



# WHITE PAPER

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**DOCUMENTED AGGRESSION AGAINST THE DEMOCRATIC  
REPUBLIC OF CONGO BY RWANDA AND INTERNATIONAL  
CRIMES COMMITTED IN THIS CONTEXT BY THE RWANDAN  
DEFENSE FORCES AND M23**

**(21 November 2021 - 08 December 2022)**

**Kinshasa, December 2022**

**"Whatever the case may be, I unequivocally reaffirm on this rostrum of the highest international body in charge of managing world affairs the determination of the Congolese people and its leaders to defend their territorial integrity, independence and the sovereignty of their country, to the point of ultimate sacrifice, while respecting international law and the commitments made within the international organisations of which it is a member".**

Speech by the President of the Republic, **Félix Antoine TSHISEKEDI TSHILOMBO**, at the United Nations General Assembly, 20 September 2022.

## PREFACE

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For over two decades, the eastern part of our country, the Democratic Republic of Congo, has been torn apart by armed conflict. This is why, as soon as my Government was sworn in, we made a commitment to restore peace in this sub-region under the leadership of the President of the Republic, Felix-Antoine TSHISEKEDI TSHILOMBO, who chose peace, as reaffirmed in his speech at the podium of the seventy-seventh ordinary session of the UN General Assembly last September 20. This has imposed on us the need to construct a new dynamic in a region where mutual suspicion and the lack of trust between leaders have led to tragedies and deplorable situations in an environment where people only want to exchange, trade and live together in peace.

This is why my Government is accompanying the President of the Republic in his diplomatic efforts in the region to restore confidence and enable our respective peoples to seize the opportunities offered in the sub-region. These efforts are part of the central role that our country intends to play in Africa. They are reflected in our membership of the East African Community of States and the conclusion of cooperation, security and development agreements with our neighbours, including Rwanda.

No business can be done without restoring peace. Mindful of this, my Government has embarked on a process of dialogue with the compatriots of the armed groups, following the Nairobi Conclave, to ask them to join the peace process and thus drop their weapons. We were encouraged by the commitment of these compatriots to subscribe to the peace plan agreed upon at the end of the third round of the Nairobi conclave.

The only group to have stepped aside is the M23 terrorist group which, since November 2021, has intensified its attacks against civilians, MONUSCO and the Armed Forces of the Democratic Republic of Congo. This exacerbation of armed violence by this movement is justified by the support it receives from the Rwandan armed forces, as demonstrated by the various reports, in particular, that of the United Nations Group of Experts, leading to the conclusion that Rwanda is attacking our country.

This aggression is accompanied, as before, by grave and widespread violations of human rights and international humanitarian law, constituting the crime of aggression, war crimes, crimes against humanity and the crime of genocide, as well as eco-crimes. The veracity of these facts is established by evidence gathered by credible sources, both from the United Nations and from credible humanitarian and human rights non-governmental organisations, which my Government has compiled in this White Paper.

The objective of this book is to demonstrate primarily the veracity of the ongoing Rwandan aggression in all its forms based on the clear facts establishing Rwanda's international responsibility. The international community should take note of the reality of this aggression and act to preserve peace and security in the sub-region.

This umpteenth Rwandan aggression clearly violates the fundamental principles governing contemporary international relations, including respect for the territorial integrity of States, non-interference in their internal affairs and the prohibition on the use of force by States in their mutual relations. These principles are enshrined in Article 2(4) of the United Nations Charter and Article 4(f) of the Constitutive Act of the African Union. Both the DRC and Rwanda are members of these two organisations and have freely adhered to these constitutive instruments and are bound by the principles mentioned above, which are part of the peremptory norms of international law from which no State can derogate.

From the above, the UN can neither disavow nor repudiate itself. The Group of Experts mandated by the UN to carry out findings on the Democratic Republic of Congo has confirmed, in a documented report, the facts attributed to Rwanda. It should quickly submit it to the Security Council, which must examine it and take all the necessary measures to sanction Rwanda.

Moreover, this White Paper establishes the individual responsibility of those who committed all the crimes denounced and the urgency of prosecuting them despite the judicial obstacles that lend themselves to it for some of them so that these horrible acts do not remain eternally unpunished. Thus, the creation of an international tribunal for the Democratic Republic of Congo becomes an imperative and an emergency for the maintenance of peace and security in the sub-region.

Under no circumstances can the Rwandan aggression against our country be justified or tolerated. This White Paper demonstrates the vacuity of the pretexts and other alibis used by Rwanda to justify its aggression, including the so-called threat of the Democratic Forces for the Liberation of Rwanda (FDLR), which has been decapitated and reduced to nothing by the FARDC, sometimes in close collaboration with the Rwandan Defence Forces (RDF), in the framework of joint operations carried out over the past few years.

The present White Paper also seeks to confirm the inconsistency of the alleged hate speech that Congolese populations have developed towards Rwandan-speaking people. Isolated acts of infringement of the rights of the Rwandan-speaking community have been severely sanctioned by the competent services, including the judiciary, in accordance with our legislation, and my Government has taken measures to protect people of Rwandan origin, in the same way as the other components of our population. It is not Rwanda, eternal beneficiary of Congolese hospitality, that will change the peaceful nature of the Congolese people.

Despite the will of our country, through the President of the Republic, to settle this conflict imposed on it by Rwanda without any legitimate reason by peaceful means through the peace processes initiated in Nairobi and Luanda, Rwanda is intent on sabotaging them at all costs by keeping its troops on Congolese soil and maintaining its support for the M23 by occupying several Congolese localities, contrary to what had been agreed in these various meetings. In this context, it is legitimate that the Democratic Republic of Congo's armed forces defend our territorial integrity and ensure the protection of our battered population. But how can this be done effectively if the rise of our army continues to be hindered by obstacles such as the procedure for prior notification of any acquisition of war material to the United Nations Sanctions Committee, a declaration that, in reality, constitutes a form of embargo? While the Rwandan army continues to acquire arms and equip the M23 terrorists with all forms of weapons.

Meanwhile, my Government has to face at the same time the anger of our people who have lost all hope of protection by MONUSCO, which, despite the legal and material means at its disposal, has not fulfilled its mandate in accordance with the various UN Security Council resolutions.

Through this White Paper, my Government calls on the United Nations to assume its responsibilities in accordance with Article 1 point 1 of the Charter. They must act more effectively to stop, without delay, this genocide which, to date, has claimed more than 10 million lives, the largest number of victims after the Second World War. This document is our version of the facts, which neither manipulation, propaganda, perfidy, or repeated lies perpetrated by Rwanda can deny.

Kinshasa, 05 December 2022

**Jean-Michel SAMA LUKONDE KYENGE**

*Prime Minister, Head of Government*

## ABBREVIATIONS AND ACRONYMS

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<b>ABAKIR</b>	Lake Kivu and Ruzizi River Basin Authority
<b>ADF</b>	Allied Democratic Forces
<b>AFDL</b>	Alliance of Democratic Forces for the Liberation of the Congo
<b>APR</b>	Rwandan Patriotic Army
<b>ARC</b>	Congolese Revolutionary Army
<b>CODECO</b>	Cooperative for the Development of the Congo
<b>CEEAC</b>	Economic Community of Central African States
<b>CEPED</b>	Environmental Protection and Sustainable Development Education Centre
<b>CEPGL</b>	Economic Community of the Great Lakes Countries
<b>CNDP</b>	National Congress for the Defence of the People
<b>CNRD</b>	Concours National de la Résistance et de la Déportation
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>ICC</b>	International Criminal Court
<b>CRAP</b>	Compagnie de Renseignement et d'Action en Profondeur
<b>EAC</b>	East African Community
<b>FARDC</b>	The Armed Forces of the Democratic Republic of the Congo
<b>FDLR</b>	The Democratic Forces for the Liberation of Rwanda
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>ICCN</b>	Congolese Institute for Nature Conservation
<b>JED</b>	Journalists in Danger
<b>M23</b>	March 23 Movement
<b>MCVE</b>	Expanded Joint Verification Mechanism
<b>MONUC</b>	United Nations Organization Mission in the Democratic Republic of Congo
<b>MONUSCO</b>	United Nations Organization Stabilization Mission in the Democratic Republic of Congo
<b>UN</b>	<b>United Nations</b>
<b>OCHA</b>	United Nations Office for the Coordination of Humanitarian Affairs
<b>UNO</b>	United Nations Organization
<b>RCD</b>	Congolese Rally for Democracy
<b>DRC</b>	Democratic Republic of Congo
<b>RDF</b>	Rwandan Defense Forces
<b>RFI</b>	Radio France Internationale
<b>RN2</b>	National Road No. 2
<b>RNC/P5</b>	Rwanda National Congress/Platform 5
<b>SADC</b>	Southern African Development Community
<b>ICTY</b>	International Criminal Tribunal for the former Yugoslavia
<b>AU</b>	African Union
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organisation
<b>UNICEF</b>	United Nations Children's Fund
<b>UPDF</b>	Uganda Peoples' Defence Forces
<b>FTAA</b>	African Continental Free Trade Area

## INTRODUCTION

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In the aftermath of the deadly Second World War and with the aim of guaranteeing peace and security for all humanity, the community of states enshrined, indeed made sacrosanct, in the Charter of the United Nations the fundamental rule of the non-use of force in relations between states. Since then, this principle has been regarded as the foundation of our civilisation and the safeguarding of humanity, with States being obliged to settle their disputes by appropriate peaceful means.

However, when by exception, in cases of self-defence or violation, this rule is disregarded, international humanitarian law always intervenes as a bulwark to protect civilian population and its property.

The Democratic Republic of Congo (DRC) has always been part of a pacifist tradition, both at the level of its leaders and its people; a tradition that is reflected in the cardinal and permanent principles of its diplomacy, namely its African vocation, its openness to the world and the peaceful settlement of disputes. This explains why it has always lived in good understanding with the vast majority of its neighbours with whom it shares its ten thousand seven hundred and thirty km (10 730 km) long borders. Never in its history has the DRC waged war against another state, near or far.

Abusing this pacifist tradition and for various reasons, including the intention to seize its natural resources, some neighbouring countries in the East have been accustomed for more than two decades to acts of aggression and serious violations of international humanitarian law against the DRC.

The security situation in the East of the DRC has remained and continues to be marked by the persistent activity of local and foreign armed groups in the provinces of Ituri, North Kivu and South Kivu, where they are known for their massacres and pillaging of natural resources. Faced with this situation, the international community, notably through MONUC and then MONUSCO, as well as the mechanisms of the Addis Ababa Framework Agreement, did not remain inert. For its part, the DRC, alone or in synergy with its regional and international partners, has taken courageous initiatives and undertaken actions to end the crisis. On many occasions, dialogues have been organised and compromises reached with the leaders of the armed groups. Several members of these groups, in successive waves, have surrendered. Some have joined the regular army and returned to normal life.

Still in the strategic perspective of consolidating peace and stabilising the eastern part of the country, the Congolese government has signed security cooperation and partnership agreements with almost all neighbouring countries with a view to carrying out joint economic and integration projects. This should make it possible to minimise the risks of tension, misunderstandings and conflicts. It is in this context that the mutualisation of efforts between the DRC and the Republic of Uganda, including the targeted joint operations carried out by the Armed Forces of the Democratic Republic of Congo (FARDC) and the Ugandan army (UPDF) against the ADF-MTN along their common borders, should be situated and understood.

Paradoxically, while the FARDC is working to eradicate these negative and terrorist forces, the M23, defeated by joint action of the Congolese army and MONUSCO troops in 2012, has been resurrected and has attacked FARDC positions in several localities in North Kivu province.

Indeed, as early as 21 November 2021, this terrorist group had set up a camp in Visoke where it planned all its crimes, and the following period was marked by the provocation of several massive displacements as well as armed attacks accompanied by more grievous massacres of the population, such as the most recent one in Kishishe, in flagrant violation of the various ceasefires that had been decreed.

