threat to local civilian populations and working against the longer-term interest of SSR. The question of de-linking DDR and SSR in this sense requires serious consideration.

A second strategic priority for both MONUC and donors, therefore, is to find ways to more effectively complement the training inputs and other assistance they are providing directly to both police and military forces with support that will help to tackle the culture of impunity which currently prevails in the security sector. While government has embraced donor-supported training activities, including those which instil concepts and standards of human rights (including women's rights), international and national laws, etc., it has been slow to ensure that laws and standards regulating the behaviour of security forces are actually enforced. This requires actions at a number of levels, including addressing the legal and disciplinary framework in which the security forces operate, ensuring closer monitoring and oversight of their activities, and perhaps also 'mentoring' of newly-trained units to bring about more lasting changes in the behaviour of soldiers. These kinds of initiatives are unlikely to have a real impact on the ground, however, without accompanying efforts to demilitarise civilian population centres by better garrisoning soldiers and improving pay and welfare.

A third strategic challenge for donors will be to find ways to make SSR in the DRC a genuinely nationally-led process. The reasons for this are obvious: mistrust between donors and the Government of DRC, particularly around defence reform, is deep and will continue to block substantive progress. This is not to suggest that there is strong commitment within the Government of DRC for SSR, but rather that more attention will need to be paid to finding common ground between partners and understanding the government's legitimate concerns and about the political and security implications of implementing certain reforms that donors have been pushing for. In a bid to hasten policy development, donors have on several occasions sought to write policy when this would be more appropriately done by Congolese themselves.

National ownership of SSR must also extend to citizens and civil society groups if the reform agenda is to effectively respond to the needs of citizens. This is also necessary if a genuine internal 'demand' for reform is to emerge in the DRC, without which it is unlikely that the reform processes which have been inspired and supported by donors are to be sustained. Already a number of donors including the UK are working with civil society groups to strengthen their capacity to monitor, critique and ultimately support in a constructive manner the development of Government of DRC security policies, both in the police and defence sectors. However more work can be done in this area for parliamentarians, civil society and media in order to develop their awareness of SSR and about how such processes have been undertaken in other countries. In order to illustrate the need for improved security and justice services, donors should support empirically-sound survey work such as for example victimisation surveys.

Donors also need to recognise the dangers of overloading the government reform agenda. Most choose to work in areas where they feel they have a comparative advantage and often

take it for granted that because there is a 'need' for reform, assistance is desirable. While there are pressing needs across the sector and areas such as intelligence, border guards, and security expenditure management may not be getting the attention they deserve, there also needs to be a realistic assessment about whether the Government of DRC can handle the administrative and political demands that a complex reform process entails. For the time being it is advisable to concentrate on justice, police and defence.

The fourth strategic challenge for donors relates to strengthening the coherence of their assistance activities in the security sector. Bilateral cooperation is still a sensible and preferred method for the transfer of certain kinds of assistance related to defence, police and justice reforms; however, from an SSR perspective, working bilaterally often makes it more difficult for donors to develop (and stick to) a common position with regard to the importance of governance-related reforms which are key to enhancing accountability. This makes it all the more necessary for donors to frame their interventions within a nationally-led framework and to take seriously the coordination mechanisms that exist.

At the end of the day, SSR involves a huge leap of faith which many donors are reluctant to take. There have been few demonstrations of political will on the part of the government sufficient to engender confidence among donors that the long-term, costly investments required by SSR will pay dividends. Yet at the same time, donors remain willing to invest significant resources in the DRC in other sectors where the benefits are unlikely to be realized in the long-term without improvements in the way that security is governed. This suggests that SSR presents many opportunities for the international community to advance its broader development goals in the DRC, particularly if the lessons from early experiences can be identified and used to inform future programming.