1. See especially Articles 1 and 2 of the United Nations Charter.

2. See Chapter VI of the UN Charter.

3. See Article 51 of the UN Charter.

4. Ian Brownlie and Ian R. Burns, *African Boundaries: A legal and diplomatic Encyclopaedia*, Royal Institute of International Affairs, 1979, pp. 489-753

5. The various attacks on the Democratic Republic of Congo by Burundi, Uganda and Rwanda date back to 1997, when the AFDL came to power with their support to oust President Mobutu from power. This opened the door to insecurity in the Congo from then until today, despite the various variations.

6. Center for Strategic Studies of Africa, *Rwanda and the DRC risk war with the emergence of the new M23 rebellion: An explanation*, July 11, 2022, p.2.

It is therefore justified that the Under-Secretary-General of the United Nations, Ms Martha Ama Akyaa Pobee, during the Security Council meeting of 31 May 2022, warned: "The resurgence of the M23 in North Kivu and its hostile actions against the Armed Forces of the Democratic Republic of Congo (FARDC) and the blue helmets of the United Nations Stabilisation Mission in the DRC (MONUSCO) are aggravating an already worrying situation. She called on the Congolese and Rwandan sides to remain calm and settle any disputes peacefully, considering that "continued dialogue between the governments concerned remains essential to avoid a further escalation of violence in the eastern DRC".

Moreover, it should be borne in mind that the M23 had just resumed its attacks at the same time as the implementation of the Nairobi process was beginning. For her part, Ms Bintou Keita, Special Representative of the UN Secretary-General in the DRC and Head of MONUSCO, noted in her statement to the Security Council that "The security situation in the east of the Democratic Republic of Congo has unfortunately deteriorated considerably, due in particular to the intensification of attacks by the March 23 Movement (M23) against the civilian population, national security forces and MONUSCO blue helmets, as well as attacks by the ADF, CODECO and other armed groups in Ituri and North Kivu. She notes the belligerent nature of the M23 and Rwanda when she concludes that "the resulting escalation and regional tensions have unfortunately undermined the positive dynamics recorded in recent years between the DRC and Rwanda."

All these repeated and sustained attacks by the M23 are done with the total and deliberate will to ignore and trample on all international legal obligations deriving particularly from the UN Charter, the Constitutive Act of the African Union as well as international instruments relating to human rights and international humanitarian law.

In its efforts to bring peace to the eastern part of the country, the DRC has adopted security measures including, internally, the strengthening of the capacities of its army and the declaration of a state of emergency, and externally, the consolidation of cooperation both in Central Africa and in the Great Lakes sub-region.

The DRC has also joined various regional and sub-regional organisations (CEEAC, SADC, COMESA, CEPGL, CIRGL and ABAKIR) in order to maintain peaceful relations with neighbouring states. In addition, the DRC has joined the East African Community, just as it has become a very active member of the FTAA. To this same end, it has always been active and exemplary.

The DRC's responsible, peaceful, proactive attitude is only meant to prevent and resolve possible conflicts. Unfortunately, these efforts have been sabotaged by the enemies of peace, reactivating a climate of insecurity that is constantly growing each time.

The insecurity situation denounced in this White Paper is the one that has been exacerbated since March 2022, after the resumption of military activities in the East by the Rwandan armed forces directly or in support of M23 terrorist elements.

These combined attacks have resulted in the perpetration of several acts constituting international crimes, particularly crimes of aggression, crimes against humanity, war crimes and crimes of genocide. Since the resumption of these military activities, several civilians have been killed, several hundred of thousands of people displaced, several wounded and localities occupied by Rwandan army troops alone or with the terrorist M23 Movement.

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7. Statement by Ms. Ama Akyaa Pobee to members of the UN Security Council

8. Idem

9. Statement by Ms. Bintou Keita before the Security Council on June 29, 2022

10. Idem

Indeed, using very sophisticated weapons and behaving more and more like a conventional army, there was no longer any doubt that the M23 is in reality a regiment of the Rwandan armed forces. It should be noted that this country, through its regular armed forces, intervenes militarily in the open on Congolese territory under the false pretext of a preventive war against the Rwandan rebels of the Democratic Forces for the Liberation of Rwanda (FDLR) among others.

Faced with this situation, the present White Paper serves to bring to the attention of both national and international opinion, all the illicit facts constituting violations of international law and establishing without question the international responsibility of Rwanda, the aggressor State, and its obligation to make reparation. The developments that follow, notably concerning these facts, their consequences, their qualifications, as well as the expectations of the DRC, are presented in seven chapters.

The first chapter demonstrates the irrefutable nature of the aggression of the DRC by Rwanda.

The second chapter presents and qualifies the different crimes perpetrated by the RDF/M23 following the aggression.

The third chapter highlights the urgency of the implementation of Rwanda's responsibility; that of its nationals and of the M23 for international crimes.

The fourth chapter demonstrates the inconsistency of Rwanda's alibis for its activities in the DRC.

The fifth chapter focuses on Rwanda's sabotage of the peace process and MONUSCO's mixed action.

The sixth chapter analyses the imperative of lifting the arms embargo against the DRC.

Finally, the seventh chapter presents synoptic tables of all crimes committed by members of the RDF/M23 in the DRC.

We end the book with a series of questions to the members of the international community and a conclusion, a summary of the development.

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11. Twenty-five in Rutshuru, thirteen in Ruvumu, eight in Ruseke and others.

12. See the speech of the Special Representative of the UN Secretary General, Head of MONUSCO, to the Security Council on June 29, 2022.





## CHAPTER I: THE IRREFUTABLE NATURE OF RWANDA'S AGGRESSION AGAINST THE DEMOCRATIC REPUBLIC OF CONGO

In the current security crisis in the East of the DRC, several reported facts clearly indicate that Rwanda is very actively involved.

It operates in two ways: the incursion of its armed forces directly into Congolese territory and the exercise of effective control over the M23 armed troops, with significant support in terms of equipment and troops.

These facts constitute an act of aggression and are imputable to the Rwandan state in terms of responsibility for violating the principle of non-use of force, a cardinal principle of contemporary international law.

Indeed, according to UN General Assembly Resolution 3314 (XXIX), "aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations [...]". The African Union's Non-Aggression and Common Defence Pact, in force since 18 December 2009, provides further clarification,

"Aggression means the use by a State, group of States, organisation of States or any other foreign or external entity, of military force or any other hostile act, inconsistent with the Charter of the United Nations or the Constitutive Act of the African Union, against the sovereignty, political independence, territorial integrity and human security of the populations of a State party to this Pact.

Among the acts that may constitute aggression, these two international instruments list, among other things, the use of military force against the territorial integrity of a State, the invasion or attack or the military occupation of a State, even if temporary, resulting from such an invasion or attack.

It also covers the provision of support or assistance to armed bands or groups, irregular forces, and mercenaries against another State to commit hostile acts against that State.

Other instruments of regional organisations to which the DRC and Rwanda belong condemn the same acts. This is the case of the AU, CEEAC, EAC, ICGLR and even the CEPGL, which is currently somewhat on the back burner.

13. Article 1 of UN General Assembly Resolution 3314 (XXIX) of 14 December 1974.  
 14. See Article 1 point c of the Non-Aggression and Common Defense Pact of the African Union of January 31, 2005  
 15. See Article 3(a) of UNGA Res. 3314 (XXIX) and Article 1(c) of the African Union's Non-Aggression and Common Defence Pact of 31 January 2005.  
 16. See Article 3 point g of the same resolution.  
 17. See Article 3 of the 1983 Treaty establishing ECCAS  
 18. See Article 6 of the Treaty for the Establishment of the East African Community of 1999 as amended in 2007

As mentioned above, the aggression of the DRC by Rwanda was perpetrated through two processes. These are the aggression by the direct incursion of Rwandan armed forces (Section 1) and the indirect aggression through the effective control and support of the M23 terrorists (Section 2).

### Section 1. Aggression through direct incursion by RDF

Several documents and audio-visual elements establish not only the invasion, attack or use of military action by Rwanda against the DRC and the occupation of Congolese territory by its armed forces (§1), but also the imputability of these facts to Rwanda).

#### §1. The invasion, attack or use of armed force and occupation of the national territory by the RDF

As recognised by the US representative to the Security Council, the principle is that any entry of foreign forces into the DRC must be done in cooperation with the DRC, and this is based on the sacrosanct principle of respect for sovereignty and territorial integrity, a cornerstone of contemporary international law. This is what Rwanda stubbornly denies and tramples on in the eastern part of the DRC, more precisely in North and South Kivu.

The act of invasion was revealed on 24 May 2022, when Rwandan armed forces entered Congolese territory without being invited or authorised by the Congolese government.

Indeed, the UN Group of Experts reports eyewitness accounts from FARDC sources, civil society actors and local authorities, as well as aerial images and photographic evidence, which demonstrate that elements of the Rwandan army were seen in large numbers marching in columns across the borders of Congolese territory through at least four entry points, namely Kabu-hanga, Chegera, Kibaya and Kasisi. This entry of RDF elements on Congolese soil, beyond the border separating the territories of the two states, is a proven act of aggression against the Congo by Rwanda, especially since these forces, according to several sources, have carried out armed attacks, particularly against FARDC positions.

Indeed, these Rwandan soldiers attacked on 28 May 2022 the 3408th regiment of the FARDC and took their positions along the National Road

number 2 on the Nyondo hill after an operation led by the 3rd division of the RDF led by Major-General Alexis Kagame.

This only served to accentuate the already consummated aggression.

During the same attacks, those of 28 May 2022, two Rwandan soldiers, Corporal Nkunda Bagenzi and 1st Class Sergeant Minuare Gadi, were arrested by the valiant soldiers of the FARDC at Mr. Magake Hetegeka's farm, in the village of Kivunge, locality of Kazuba, grouping of Kasigari, in the Rutshuru territory. Their release was negotiated through the good offices of the Angolan President, current President of the ICGLR, His Excellency Joao LOURENÇO.

In the same vein of attacks, on 17 June 2022, a missile fired by RDF elements shot down a FARDC helicopter gunship between the locations of Chengerero and Bunagana as illustrated in this image.

On 09 September 2022, a Rwandan army helicopter landed at JOMBA Parish, carrying Rwandan officers on a mission to plan offensives on several axes.



*Two Rwandan soldiers captured in Tchanzu on their way to Rumangabo in Congolese territory*

13. Article 1 of UN General Assembly Resolution 3314 (XXIX) of 14 December 1974.

14. See Article 1 point c of the Non-Aggression and Common Defense Pact of the African Union of January 31, 2005

15. See Article 3(a) of UNGA Res. 3314 (XXIX) and Article 1(c) of the African Union's Non-Aggression and Common Defence Pact of 31 January 2005.

16. See Article 3 point g of the same resolution.

17. See Article 3 of the 1983 Treaty establishing ECCAS

18. See Article 6 of the Treaty for the Establishment of the East African Community of 1999 as amended in 2007



Identity cards of Rwandan soldiers captured in the theatre of operations in the Democratic Republic of Congo.

On 20 October 2022, the RDF launched an offensive on the villages of RANGIRA and MATEBE, before pursuing it on RUTSHURU-Centre, the town of KIWANJA and the MABENGA bridge. These clashes with the FARDC continued on 23 October 2022 at NTAMUGENGA, about 4 km east of National Road No 2, and intensified on 26 October 22 on different fronts: LANGIRA and KABINDI, in the Groupement de JOMBA, MUSEZERO, in the Groupement de BUSANZA and NTAMUGENGA, in the Groupement de BWEZA, before approaching KIBUM- BA. On 27 October 2022, the fighting intensified further towards KAKO, near RUBARE, NYESISI, KANOMBE and at CHUMIRWA, not far from the RUMANGABO military camp, in the KISI- GARI groupement, at the exit of the NTAMUGENGA axis, in the vicinity of the National Road No. 2, causing a disruption of road traffic on the GOMA-RUTSHURU axis. The RDF/M23 also attacked and occupied the KITAGOMA border and on the KIWANJA-ISHASHA road section, they approached NGWENDA.

Furthermore, the act of temporary occupation of FARDC positions on the Nyondo hill or neighbouring towns, in addition to the ongoing occupation and administration of Bunagana in particular, has also been committed in order to aggravate this aggression.

Rwandan troops occupied several positions in the Kibumba area and even cut off the National Road n°2 for several days.

At the end of the 23 November 2022 clashes, the locality of BAMBU came under RDF occupation. These facts are attributable to the Rwandan State which must answer for them in accordance with the principles and rules relating to the responsibility of States.

The map on the following page shows the situation of the positions and temporary occupations of the Rwandan armed forces on Congolese territory.

## §2. The imputability to Rwanda of acts committed by its armed forces

It is a principle of international law that the conduct of any organ of the state is considered to be an act of the state, whether that organ exercises legislative, executive, judicial or other functions, whatever its position in the organisation of the state, and whatever its nature as an organ of the central government or of a territorial unit of the state. This organ, in the broadest sense, includes both natural persons and entities having that status under the internal law of that State.

Thus, a member of the military or a group of members of the military acting in an official capacity may be considered to be an organ of a state, even if that state claims never to have instructed them to commit the act which is likely to engage its international responsibility.

In the present case, it is established that approximately one thousand armed and uniformed men, members of the Rwandan armed forces by virtue of their distinct military gear and uniforms, their organised structure and their spoken language, were seen on the territory of the DRC carrying out military activities, in violation of the relevant international instruments. From this point of view, their actions are attributable to the Rwandan state.

The same is true of the acts committed by the M23 terrorists.



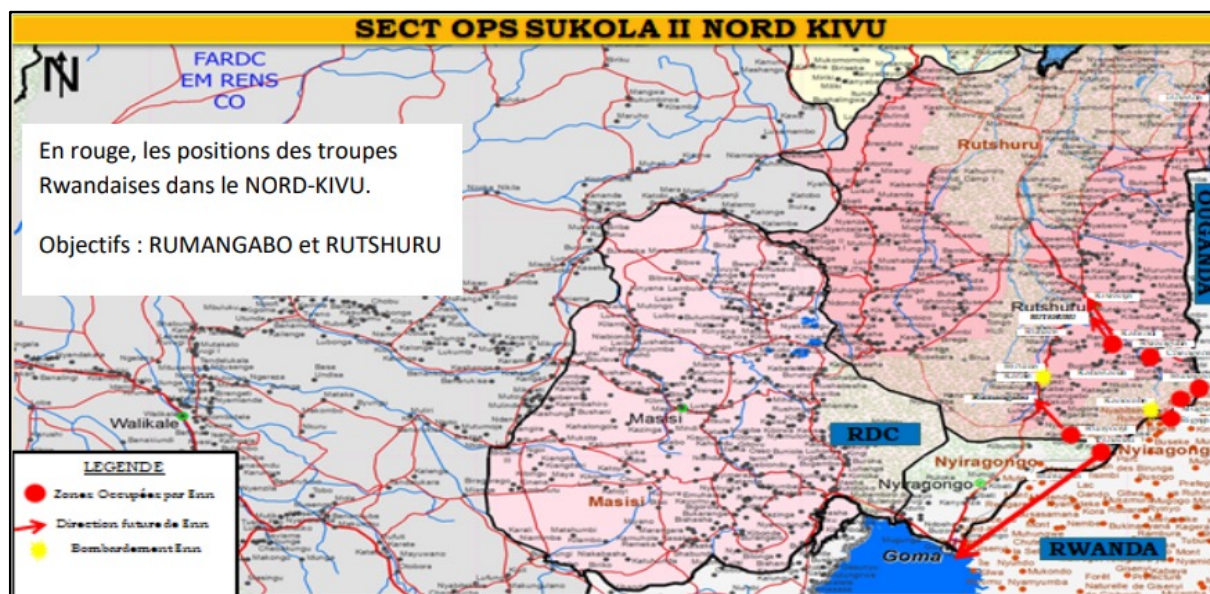
FARDC helicopter shot down by a missile fired by the RDF in the locality of Chengerero

22. 22. UN Panel of Experts Report, §38-40

23. Article 4 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts.

24. Idem, Article 7.

25. See the 2022 UN Panel of Experts Report, §39.



## Section 2. Indirect aggression by M23 terrorists

As is clear from the above-mentioned UN General Assembly Resolution and the African Union Non-Aggression and Common Defence Pact, aggression can also be established through the support or provision of assistance by a State to armed or terrorist groups for the purpose of carrying out armed acts against another State. This is reflected in the operational and/or material support given to an armed group, a fortiori the M23 (§2), in addition to the imputability of this support to a state, in this case Rwanda (§3). Before addressing these two aspects, it is important to note the terrorist nature of the M23, which explains the seriousness of its violence (§1).

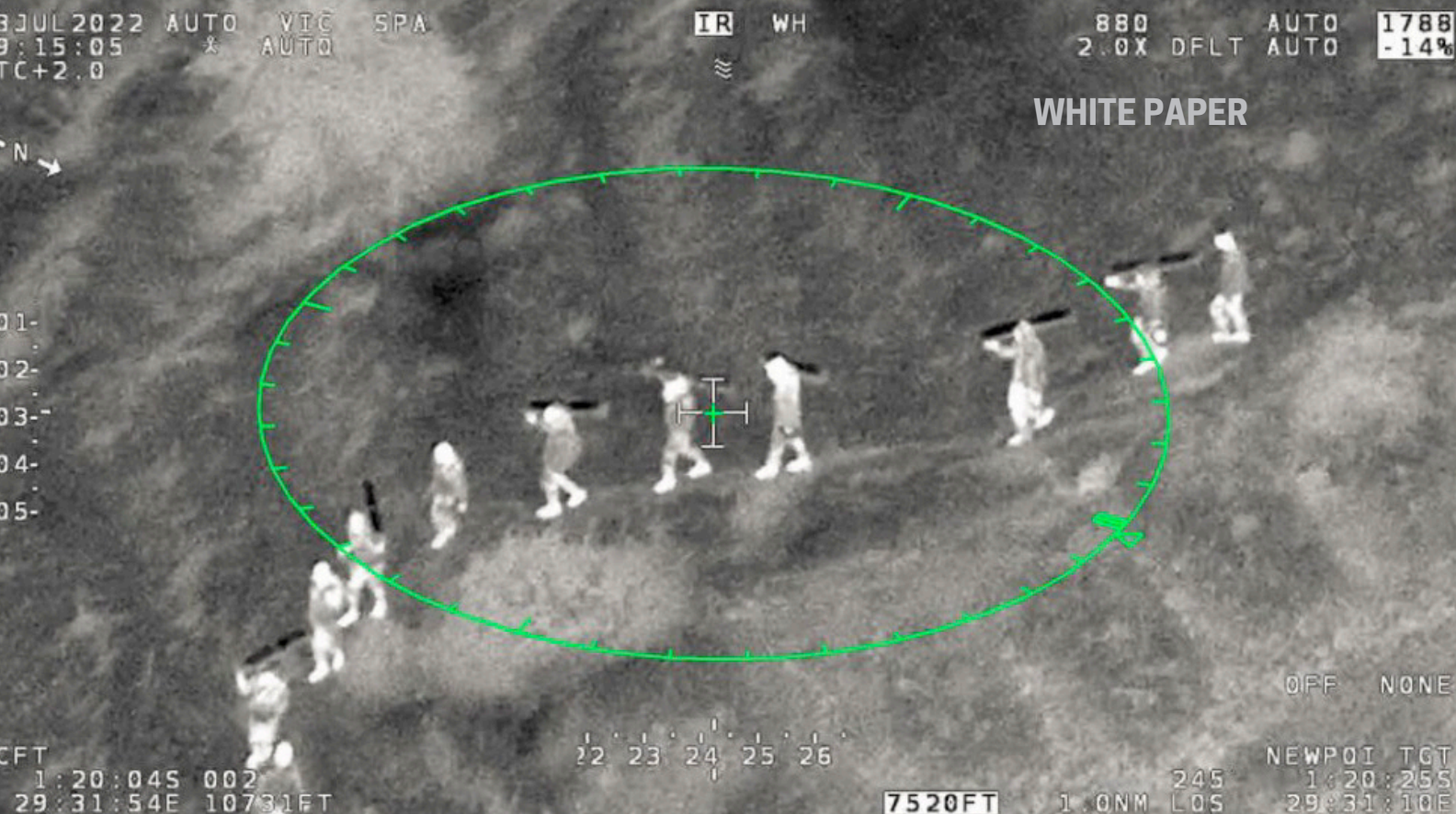
### §1. The terrorist character of M23 through the gravity of its acts

Considering its modus operandi, the M23 is no longer a simple armed group. This movement is increasingly behaving like a terrorist group. This is why, since 27 May 2022, the Congolese government has classified it as a terrorist movement and excluded it from the Nairobi negotiations with armed groups.

By this act of exclusion, the government expresses the fact that "the DRC does not negotiate with terrorists". Indeed, the acts of the M23 fall unequivocally within the definition of a terrorist act given by the OAU Convention on the Prevention and Combating of Terrorism, adopted in Algiers in July 1999, as amended by the Addis Ababa Protocol of 8 July 2004.

Within the meaning of Article 1 (3) (a) of this Convention, a terrorist act is defined as "any act or threat of act in violation of the criminal laws of the State Party which is likely to endanger the life, physical integrity or freedoms of a person or a group of persons, which causes or may cause damage to private or public property, natural resources, the environment or cultural heritage, and which is committed with the intention (i) to intimidate, provoke a situation of terror, coerce, exert pressure on or induce any government, body, institution, population or group thereof, to take or refrain from taking any action, to adopt or renounce a particular position or to act in accordance with certain principles; or (ii) to disrupt the normal functioning of public services, the provision of essential services to the populations or to create a situation of crisis among the populations; (iii) to create a general insurrection in a State Party."

Thus, there is no doubt that the massacres, killings, injuries, destruction of property and displacement of populations caused by the M23, in addition to the occupation of the territory of Rutshuru, are acts caused with the aim of putting pressure on the Congolese Government in order to assert their illegitimate and spurious claims, thereby causing the dysfunction of State services and creating a crisis situation among the Congolese people through their unjustified insurrection.



Une colonne RDF en progression vers Bunagana

Under Article 1 (c) (xi) of the AU Non-Aggression and Common Defence Pact, Rwanda's support or provision of any assistance to M23 for the purpose of committing terrorist acts against the DRC constitutes aggression. The following paragraphs demonstrate this reality in terms of both material and operational support.

## §2. Rwanda's material and operational support to M23 terrorists

Just as it has been reported that there is solid evidence of the presence and military operations carried out by members of the RDF on Congolese territory, the UN group of experts reveals that the State of Rwanda has provided support to the operations of the M23.

To underline the credibility of this revelation, the US Secretary of State, Anthony Blinken, stated during his visit to the DRC on 9 August 2022: "We are concerned about this UN report that indicates that Rwanda was supporting the M23" There is no longer any doubt that M23 terrorists act with the material and operational support of the Rwandan armed forces, or rather, the state of Rwanda

From a material point of view, M23 terrorists have benefited from considerable support in military equipment from Rwanda. Photographic evidence and video footage have revealed that since as early as mid-June 2022, these terrorists

have been wearing combat uniforms and Kevlar helmets and body armour of the same type as those worn by the Rwandan Defense Forces, in addition to the lethal military equipment known to belong to that army, to the extent that there are now similarities between the two forces that make it impossible to distinguish between them.