#### **General recommendations for donors as regards supporting SSR:**

- 1) International partners involved in SSR need to develop a shared understanding of what an SSR agenda in the DRC should consist of, particularly with regard to its governance dimensions and the practical ways in which considerations around accountability, coherence, justice and national ownership can inform international programming.
- 2) In the interests of having a more open and productive dialogue with the Government of DRC around the development of a realistic and sustainable SSR strategy, international partners involved in SSR or willing to engage in SSR need to identify (and be open about) the effort and resources they can commit to a national programme.
- 3) An evaluation of the actual cost of reform in the justice, police and defence sectors should be carried out, to make the Government of DRC aware of its responsibilities.
- 4) International partners need to engage with the reform plans tabled by the Congolese in the areas of justice, police and defence, working to bridge differences in views and approach that may exist between them and the government rather than simply picking and choosing those elements which fit with their priorities. International partners should coordinate more effectively and identify which aspects of the justice, police and

defence reform plans should be prioritised, can run concurrently and have Government of DRC political support and not just donor support.

- 5) International partners will be best placed to encourage the Government of DRC to tackle the difficult political changes implied by SSR (in addition to technical reforms) by coordinating their actions at all levels where they work including policy development and financial instruments. Establishment of a common 'SSR Trust Fund' could help to promote this goal. At the programme level it would be pertinent to find ways of strengthening coordination around 'thematic' issues (for example SALW) and to focus on more effectively integrating police and justice activities in the criminal justice process (*chaîne pénale*).
- 6) International partners should devote more efforts to working with parliamentarians, civil society and the media in DRC in order to foster internal 'demand' for reform by strengthening their capacity to monitor and participate in the development of security policies and by exposing them to SSR processes in other countries. Congolese Human Rights NGOs present a good entry point for this work.
- 7) Because external interventions in the DRC's security sector can be sensitive and international partners may not always have the requisite 'local' knowledge to advise the Government of DRC effectively on its SSR strategy, they should where possible draw upon appropriate expertise from other African countries with similar experiences.
- 8) Regional leaders with influence should be prevailed upon to use their voice to convey the message of the importance of SSR. Forums such as the UN, AU and SADC should be used by international partners to convey a common message on SSR and the need to put policies in place.

### **Specific recommendations per sector:**

#### *Justice*

- 1) An evaluation of the actual cost of the justice sector should be carried out, to make the government aware of its responsibilities, to draw up institutional support programmes with realistic budgets and to insist on Congolese financial participation (for the sector's medium term expenditure). It should be made clear to the Congolese authorities that the support of donors depends on their proved commitment and financial contribution. If the human rights situation, the constitutional agenda and justice reform do not make progress in the short-term, then donors should clearly scale down their financial support. In terms of legal reform, emphasis should be placed on the adoption of the new penal code and the new penal procedure code, the abolition of the death penalty as stated in the Congolese constitution and removing the provision in the military penal code that military justice is able to judge civilians.
- 2) Donors should open dialogue on justice reform with both the President's office and the legislature, and not content themselves with talking to the CSM and the Minister of Justice who are only part of those with decision-making power.

- 3) Programmes should be focused on changing judicial practices, notably the prevention and repression of corruption within the justice system using a combination of internal and external control. 'Order' must be restored in the judiciary, just as it should be within the army and the police. This involves developing knowledge of 'real' practices within the judicial system, particularly its links with non-state actors in rural areas.<sup>38</sup>
- 4) Training carried out by numerous actors (both NGOs and institutional support programmes) must be harmonised and better distributed across the territory. The planned creation of a national training institute should facilitate this.

### *Police*

- 1) All donors involved in police reform should participate actively in structures like the CSRP (created by the Ministry of Interior with a mandate for donor coordination) or any other structure for donor coordination set up by the PNC itself.
- 2) The emphasis placed by international partners on human resource management and the police census should be (more) explicitly linked to the aim of improving police conditions of service, as this is seen as an essential first step for any police reform process.
- 3) Police reform plans and the vision for future policing in the DRC need urgently to be communicated to police officials in every commissariat in the country. Poor communication about the reforms poses one of the gravest risks to the entire process. Internal PNC communication should not be considered an optional entry point, but rather an aspect of the police reform and internal change management process which needs far greater support.
- 4) The reform process also needs to include the development of a robust internal disciplinary system in order to send a strong signal that the 'reformed' police will not tolerate any type of corruption or abuses of power.
- 5) Given the high levels of insecurity and the lack of reliable information about current criminal victimisation and predicted future crime trends, donors should support regular national Criminal Victimisation Surveys, which do not need to be extremely high-tech. Donors should also assist Congolese government and civil society organisations to develop capacity in long-term developmental crime prevention programming as an integral part of SSR.