From an operational point of view, the Rwandan army provided substantial new backup to the M23 terrorists on 25 May 2022.

Moreover, during the attack and occupation of the town of Bunagana since 13 June 2022 by this terrorist movement, the presence of Rwandan troops increased in this part of Congolese territory.

All these grave facts with regard to the essential norms governing relations between states are attributable to the Rwandan state, as demonstrated below.

## §3. The imputability to Rwanda of acts committed by and with M23 terrorists

It is a customary norm of international law that the conduct of a person or group of persons is considered to be an act of the state if that person or group of persons, in engaging in that conduct, is in fact acting under the instructions or direction or, more precisely, under the control of that state.

26. See the July 2022 UN Panel Report, §4.

27. See RFI, A Kinshasa, Antony Blinken defends the territorial integrity of the DRC, 10 August 2022.

28. See UN Group of Experts Report, §53 and 54.

29. Idem P.46 see also FARDC official communication of June 13, 2022 on the occupation of Bunagana

30. See the Report of the UN Group of Experts, P43, 54



*Below 200 RDF parading in Bunagana*

Analysed in terms of the control exercised by a state over an armed group fighting against another state, this rule was applied by the International Court of Justice in the similar *Nicaragua v. United States* case to establish the latter's international responsibility in terms of, inter alia, its support for the military operations carried out by the Contras or counter-revolutionaries.

In its judgment of 17 July 1999 in *Prosecutor v. Tadic*, the International Criminal Tribunal for the former Yugoslavia stated: "In order to attribute responsibility for acts committed by military or paramilitary groups to a state, it must be established that the state exercises overall control over the group, not only by equipping and financing it, but also by coordinating or assisting in the overall planning of its military activities. Only then can the state be held internationally responsible for the group's illegal actions. It is not necessary, however, to require in addition that the State has given instructions or directions to the leader of the group or to its members to commit certain specific acts contrary to international law."

In the present case and in view of the support that the Rwandan state provides to the M23 terrorists, there is no doubt that the Rwandan state exercises control over them, knowing that the hand that gives is the one that orders, according to a French proverb. Rwanda provides these terrorists with military equipment, uniforms and other intelligence.

US Senator Robert Menendez has eloquently written that "Rwanda is once again involved in regional destabilisation in Central Africa." One week after their photo pose with US senior officers, the Rwandan military is credibly accused of supporting the M23 rebels in the Democratic Republic of Congo (DRC) and deploying Rwandan troops into the DRC across the borders. You will recall that in the 1990s Rwanda and Uganda invaded the Congo, sparking a regional conflict that, according to the International Rescue Committee, caused 5.4 million deaths between 1998 and 2007 as a result of the war and subsequent humanitarian crises. In 2012, Rwanda again sought to destabilise the DRC by supporting the M23,

31. See Article 8 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts.

32. See I.C.J., *Military and Paramilitary Activities in and against Nicaragua*. (*Nicaragua v. United States of America*), Judgment of 27 June 1986, [1986] ECR 86.

33. International Criminal Tribunal for the former Yugoslavia (ICTY), *Prosecutor v. Duško Tadić*, Case No. IT-94-1-A, Judgment, Appeals Chamber, 15 July 1999, para. 131.

34. See 2022 UN Panel of Experts Report, §39.

*which seized the eastern DRC town of Goma, killing hundreds of civilians and displacing over 100,000 people. Ten years later, in 2022, Rwanda again sent its troops across its borders with the DRC and reactivated the M23 as a proxy militia that was eventually responsible for the massacres of Congolese, Congolese troops*

*and UN peacekeepers" and displaced nearly 400,000 people after an all-out offensive in Rutshuru territory.*

All of this implies that when talking about acts of the M23 terrorists, it is in fact and legally a misconduct attributable to the Rwandan state.



Below are Rwandan soldiers in Bunagana

35. United States Senate, Committee on Foreign Relations, letter of Chairman Robert MENENDEZ to the honorable Authority J.Blinken, Secretary of State, Us Department of State, Washington, DC. 20 July 2022 (Official translation)

## CHAPTER II: CRIMES COMMITTED BY THE RDF AND M23



*The building of the Saint Gilbert Institute in Biruma bombed by the RDF*

The establishment of the international responsibility of the Rwandan state for the acts attributed to it does not affect the individual and criminal responsibility of either the decision-makers or the perpetrators.

Indeed, if the state cannot be a criminal in the criminal sense of the term, the individuals through whom it acts can be held responsible for their actions even if they are carried out in the name and on behalf of the state. Thus, by examining the facts one can conclude that international crimes violating human rights principles were committed by the Rwandan authorities, the RDF and the members of M23. These include the crime of aggression (Section 1), war crimes (Section 2), crimes against humanity (Section 3), the crime of genocide (Section 4) and ecocide (Section 5).

### Section 1: The crime of aggression

Considering that acts of aggression are, by definition, strictly interstate acts, the only effective prosecutions that can be brought under this heading must be against the individuals who determined the State's action.

The fundamental legal basis for this criminalisation is the Rome Statute of the International Criminal Court, which defines the crime of aggression as the planning, preparation,

initiation or execution by a person in a position effectively to exercise control over or to direct the political or military action of a state of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.<sup>37</sup>

Long before this crisis of aggression became as well established as documented with the denunciation of the facts of Rwandan support to M23 and the invasion of RDF on Congolese territory, the Rwandan President did not stop threatening aggression against the DRC. Indeed, in his speech to parliament on 22 February 2022, he declared that: "We are a small country, we have no space in which to fight. We will fight the war wherever it comes from because they have the space for war. That's how it works. The problem we are focusing on is the problem of the DRC."

38 He added: "Even if I said I was late for Congo, the cause that makes us focus our attention on the DRC is the FDLR and other armed groups that can ally with them. There is already a red connection, that's why we are focusing, but it has to be dealt with properly. There is where we protect, there is where we ask and there is where it goes beyond and we don't have anyone to ask. We deal with the problems in the right way".

36. J.-P. PANCRACIO, op. cit, p.51.

37. Article 8 bis paragraph 1 of the Rome Statute of the ICC as added by resolution RC/Res.6 of 11 June 2010. FARDC document, source to be specified.

38. Statement by Paul Kagame before the Parliament of his country

39. Statement by Paul Kagame to his country's Parliament Idem.





*Destruction of a school and murder of two children during the bombardments of the localities of Kabaya and Biruma in Rutshuru territory, dated 10 June 2022)*

A few months later, after the DRC and certain reports had already denounced all these different facts, the Rwandan President, having set himself up as a "defender" of the "claims" of the M23 terrorists, persisted in his threats of aggression. In his speech at the Commonwealth Summit on 23 June 2022, he declared that: "With the M23, we are defending Congolese of Rwandan origin so that they can access property rights".

According to the North Kivu Civil Society, Paul Kaga-Mé in his last speech on 30 November 2022, during the swearing in of his new Minister of Health, declared that: "when the bombs fired from the DRC fell in KINIGI and other places, it became appealing for us to cross the border, the act of throwing bombs is a form of tacit invitation."

Following him, various military authorities in the Rwandan state leadership also made threats of aggression against the DRC. This is the case of the Chief of Staff of the Rwandan army, Jean Bosco Kazura, who made a very clear threat. "I will not hesitate to stab the Congo in the back".

Following the President of the Republic and the Rwandan General Chief of Staff, James Kabarebe, Paul Kagame's Special Advisor, declared during a meeting with the officers: "Rwanda will not accept the paving of the Bunagana - Rutshuru - Goma road section on the grounds that it would hinder Rwanda's interests."

He continued: "It is not acceptable that this road be built without Rwanda having been consulted or involved beforehand."

Thus, one cannot help but say that the above-mentioned facts of aggression are, no more and no less, the materialisation of all these threatening declarations made by the leading personalities who are also in a better position to give the order. The crime of aggression is rightly considered a "leadership crime", an "eminently political" crime.

Of all the elements constituting the crime of aggression, it can be said that the two personalities mentioned above, decision-makers at the highest level of the Rwandan state in view of their statements on the ongoing crisis, have raised the option of waging war against Congo, decided and planned the acts of aggression committed by Rwandan soldiers and M23 terrorists of which they were aware because they are, of course, in control of Rwanda's political and military action.

They are therefore well placed to be aware that these various acts were incompatible and in clear violation not only of the UN Charter, but also of the Constitutive Act of the African Union and all other universal, regional and sub-regional instruments relating to inter-state relations.

They are therefore well placed to know that these various acts were incompatible and in clear violation not only of the UN Charter, but also of the Constitutive Act of the African Union and all other universal, regional and sub-regional instruments relating to relations between states.

40. Idem.

41. Statement made on January 12, 2022 by the Chief of General Staff of RDF, Jean Bosco KAZURA, Statement made on 24 May 2022 by Paul Kagame's Special Security Advisor, James KABAREBE

43. Idem

44. See V. M. METANGMO, The crime of aggression: research on the originality of a crime at the crossroads of international criminal law and international peacekeeping law, PhD thesis, University of Lille 2, 2013, p.365 et seq.; M. OUEDRAOGO, Le crime d'agression en droit international contemporain: un crime éminentement politique, PhD thesis, University of Ouaga II and University of Seville, July 2021.

## Section 2. War crimes

Despite the prohibition on the use or threat of use of force by the UN Charter and other international legal instruments, including the Constitutive Act of the AU, war may arise, either exceptionally in self-defence, or through violation of the law in force, as in the case of Rwanda's aggression in the DRC.

However, in the context of the humanisation of war, by waging or supporting a war against the DRC, Rwandan forces were expected to abide by a set of rules of international humanitarian law essentially laid down in the four Geneva Conventions of 12 August 1949 and the Protocols thereto, and as reaffirmed and supplemented by the Rome Statute establishing the International Criminal Court. These rules are mandatory under Article 1 common to all four Conventions.

Unfortunately, since the beginning of the current aggression, members of the RDF and the M23 have multiplied acts that violate the rules of international humanitarian law and therefore constitute war crimes, particularly those committed against the Congolese population and protected property, notably schools and homes.

By definition, with regard to the protection of civilians and protected property, war crimes are those grave breaches covered by the provisions of the Geneva Conventions and the Rome Statute. These include intentional killing (§1), destruction of property (§2), causing great suffering or injury to body or health (§3) and attacks on peacekeeping missions (§4). Based on these few offences, their illustrative cases are as numerous as they are tragic in the military operations of Rwanda and the M23.

### §1. Intentional killings

From mid-June 2022 to date, more than twenty-nine civilians have been killed. On 10 June 2022, the localities of BIRUMA and KABAYA in the territory of NYIRAGONGO were shelled by the RDF and their M23 allies. Ten bombs dropped from Rwanda killed two schoolchildren playing on the football pitch at the Institut Saint Gilbert in Biruma.

On 21 June 2022, survivors testified that on that date, in the village of Ruvumu, the attackers killed at least thirteen civilians, including three children - an eight-year-old girl, an eleven-year-old boy and an adolescent minor -, two women and several elderly people, after they had been forced to flee and some of them had even been killed while trying to escape.

Also in Ruvumu, Human Rights Watch reported the testimony of a 35-year-old mother of five who described her father's murder as "shot in the head and his hands still tied behind his back."

By 25 June 2022, UNICEF was already reporting the deaths of four children during armed attacks on civilians in Rutshuru territory.

On 1 July 2022 in Ruseke M23 terrorists backed by RDF elements killed at least eight civilians, including a woman and a sixteen-year-old girl.

The most recent cases are the massacres perpetrated between 15 and 30 November 2022 of 94 people killed by the RDF/M23, 64 of whom were in the villages of Munindo, Rusekera and Bugina in the groupement of TONGO and 30 in BAMBO centre, Kirumba and Kapopi.



*Destruction of houses and banana plantations in Kabaya and Biruma by M23/RDF elements on June 10, 2022*

45. See Article 147 of the Fourth Geneva Convention of 1949, Article 8(2)(a,iv) and (b,ii) of the Rome Statute.

46. See Report of the UN Group of Experts, §27.

See idem, §30-31.

47. HUMAN RIGHTS WATCH, "DR Congo: en pleine résurgence, le M23 cible des civils", press release, 25 July 2022.

Unicef, "Children under attack in the escalating conflict in eastern DRC", 25 June 2022.

48. See UN Panel of Experts report, §34.

49. HUMAN RIGHTS WATCH, op. cit. (note 1), loc. cit.

## §2- Destruction of protected property

On 23 May 2022, the M23 and the RDF fired a dozen shells into Congolese territory in and around Katale and Rumangabo, about 45 kilometres from Goma, the provincial capital of North Kivu. They were fired from Rwandan territory. A shell destroyed a primary school in Katale only a few hours after the children had left.

In the 10 June 2022 attack, residential houses, banana plantations and school buildings were damaged.

On Monday 13 June 2022, at around 5pm local time, M23 terrorists ransacked the community radio station 'La voix de Mikeno', broadcasting from Bunagana in Rutshuru territory, according to the 2022 Report of Journalists in Danger, entitled 'Alertes et menaces sur la liberté de la presse'. ANDRÉ BYAMUNGU, director of RACOM, contacted from his refuge, told JED: "I am becoming mute and will not know where to start if calm returns because they ransacked my radio, took away the transmitter, the mixer, the microphones. They also destroyed the acoustics of the studio before leaving the studio tables broken."

This serious attack on press freedom and the right to information is not the only one in a long series that has forced community radio stations broadcasting in the areas occupied by M23/RDF to close down, and media professionals to take refuge in Goma (more than 44 journalists) and in other territories (nearly 90 journalists).

In Ruseke during the attack of 1 July 2022, the M23 and RDF attacked an FARDC ambulance responsible for evacuating wounded civilians.

On the morning of 16 August 2022, these same forces of aggression attacked the construction site of the new hydroelectric power station of Rwanguba, in the territory of Rutshuru, in the province of North Kivu. This construction project is located in the Virunga National Park.

The attack, using heavy artillery, caused two explosive devices to fall in the middle of the site, which includes residential facilities for workers and construction workshops. It caused significant material damage, including the destruction of site equipment. According to testimonies from local communities, the artillery fire came from M23 positions located 5km from the site.

## §3- Great suffering or damage to physical integrity and health

Among the cases of damage to physical integrity and health, mention can be made of the injuries sustained by two civilians, including a 13-year-old boy, in Ruseke on 1 July 2022 as a result of M23/RDF elements. On 16 August 2022, the M23/RDF dropped bombs on homes in Chakere, a locality in Rwanguba and in Rangira. Five (5) well-identified civilians were injured. They are: Mr Sabimana Serelari (aged 20); Mr Nyamureme Naishuste (aged 46); Ms Nahiriho Olive (aged over 50); Mr Sadiki Naomi (aged 25) and Ms Ndabakale Anicette, a girl, who was injured in the head.

## §4- Attacks on MONUSCO members and property

In June 2022, the Security Council, through all the representatives of the member states, reiterated the obligation of the parties to the conflict not to harm members of MONUSCO in the following terms: "any rhetoric inciting violence or exacerbating the risks for MONUSCO personnel by threatening their safety and security is unacceptable". Unfortunately, the M23/RDF terrorists did not understand this and attacked MONUSCO elements, thus committing war crimes by their actions.

In this regard, the crash of the MONUSCO helicopter on 29 March 2022, as a result of direct fire from a hill under the control of the M23. In the same context, repeated direct attacks on the positions of the peacekeepers were recorded. MONUSCO has thus become a tactical target of the M23/RDF.

As of 31 May, two MONUSCO peacekeepers had already been injured during the hostilities. In an attempt to justify these crimes, the Rwandan representative to the Security Council insinuated that MONUSCO, which is trying as best it can to protect the civilian population in fulfilment of its mandate, should "avoid any military cooperation with the FARDC". MONUSCO's mandate is precisely to preserve peace and security on Congolese territory and to protect the civilian population, one of the FARDC's missions.

50. See UN Panel of Experts report, §27.

51. Press release from the Sukola 2 operational sector in North Kivu of 16 August 2022.

52. ICCN, "Press Release", 17 August 2022.

53. See UN Group of Experts report, §34.

54. FARDC, 'Press release no. 10, 17 August 2022: Politico newspaper, 'Aggression in the East: M23 and Rwandan army dropped bombs on civilian homes in Chakere', 19 August 2022.

55. See UN/Security Council, Summary of the 9081st meeting, Security Council considers situation in DRC, dominated by worsening insecurity in the east and tensions with Rwanda, 30 June 2022, p.8.

56. See UN Panel of Experts report, §14, 63 and 20.

57. UN/Security Council, Minutes of the 9051st meeting of 31 May 2022, p.3.

58. See UN/Security Council, Minutes of the 9081st meeting, Security Council considers situation in DRC, dominated by worsening insecurity in the east and tensions with Rwanda, 30 June 2022, p.15.

59. See UN/Security Council, Summary of the 9081st meeting, Security Council considers the situation in the DRC, dominated by worsening insecurity in the east and tensions with Rwanda, 30 June 2022, p.15.



One of the victims of the bombing of August 16, 2022 in Chakere

This statement is further proof of the aggression of the DRC by the RDF, as it is true that MONUSCO only operates on Congolese territory. Attacking its aircraft is an attack on the territorial integrity of the DRC.

### Section 3. Crimes against humanity

Sometimes, even in a context of war, certain acts that do not constitute war crimes are committed and give rise to violations of human rights rules that were traditionally considered to be limited to peacetime. These acts, which are deprivatory in nature, may fall within the scope of crimes against humanity, insofar as they involve a serious deprivation of liberty carried out in violation of the fundamental provisions of international law, which provides, in particular, that in time of peace as in time of war, the fundamental rights and freedoms of the human being must be protected.

Among the various facts incriminating the RDF and M23 elements, we note the abduction of four civilians on 2 June 2022 by RDF soldiers near Rugari and near the Mikeno forest, forcing them to show them the way to the FDLR camp and to carry their belongings for three days.

They also forced them to show them the way to Kibumba. The RDF elements who perpetrated these crimes against humanity were a platoon of two hundred and ninety men.

This is the case of Mr Henry Serushago, a journalist from the community radio station "la voix de Mikeno", broadcasting in Bunagana who, according to Journalist in Danger, was arrested and tortured on 5 July 2022 by M23 elements on the orders of an M23/RDF major by the name of Sebyondo.

### Section 4. The crime of genocide

Rwanda's policy in several attacked and/or occupied entities is also genocidal in nature both in terms of action and attempt.

In terms of action, it can be noted that this crime, understood as any killing of members of a national group among others, was committed by attacks by the Rwandan armed forces alone or in the company of the M23 terrorists, which resulted in killings targeting only Congolese nationals.

In terms of attempts, it should be noted that the Rwandan armed forces also committed acts of "ethnic cleansing", which consisted, among other things, of provoking massive displacements of civilians, particularly women and children, from their usual living environment. This action is considered a form of genocide by the UN General Assembly in its Resolution 47/121 and judged by the Special International Tribunal for the former Yugoslavia as being similar to the crime of genocide.

Of these two processes, one can identify, on the one hand, the facts constituting genocide proper in the case of targeted killings (§1) and, on the other hand, cases of genocide by ethnic cleansing (§2).

60. UN/OHCHR, The International Legal Protection of Human Rights in Armed Conflict, New York and Geneva, 2011, p.5.47. See UN Panel of Experts report, §34.

61. See Article 7(1)(e) of the Rome Statute.

62. As the crime of genocide is not only a material act, it is punishable even when it is only at the stage of agreement, incitement or attempt. See Article 3 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

63. See EDD press release and report of 13 July 2022.

64. As the crime of genocide is not only a material act, it is punishable even when it is only at the stage of agreement, incitement or attempt. See Article 3 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

65. See Article 7(a) of the Rome Statute.

66. See Krstic case, 2 August 2001, §562.

THE: MANAGER OF  
ZIGAMA CSS  
MUKAMIRA - BRANCH

RE: GUSHESHA UBURENGANZIRA KURI ACCOUNT YANGE

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kumubu amafaranga.

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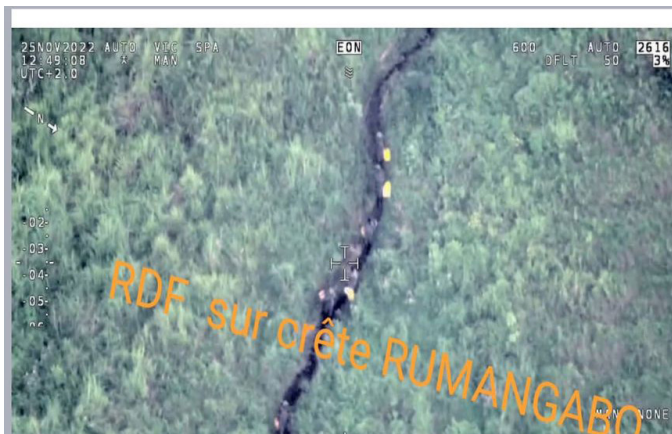
P.O. E. MUGABO  
LT Col  
CO 3rd INF BN

On 19 November 2022, RDF elements of the 71st Battalion, 503rd Infantry Brigade of the 2nd Division under the command of Lieutenant-Colonel MUGABO left in the locality of NYABANIRA/RUTSHURU the following proxies intended for the various banks for payments to members of their families



KIBUMBA 16 Nov 22, TIR Mor 82 mm PAR RDF

KIBUMBA 16 Nov 22, RDF EN Mov



## §1 . The crime of genocide by targeted killings in Kishishe

Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as, *inter alia*, the killing of members of a national, ethnic, racial or religious group with the intent to destroy it in whole or in part. In this sense, it is referred to as targeted killings.

Rwanda, through its armed forces and in support of the M23 terrorists, behaved like a genocidal force on Congolese soil by carrying out targeted killings of members of well-identified tribes or ethnic groups in the village of Kishishe between 29 and 30 November 2022. The attackers first killed more than 102 Congolese Hutus, the group that the Rwandan regime seeks to avenge at all costs under the pretext of preventing a new genocide in its country.

Indeed, one cannot repair one genocide with another on innocent people just because of their ethnicity.

The murders of 95 Nandes and 30 Hundes are also cited. These peaceful Congolese ethnic groups who have done nothing and who have lost their loved ones simply because of their cohabitation with the Hutus, sworn targets of the Kigali regime.

In view of the above, there is no longer any doubt that acts of genocide were committed on Congolese territory.

## §2. Massive displacement as an attempt at genocide through ethnic cleansing

As previously defined, ethnic cleansing, a form of genocide, was committed on Congolese territory as a result of the massive displacements that the Rwandan aggression intentionally provoked.

Indeed, there have been several cases of mass displacement of targeted Congolese populations. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), since the beginning of August 2022, nearly 20,000 displaced people have arrived in Rubare and Rutshuru Centre, fleeing the areas of confrontation between the FARDC on the one hand, and Rwandan forces and the M23 on the other 67

These clashes in Rutshuru territory have also negatively impacted the protection of civilians in the Jomba, Bussanza, Bweza, Rugari and Kisigari clusters, i.e. nearly 210,000 people, including 170,000 displaced persons and 10,335 returnees from Rutshuru and 14,420 displaced

persons and 20,785 returnees from Nyiragongo. In total, more than 60% of the displaced are living with host families, while the rest have been placed in collective housing centres and cities (churches, schools and other communal accommodation).