### *Defence*

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<sup>38</sup> Knowledge of actual practices of the actors in the justice system and the involvement of non-state actors in security issues (traditional authorities) is not a new domain: a body of knowledge already exists through non-specific studies, and further studies on 'local security systems' are underway in two provinces: "Community justice in Bas Congo", August 2009, RCN Justice & Démocratie, Brussels / "Customary principles governing traditional chiefdoms of the Bashu, Bamate, Batangi and Watalinga", 2006-2007, SYDIP / The Rejusco programme is in the process of running an anthropological study on sexual violence which focuses in particular on the role of traditional authorities and other non-state actors in dealing with such violence.

- 1) International partners should encourage the establishment of a coordination mechanism in the defence sector between the Government of DRC and themselves, and commit to coordination rather than pursuing bilateral engagement.
- 2) Given the outline of the reform plan presented in January 2010 international partners should concentrate on supporting:
  - the downsizing of the FARDC, including retirement packages.
  - the establishment of a vetting system to identify human-rights violators, and disqualify them from participating in donor-funded training.
  - the military justice system with technical and financial support
  - the establishment of a Congolese-managed salary payment system based upon EUSEC's chain of payment system..
- 3) International partners should seek to understand the internal dynamics around the President, the Minister of Defence, the Chief of Staff and the CSD in order to make the correct in roads. Efforts should be focused on individuals in the President's inner circle.
- 4) Donors need to develop a common doctrine to guide and harmonize training of the defence forces.

## Annex 1: Initiatives against sexual violence in Eastern DRC

### *Box 1: Confusion amidst multiplying stakeholders*

The number of actors and of coordination efforts of various parties is formidable. Numerous UN agencies are involved and their structure is very complicated.

The 2007 Security Council resolution on sexual violence insisted on the need for coordination between UN agencies in the DRC with a view to developing an integrated strategy bringing together all the domains of intervention linked to sexual violence and questions of gender. This coordination rests under the aegis of UNDP. But UNDP's 'Global strategy for the fight against sexual violence' coexists with a 'National strategy for the fight against gender-based violence' promulgated by the Ministry for Gender. The two are currently being brought into alignment with each other.

**OHCHR** is working on sexual violence and impunity in five provinces including North and South Kivu. Its activities are centred on grassroots justice (training of tribal chiefs, community intermediaries, legal clinics)

**OHCHR** in Goma is organising a forum on action against sexual violence. It supports mobile tribunals in effective partnership with ASF.

**The STAREC programme** includes an 'action against sexual violence' component which trains investigators (175 judicial police officers trained, in particular by **EUPOL**, in six provinces including the Kivus).

**UNDP** has a programme currently starting up in Goma: 'access to justice based on the fight against sexual violence', with a budget of \$1.5 million over 3 years. This programme takes into account the activities of the REJUSCO programme. UNDP considers REJUSCO to have the most legitimacy in coordinating activities against sexual violence.

**REJUSCO** includes a component programme 'action against sexual violence', with a duration of 15 months and a €2.7 million budget. It is worth noting that REJUSCO has organised a meeting to harmonise activities focusing on the training of officers and inspectors of the judicial police as well as the Congolese national police force

**UNFPA** is primarily occupied with collection of data concerning sexual violence. It has established a joint initiative and workgroups. Neither of these two mechanisms has worked well.

**At the level of the Congolese authorities**, there are provincial, territorial and municipal commissions dealing with sexual violence but they do not seem to have any impact on the ground.

**International non-governmental organisations** engaged in activities against sexual violence are ASF, American Bar, IRC, Open Society, Global Rights and ARD (Projustice). The issue of sexual violence is approached depending on the particularly area of competence of each organisation (mobile hearings, awareness-raising, legal assistance, research...). Some confer with each other, others do not. Methods used frequently differ. The cross-cutting nature of the issue makes it extremely difficult to measure the impact of activities, which however generally seems weak.

**A large number of national NGOs** (e.g.: AFJ, AJV, APRODEPED, Arche alliance, CADHOM, ACADHOSHA) consisting of lawyers (solicitors and defence counsels) and generally with available funds of \$50,000-100,000 per year, provide legal assistance via legal clinics and judicial assistance via bar referral.

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