Taking in particular the case of more than 25,000 people, all of Congolese nationality and of a locally identified ethnicity, who are forced to flee their villages as a result of the occupation of Bunagana, the DRC concludes that Congolese genocide is taking place in its eastern part.

According to UNICEF, some 41,000 displaced children aged between 3 and 17 are currently out of school and almost 29,000 others are deprived of education because their schools are occupied by displaced people. An estimated 652 children have been separated from their parents or guardians since March 2022.

UNICEF strongly condemns the loss of innocent lives in this escalation of violence in North Kivu and calls for the protection of children. "Children and families fleeing this terrifying escalation of violence in North Kivu need safety, shelter, food and water. Children are being traumatized by the violence they are witnessing and need psychosocial care," said Jean Metenier, UNICEF's Coordinator for Eastern DRC.

## Section 5. Ecocrimes and ecocide

The DRC, like the other countries of the Congo Basin, is a sanctuary for a great diversity of flora and fauna. To ensure the preservation of this biodiversity, these countries have adopted laws that are highly dissuasive and have ratified several international conventions, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Biological Diversity.

Paradoxically, various forms of crime, including poaching, illegal trade in protected species and other wildlife products, have assumed worrying proportions in these countries. This is particularly the case in the DRC, which is listed by CITES as one of the three most problematic countries for illegal ivory trade.

This clearly suggests that there is a serious problem, not only with biodiversity law enforcement in the region, but also with the proliferation of negative forces in protected areas that are supposed to maintain biodiversity and associated ecosystem services.

67. See OCHA, 'DRC: Humanitarian Situation in Rutshuru and Nyiragongo Territories - Situation Report Number 8 - 1 to 23 August 2022', 24 August 2022.

68. OCHA, 'DRC: Humanitarian Situation in Rutshuru and Nyiragongo Territories', Situation Report #8, 23 August 2022.

69. See Radio Okapi, North Kivu: humanitarian missions on the Rutshuru-Bunagana axis suspended (OCHA), 15 June 2022.

70. UNICEF press release, 25 June 2022.

71. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Washington, 3 March 1973, as amended in Bonn, 22 June 1979.

72. SC62 Doc. 46.1, Rev.1, <http://cites.org/fra/com/sc/62/F62-46-01.pdf>

The network of protected areas in eastern DRC comprises several categories of in-and-ex-situ protected area management, including national parks, nature reserves, hunting estates and reserves, integral reserves of flora and fauna, and zoological and botanical gardens. This is the case of the Virunga National Park (PNVi), the Tayna Nature Reserve (RNT), the Sarambwe Nature Reserve (RNS), the Rutshuru Hunting Domain (DCRU), the Zoological and Forest Reserve in the Monts Homas Region (RZFIH), the Watalinga Hunting Domain (DCRWT), the Ruwenzori Hunting Domain (DCRW), the Butahu-Hululu Total Hunting Reserve (RCTBH) and the Kisimba-Ikobo Primate Reserve (RPKI).

Unfortunately, many of the territories hosting these protected areas and nature reserves are currently under the control of the M23/RDF, and under direct or indirect threat, and are suffering significant losses in terms of fauna, flora and associated ecosystem services. These ecosystems are already highly vulnerable due to the threats and pressures resulting from more than two decades of occupation by the same negative forces and refugees.

In the context of the ongoing aggression, the RDF and M23 occupy a significant part of the VNP complex, which is a World Heritage Site and has several other protected areas and nature reserves within it. This occupation by the M23/RDF accelerates the degradation of natural habitats and contributes to the disappearance of key fauna and flora species: "Ecocide". In a statement dated 21 July 2022, the DRC government denounced the indifference of the international community and international partners. The Minister of Tourism stated that "if we have come to communicate today, it is to denounce our neighbours who are collaborating with us in scientific exchanges concerning the conservation of species and protected areas, but who at the same time are destroying the natural habitat of the mountain gorillas." According to the Minister, the occupation of villages by M23/RDF terrorists has also led to the massacre of eco-guards and the destruction of several development projects aimed at protecting the fauna of the PNVi, including the construction of hydroelectric dams, the Rwanguba power plant and two projects in Rutshuru and Bunagana.<sup>73</sup>

The official report of the Institut Congolais pour la Conservation de la Nature (ICCN) and several other corroborating sources underline incidents of destruction of natural habitats, poaching, forced stoppage of integrated development projects, impact on tourism, etc., due to the ongoing activism of the Rwandan-backed M23 in the Protected Areas and other nature reserves of the Eastern DRC network. These serious attacks and damage to the ecosystem in the context of the Rwandan aggression are environmental crimes constituting war crimes under Article 8 paragraph 1 (b,iv) of the Rome Statute of the ICC. The alleged perpetrators of these crimes, as well as their sponsors, should be held criminally responsible.

### § 1 On habitat destruction and poaching

The official ICCN report and several other corroborating sources have reported the following facts which illustrate the frequency and intensity of ecological damage due to the activities of the M23 in the protected areas of the eastern part of the DRC network, which may constitute crimes against the environment (ecocide):

- The PNVi was the victim of a violent attack on the morning of Tuesday 16 August 2022 on the construction site of the new Rwanguba hydroelectric power station, in the territory of Rutshuru (North Kivu). The two explosive devices caused damage to the park's fauna and flora, ICCN said in a statement. The attack involved heavy artillery fire in the middle of the site, which includes residential facilities for workers and construction workshops.

- Civil society organisations report that M23 activities in these protected areas have several consequences for mountain gorillas. These include the exposure of the gorillas to crossfire from the belligerents and other explosive devices; the psychological trauma linked to the detonation of heavy weapons; and the disorderly migration of these animals, which flee in all directions and are exposed to poaching, not to mention the risk of exposing this species to possible epizootics that could decimate it.

- To date, there are at least twenty-seven gorillas grouped into three families, one of which is already trying to leave for the rainforest.

73. "DRC: Government denounces negative impact of M23 rebels on protected areas", XINHUANET, 22 August 2022.

74. Issue of occupation of M23 rebels and other foreign armed groups on paralysis of biodiversity conservation activities in World Heritage sites and other sites, Technical Report, ICCN 2022.

75. <https://www.radiokapi.net/2022/08/18/actualite/securite/une-attaque-dartillerie-lourde-du-m23-fait-des-degats-au-parc-des>

76. <https://www.desknature.com/2022/06/17/rdc-m23-cri-dalarme-pour-demilitariser-la-region-des-virunga-afin-de-sauver-les-gorilles>

One of them is already trying to leave for the impenetrable Bwindi forest in Uganda. "The threat to the Sarambwe gorillas is imminent. Not only are they in danger of losing their natural habitat, but they are also being hunted," says Jean-Paul Kambere, the most influential tracker who has been monitoring the species for 15 years. If nothing is done soon, the Sarambwe reserve will be a shadow of its former self. "What is still very frightening is that fires have recently been set in the reserve and have burnt a considerable area within the reserve itself, leaving the gorillas to flee," adds CEPED.

- The setting up of a sawing station in the Sarambwe reserve by unknown perpetrators means that the gorillas are no longer very visible in this reserve and the signs of their presence are no longer widespread, says the chief tracker. He adds that when following the gorillas, he often finds traps that he destroys directly in his path, but also blood, an indication of poaching in this sector.

- ICCN notes the resurgence of poaching in the PNVi following M23 incursions. The Congolese nature conservation authority reports that several traps have been discovered in this world heritage site.

- Currently, the distribution sites of ten mountain gorilla families are occupied by M23.

- These armed groups have led to the deforestation of 868.6 km<sup>2</sup> transforming a good part of the park's forest area into shrubby savannahs.

- The gorilla monitoring sites are systematically occupied by the M23. These are Ruvumu, Bugina, Kanyabusoro, Kabina, Rishago, and Rwanguba.

- Several villages bordering PNVi in the Jomba, Kisigari and Rugari clusters are currently occupied or under threat from M23.

- The mountain gorilla sector in the southeastern part of the PNVi, for example, which straddles Rwanda and DRC, has been the subject of intense fighting since October 2021.

- The Virunga complex is a veritable biotope for primates in the eastern part of the DRC. However, armed groups, in particular the M23, have been accused of illegal logging in the

Virunga complex, and this logging is said to have an impact on the destruction of the chimpanzees' ecological niche, as well as on the ecosystem imbalance.

- Timber trafficking has also fuelled security threats from organised criminal groups and violent extremist organisations including the M23. These armed groups are linked to Tanzania-based trafficking networks linked to the Ahlu-Sunnah Wa-Jama and other militant groups in Mozambique, for example, which used to earn about US\$2 million a month from illegal logging.

- The destruction of natural habitats and the development of human activities are causing the decline of hundreds of animal and plant species. Unfortunately, the IUCN Red List of Threatened Species continues to grow each year after an update. This is the case of the mountain gorillas, a flagship species, threatened with extinction, and other emblematic animal species of the country, which have almost disappeared.

- The armed groups, according to their modus operandi, do not resort to poaching for subsistence reasons, but rather for economic or pecuniary reasons, and it is in this context that they indiscriminately poach key species of great economic value, including elephants for their



*A park guard and a mountain gorilla victim of the war caused by the M23/RDF terrorists*





Virunga National Park, a UNESCO World Heritage Site, the scene of M23/RDF terrorist attacks

ivory, giant pangolins for their scales, and many other species.

Le The poaching of elephants in the protected area network in eastern DRC is a source of funding for the M23. The M23 obtains food, weapons and ammunition from the ivory trade and other illegal trafficking.

### § 2 Integrated development projects forced to a standstill

The DRC has so far respected its commitments to conserve the Virunga National Park as a world heritage site by encouraging a win-win public-private partnership for the socio-economic development of the local population, which led to the signing of the agreement with the Virunga Foundation. The M23 incursions jeopardise the country's efforts to conserve this world heritage site.

In addition, all integrated development projects have come to a halt due to M23's military activities in the Virunga National Park. These include the Rwanguba (28 MW), Luviro (14.6 MW), Mutwanga (1.2 MW), Chocolate Factory and Soap Factory projects. This resulted in the unemployment of at least 10,000 active employees.

### § 3 The impact on tourism

Several development projects implemented by the ICCN for the benefit of the population have been paralysed as a result of M23 activism. These include environmental, energy, tourism and agricultural projects.

The ICCN requested on Saturday 20 August 2022, the security of these facilities and its staff to enable it to continue its mission, which is among others to promote tourism. The clashes between the FARDC and the M23/RDF terrorists have a considerable impact on the Virunga National Park, but also on the socio-economic fabric of the region;

Ecoguards who are supposed to ensure the protection of key species and tourists are victims of assaults and killings; ICCN reports the loss of ecoguards, who were killed in targeted M23 attacks. More than thirty cases of assassinations and intentional killings by the M23 have been documented in the villages of Ruvumu, Kashari, Bikenge, Buharo, Tshengerero, Biruma and Katale.

Closure of the four tourist sites in PNV, namely: Gikeri, Nyiragongo, Rumangabo and Bukima. This closure causes a serious loss of economic output from the tourism sector.

### § 4 Legal implications

The ongoing Rwandan aggression has also caused environmental damage due to the impairment of the integrity and/or quality of the natural environment which may constitute environmental crimes or aggravated forms of ecocide, particularly under international or national legal instruments which prohibit environmental damage during armed conflict.



These include the UN Convention on the Prohibition of Military or Hostile Use of Environmental Modification Techniques (1976), which prohibits environmental modification techniques with widespread, long-term or severe effects for military purposes. More explicit is the Additional Protocol I to the Geneva Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts which prohibits the use of methods and means of warfare which may cause widespread, long-term and severe damage to the natural environment.

In any event, the prohibition of environmental damage in international law is said to have a customary basis in the belief that it constitutes a set of obligations essential to the safety of the planet and the survival of humanity.

In the case in point, the attacks on wildlife and plant species should be noted.

Indeed, on Tuesday 16 August 2022, the attacks against the occupants in the Virunga National Park had negative impacts on the fauna and flora of the park, as denounced by the Congolese Institute for Nature Conservation (ICCN) in a statement.

The attackers took advantage of this to illegally exploit resources, resulting in the destruction of gorilla habitat by occupying the distribution sites of 10 inhabited mountain gorilla families and the deforestation of 868.6 km<sup>2</sup> of shrubby savannah.

Under Additional Protocol I to the Geneva Conventions of 1949, these acts violate the prohibition on the use of means or methods which may harm the natural environment.

Furthermore, the attack on the nature park itself is in itself a violation of international conventions, particularly the 1972 UNESCO Convention on the World Cultural and Natural Heritage, as the park is a protected UNESCO heritage site.

Similarly, this attack is contrary to the above-mentioned Additional Protocol I to the Geneva Conventions of 1949, which prohibits means of warfare that are likely to cause widespread, long-term and severe damage to the natural environment. Thus, these acts are also punishable as war crimes.

The law on the fundamental principles of the environment of the DRC also prohibits any activity likely to harm the environment in protected areas and punishes any attack against these areas. Such attacks will therefore be punished under Article 83 of the Environmental Law, which states that 'anyone who intentionally directs an attack knowing that it would cause widespread, lasting and severe damage to the environment, which would be excessive in relation to the overall concrete and direct military advantage expected, shall be punished in accordance with the relevant provisions of the Congolese Military Penal Code'.

Several prosecutions and convictions were carried out by the military courts of North Kivu.

80. Art. 1, para. 1.

81. Art. 35 para. 3.

82. H. Hellio, "de la valeur partagée de la sûreté de la planète à la répression internationale de l'écocide. A new quest", in L. Neyret (ed.), *Des écocrimés à l'écocide. Le droit pénal au secours de l'environnement*, Brussels, Bruylant, 2015, p. 116.

83. See <https://www.radiookapi.net/2022/08/18/actualite/securite/une-attaque-dartillerie-lourde-du-m23-fait-des-degats-au-parc-des>

84. A rare and endangered species. See <https://www.desknature.com/2022/06/17/rdc-m23-cri-dalarme-pour-demilitariser-la-region-des-virunga-afin-de-sauver-les-gorilles>

85. See Article 8 §2, b.iv of the Rome Statute.

86. Articles 33 and 83.

## Kishishe massacre, the height of M23/RDF horror

"They wanted to teach a lesson to villagers for their resistance and support to their enemies", said one of the survivors.

Some of the attackers spoke English. This tends to confirm the participation of RDF elements, alongside the M23 terrorists, in this heinous massacre. They came with one objective: to kill, slaughter, rape and pillage. At least 131 people were killed, according to MONUSCO's preliminary investigation, and 227 according to evidence gathered by local communities. It will be difficult, if not impossible, to know exactly how many people were killed during this punitive expedition.

These acts of reprisal against the civilian population were perpetrated on 29 and 30 November 2022, in Kishishe and Bambo, two villages in the Rutshuru region of North Kivu province in the Democratic Republic of Congo.

The victims were arbitrarily executed with bullets or knives. Eight people were also shot and wounded and 60 others abducted. At least 22 women and five girls were raped.

The violence was part of a widespread campaign of killings, rapes, abductions and looting against these two villages in Rutshuru territory in retaliation for clashes between the M23 and the Forces Démocratiques de Libération du Rwanda (FDLR - FOCA) and the armed groups Mayi-Mayi Mazembe and Nyatura Coalition des Mouvements pour le Changement.

The preliminary investigation team interviewed 52 victims and direct witnesses, and various other sources who reported that from the evening of 29 November 2022 and throughout the day of 30 November 2022, members of the M23 attacked the villages of Kishishe and Bambo, breaking down doors, shooting at civilians, looting property and ransacking houses.

Witnesses also said that most survivors were prevented by the M23 from leaving the ransacked villages. Elements of the M23 reportedly buried the bodies of the victims themselves, in what may have been an attempt to destroy the evidence.

Even the MONUSCO investigators were unable to access these villages because of the M23's obvious refusal to let any inconvenient witnesses of this horror imposed on a population that had said no to the occupying forces.

This massacre is reminiscent of several others committed recently, including that of Kiwanja, from 4 to 5 November 2022, where 150 civilians were killed, and that of Munindo, Ruseka and Bugina between 15 and 30 November 2022. The localities of Rugari, Kisharo and Ntamugenga were also affected by this unspeakable barbarity.

This massacre, like several others committed in the past, will not go unpunished. Thus, at the end of the Council of Ministers of 2 December 2022, at the request of the President of the Republic, the Minister of State, Minister of Justice and Keeper of the Seals ordered the Auditor-General to open an investigation.

At the same time, she also asked the International Criminal Court (ICC) to open an investigation so that those responsible for these war crimes and genocide could be tried.

Beyond the day of national mourning observed in memory of the victims, the Government will accompany the families during the investigations and the entire judicial process. The unjustly massacred compatriots deserve dignified burials in honour of their memories, and their families have the right to just justice and appropriate reparation.



A sample of RDF weapons seized at the Bunagana theatre of operations in June 2022

## CHAPTER III: URGENCY OF IMPLEMENTATION OF THE RESPONSIBILITY OF RWANDA, MEMBERS OF ITS ARMY AND THE M23, PERPETRATORS OF VARIOUS CRIMES



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This is not Rwanda's first act of aggression on Congolese territory. When such acts were committed between 1998 and 2000, and then during the first act of the M23 between 2012 and 2013, Rwandan support to this terrorist group was mentioned.

In view of the established facts of violation of the obligation of non-aggression under international law and the proven responsibility of Rwanda as well as that of the various individuals involved as reported yesterday and today, the DRC notes that there is no reason to leave any of these acts unpunished, given their gravity.

In the following paragraphs, we will indicate the various sanctions to which the international community, and the United Nations in particular, must resort, both with regard to the international responsibility of the Rwandan state (Section 1) and the criminal and individual responsibility of its nationals and the Congolese who joined the M23 terrorist movement (Section 2).

### Section 1: Measures in response to the illegality of the Rwandan aggression

As a victim of the Rwandan aggression, the DRC is entitled to demand reparation from Rwanda for the damage caused to its territory (§1) and to call upon the multilateral intervention of the United Nations, in particular the Security Council, to demand or impose the execution of the measures (§2).

#### **§1 . Immediate end to the Rwandan occupation and guarantee of non-repetition**

In the relationship between the responsible State and the State injured by an internationally wrongful act, the subjective right of the latter is the corollary of the obligation of reparation of the former.

In this case, reparation must be understood in the broadest possible sense and must be adapted to the international obligation breached in the case. This includes the cessation of the wrongful conduct and includes restitution in kind, compensation, satisfaction and guarantees of non-repetition.

From the above, the DRC demands from Rwanda the cessation, unconditionally and without delay, of its repeated acts of aggression on its territory. The cessation of the occupation of Congolese territory is urgent in order to stop the consequences of the illicit behaviour, in accordance with the obligations arising from the Charter of the United Nations and the Constitutive Act of the African Union, with a view to fostering good relations between the two States and promoting peace in the Great Lakes region.

It also requires Rwanda to provide guarantees of non-repetition, which will consist of a commitment by Rwanda to stop aggression against the DRC and to respect the basic rules governing relations between States and peoples, not forgetting reparations to the victims of crimes committed. The proper fulfilment of these commitments should be guaranteed by the international community.

87. See Progress Report of the Group of Experts on the Democratic Republic of Congo, United Nations, 21 June 2012, and Final Report, 15 November 2012.

88. See in particular the Mapping Exercise Report on the most serious violations of human rights and international humanitarian law committed between March 1993 and June 2003 on the territory of the Democratic Republic of the Congo, United Nations, August 2022.

89. C. DOMINICE, L'ordre juridique international entre tradition et innovation, New International Edition, Part III, pp.261-316.

90. See United Nations, Seventh Report on State Responsibility, CIDA, vol. II, 1995, p.8.

## §2 . Call for coercive measures by the Security Council

In order to sanction the acts attributable to Rwanda, the DRC calls for exemplary coercive measures from the Security Council, as is the practice within this United Nations body in such cases.

Attached to the ideals that guide the action of the Nations, the DRC invites the UN Security Council to note the aggression and the breach of peace by Rwanda and to adopt appropriate measures to prevent it from resorting to reprisals in order to preserve its territorial integrity.

The Security Council should determine, on the basis of Article 39 of the Charter, the existence of a breach of the peace and, more specifically, acts of aggression resulting from Rwanda's bellicose behaviour through its direct and indirect participation in the ongoing security crisis in the eastern part of the DRC. If there is still any doubt, in the face of what is increasingly evident today, the DRC asks the Security Council to examine the latest report of the experts on the security situation in the East of the DRC, experts appointed by the Council, and the counter-dictory hearing with Rwanda so that it can see the truth of the facts, It must be convinced, once and for all, of the guilt of the Rwandan leaders and draw all the necessary consequences, in particular by imposing rigorous sanctions, including those provided for in Articles 41 and 42 of the Charter, to repair the damage caused.

As the President of the Democratic Republic of Congo, Félix Antoine Tshisekedi Tshilombo, so aptly put it on the rostrum of the 77th ordinary session of the UN General Assembly on 20 September last (2022), "to proceed otherwise (not to examine the experts' report) would be on the one hand, encourage Rwanda to continue its aggression and crimes in the DRC and, on the other hand, feed the legitimate suspicion of the Congolese on the impartiality of the UN as well as the complicity of some of its members in these crimes." Moreover, the Security Council would be dealing a heavy blow to the fight against impunity, which the world organisation has always declared itself to be a champion of.

It would commit a serious, morally unacceptable and reprehensible offence under international law by refusing to engage in this exercise, which is dictated by the duty to do justice and to safeguard international peace and security.

In the same vein, on the basis of Chapter VIII of the UN Charter and since in their respective public statements, the UN, the African Union, the East African Community, the Southern African Development Community, the European Union and the bilateral partners of the DRC have unanimously condemned the attacks of the Rwandan-backed M23, they have also supported the Nairobi and Luanda peace processes. All of them should do more to mount pressure on the Rwandan authorities and the M23 terrorists to meet, without condition or delay, their demands, which they have so far received with contempt and arrogance.

The sluggishness of the reaction of the international and African institutions in charge of maintaining international peace and security, or even their immobilism and indifference, will only allow the crisis to continue and push the DRC to use its right to self-defence in accordance with Article 51 of the UN Charter, in particular by resorting to retaliatory measures and actions dictated by the circumstances against Rwanda, which will undoubtedly ignite the entire Great Lakes region.

In any case, the Head of State of the DRC was clear on this subject in his intervention at the 77th session of the UN General Assembly in the following terms: "Whatever the case may be, I unequivocally reaffirm on this rostrum of the highest international body in charge of managing world affairs the determination of the Congolese people and its leaders to defend their territorial integrity, independence and the sovereignty of their country, to the point of ultimate sacrifice, while respecting international law and the commitments made within the international organisations of which it is a member".

91. See United Nations, Press release of 29 June 2022

92. See UN/Security Council, Summary of the 9081st meeting, Security Council considers situation in DRC, dominated by worsening insecurity in the east and tensions with Rwanda, 30 June 2022, p.14.

## Section 2. The repression of the various crimes committed in the context of the Rwandan aggression

The need to repress the crimes identified in this White Paper requires a distinction to be made between the nationality of those who perpetrated them, depending on whether they are Rwandan (§1) or Congolese (§2).

§1 . The creation of an international criminal court for the Congo and the prosecution of Rwandan individuals who are criminally responsible for the crime of aggression and other crimes under international law

With regard to the facts attributed to the Rwandan state, individual and criminal responsibility should be established in terms of the crime of aggression, war crimes, crimes against humanity, genocide and environmental crimes. These crimes, which affect the entire international community, must not go unpunished and their punishment must be effectively ensured by the Congolese courts as a priority, and in a complementary manner by the ICC.

While reserving the right to prosecute the Rwandan perpetrators of these crimes by virtue of the territorial jurisdiction of its judicial authorities, the DRC deplors the fact that, due to both political and legal difficulties, certain individuals are in a permanent impunity regime depending on the nature of the crime and the status of the perpetrators. And that the accomplices of the current aggression are sanctioned by the United Nations.

It is important that Rwanda stops harbouring the perpetrators of crimes on its territory.

Given that Rwanda is not a party to the Rome Statute, the DRC demands the urgent creation of an international criminal jurisdiction for the Congo with jurisdiction to judge all crimes committed by Rwandans, civilians and soldiers,

authorities and subordinates, on its territory in the Congo in the context of the operations described in this White Paper.

The DRC wonders how many more victims of international crimes resulting from the wars imposed on it will be needed for the international community to realise the necessity of creating this jurisdiction, as has been the case elsewhere, when it already counts thousands in the past and hundreds in the current aggression. This indifference and trivialisation of international crimes deserve to be redressed for the triumph of justice over injustice.

## §2 . On the call for the complementarity of the International Criminal Court in the prosecution of M23 members of Congolese nationality

Unlike Rwanda, the DRC is a party to the Rome Statute of the International Criminal Court. Therefore, with regard to the members of the M23 who are Congolese nationals, while reserving its priority in the prosecution of the crimes they have committed on its territory, the Congo reminds the Office of the Prosecutor at the International Criminal Court that, by virtue of the complementary jurisdiction recognised by the Court, it can take up their cases when they try to escape Congolese justice by going to Rwanda to seek shelter. For these criminals, the material, personal and territorial criteria for the ICC's jurisdiction are met.

The DRC, aware of the important role already played by the Court in this regard in the past, takes this opportunity to congratulate the Prosecutor of this Court for his action with regard to similar crimes committed in other contexts and guarantees him every form of collaboration in the investigations that will be opened against the individuals listed in the table below.

## LIST OF M23 COMBATANTS SANCTIONED BY THE UN<sup>93</sup>

N°	NO. NAME, SURNAME & FIRST NAME	RANK	FUNCTIONS
1	BAUDOIN NGARUYE	Former Lieutenant-Colonel	
2	ERIC BADEGE	Colonel	
3	KAINA INNOCENT	Former Lieutenant-Colonel	
4	JEAN-MARIE LUGERERO RUNIGA		
5	LAURENT NKUNDA (CNDP)	General	
6	MAKENGA SULTANI (Alias NZIRAMAKENGA Emmanuel)	Colonel	Chief ARC/M23
7	YOUSSOUF MBONEZA	Colonel	

93. <https://www.un.org/securitycouncil/sanctions/1533/materials/summaries>



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## CHAPTER IV: THE INCONSISTENCY OF RWANDA'S ALIBIS TO JUSTIFY ITS MILITARY ACTIVITIES IN THE DRC AND ITS POLICY OF DENIAL AND VICTIMISATION

Several alibis are often put forward expressly or tacitly by Rwanda whenever it is accused of undermining the territorial integrity and sovereignty of the DRC.

Indeed, the Rwandan authorities invoke self-defence and preventive war against attacks allegedly coming from the rebels of the Democratic Forces for the Liberation of Rwanda, FDLR, allegedly backed by the Armed Forces of the DRC, FARDC (section 1). They also allege the protection of their country's economic interests, which would be harmed by the DRC (section 2), as well as that of the Rwandan-speaking population, "the object of ethnic hatred and xenophobia in Congo" (section 3).

These unfounded allegations are part of a global strategy of disinformation and manipulation of international opinion against the backdrop of over-exploitation of the Rwandan genocide of April 1994, unanimously condemned by all nations of the world, in order to attract the commiseration and indulgence of decision-makers within international organisations and thus benefit from the absolution of their crimes in the DRC (section 4).

### Section 1: The illegality of a preventive war and the untenable argument of the FDLR

In a statement supposedly justifying Rwanda's attitude towards the DRC, President Kagame told his country's parliament that,

"We don't understand how the FARDC and UNOCI can co-operate with the FDLR when they are genocidal." Similarly, the head of Rwandan military intelligence in a public statement suggested that "the FARDC and the FDLR dressed in FARDC uniforms are colluding to attack Rwanda."

Rwanda reaffirmed these statements officially before the Security Council through its representative at the meeting of 30 June 2022. Thus, for Rwanda, waging war on the DRC would be a way of preventively defending itself against the threat that the FDLR would pose to its security.

Such an argument, which is no longer in its first attempt, is put forward without any legal or factual basis. Not only has the DRC made significant and continuous efforts that have led to the gradual elimination of these negative forces (the FDLR), which have been totally decapitated to date, but also, despite this, the Congolese people, more than any other in the Great Lakes region, have suffered significant material damage and loss of life as a result of the FDLR's presence on their soil, which has never been repaired and which will continue to have a lasting impact on them. The FARDC fought the FDLR rebels, if not more, at least as much as the Rwandan army.

94. Between 2009 and 2013, Rwanda, in the same context of the M23, was already making these accusations



**Table 1:  
FDLR neutralisation operations by the  
FARDC between 2009 and 2020**

Name of operation	Periods	Neutralised FDLR combatants (Dead)	Combatants, spouses and family members repatriated to Rwanda
1. Operation Umoja Wetu	20 January-25 February 2009	153 FDLR combatants	103 FDLR combatants repatriated and 5,000 volunteers for disarmament
2. Operations Kimia II and Amani Leo	March 2009-2012	1210 FDLR combatants	342 FDLR combatants repatriated, including 194 from Kisanagani; 82 from Kanyabayonga and 66 from Walungu.
3. Operations (not fully identified)	January 2015 December 2018	1016 FDLR combatants	471 combatants, including 8 FDLR cadres repatriated from Angenga

**Table 2  
Joint FARDC-RDF operations**

Periods	Number of combatants neutralised or killed	Combatants and dependants (spouses and children) repatriated
September 2019 April 2020 and April 2020 February 2022	338 FDLR, CNRD, RNC/P5, RUD-Urunana, FPPH combatants killed, including the leaders of these different factions, in particular the self-proclaimed General Sylvestre Mudacu-mura (FOCA), Wilson Iratega (CNRD), Colo-nel Jean Michel alias Afrika (RUD) Colonel Anudi (CRAP), etc.	650 combatants repatriated, including 407 from Bukavu, 42 from Bugarama, 201 from Goma;  2271 repatriated dependants, including 281 single children;  430 voluntary returns.

Indeed, in his analysis published on 17 August 2022 by the Congo Study Group, Jason Stearns rightly states: "It is dishonest for Rwanda and the diaspora to suggest that the rise of M23 was a response to the FARDC/FDLR coalition. Such false equivalencies are not conducive to a constructive dialogue."

Several FARDC operations between 2009 and 2020 have neutralised the latter (see Table 1). In addition to these operations carried out by the FARDC, there are operations carried out jointly with the Rwandan army (see Table 2).

Indeed, in view of the results obtained and the victories achieved by the joint special operations of the FARDC and RDF against the FDLR and the CNRD, the armed forces of the DRC and Rwanda had concluded that the detrimental capacity of these two negative forces had been drastically reduced and that they no longer represented a threat to Rwandan power and security. On the contrary, they have remained a threat to Congolese civilians who pay the highest price for the presence of these negative forces. It is dishonest to present these residual forces as being capable of undermining Rwanda's territorial integrity.

Yet, despite the sacrifices made by the DRC and its goodwill, it has never received reciprocity from Rwanda. None of the elements of the M23 terrorist group, the CNDP and the RCD that fled to Rwanda have ever been repatriated to the DRC. On the contrary, Rwanda has armed the remnants of these terrorists who were routed by the FARDC and has encouraged them to reconstitute themselves as troops for use in its ongoing operations of aggression.

It is therefore astonishing that in the wake of the ongoing Rwandan aggression, the Rwandan government declares that the DRC is militarily supporting the FDLR, in order to justify its support to the M23 terrorist group and its instrumentalisation or incursion. This rhetoric is not new but does not fit with the reality on the ground, as evidenced by the above and other related revelations.

The FARDC does not support or collaborate with the FDLR, whose leadership has been decapitated as a result of the joint operations, as noted above.

The remnants of these negative forces on Congolese territory have become simple bandits and road blockers, who take hostages and rape Congolese citizens, representing a threat to the DRC rather than to Rwanda.

This is the occasion to remind the international community that in April 2019, President Félix Antoine Tshisekedi, on an official visit to Kigali, had agreed with his counterpart in Rwanda, President Paul Kagame, to put in place mechanisms to revive cooperation between the two countries, particularly in the area of security.

In this context, the heads of the intelligence and security services of the DRC and Rwanda met in Kigali in May 2019 for security discussions and decided, on the one hand, to create joint intelligence teams in Bukavu/DRC and Rubavu/Rwanda, as a mechanism of trust, exchange of intelligence and information, and, on the other hand, the inventory of common security threats, including the FDLR and all its factions for Rwanda and the Ex-M23 and Ex-CNDP for the DRC.

In the end, any lucid and truthful mind should ask itself, together with the Congolese people, the question of which FDLR are still being talked about by the Rwandan leaders and who are collaborating with the Congolese military officers not otherwise identified by the accusers?

## **Section 2. On the false undermining of Rwandan interests by the DRC and the ruse to plunder its wealth**

General James Kabarebe, the Rwandan President's special security advisor, stated that Rwanda does not accept the paving of the Bunangana-Rutshuru-Goma road section on the grounds that it would be detrimental to Rwanda's interests, without even demonstrating what this detriment would be.

Indeed, it is astonishing that Rwanda should feel threatened by the Congolese government's concern for development when it negotiates the construction of roads of national interest. According to a study by the Centre for Strategic Studies in Africa, Rwanda's behaviour is dictated by the fact that it considers that the project in question will benefit the Ugandans and not the Rwandans, thus reviving memories of the war that the two countries have waged on Congolese territory in the past.

95. Afridesk, 'Faut-il parler des FDLR à chaque fois qu'on évoque le M23?', in Groupe d'étude sur le Congo, 19 August 2022.

96. Idem. in the same sense Rémy Kasindi, 'RDC: voici pourquoi la théorie rwandaise d'un soutien de l'armée congolaise aux FDLR est démodée', in Tamtam News, 15 August 2022.

97. See Centre for Strategic Studies of Africa, op. cit, passim



Screenshot of the address to the Security Council of Mrs. BINTU KEITA, Head of Monusco on the aggression of DRC by the M23/RDF

It is therefore not surprising that, in an attempt to distract the public, Rwanda is actively using the M23 to occupy the territory of Bunagana and other localities on the planned road axis on the DRC-Uganda borders.

This gross lie of the Rwandan authorities cannot be surprising. It is part of their devious desire to develop their country with natural resources plundered from the DRC. This road, which extends to the Rwandan border through Kanyabayonga, covers a lucrative mining belt containing some of the world's largest deposits of coltan, the mineral used in almost all electronic devices. There is ample evidence to suggest that rebel factions supported by Rwanda in particular - including the M23 - control strategic but informal supply chains from the Kivus' natural resources to Rwanda.

In addition, Rwanda has also been mentioned several times in UN reports as having profited from the smuggling of minerals from the DRC to finance rebel groups and to support its own exports. For example, large quantities of coltan produced in the DRC (about 40% of world production) are smuggled to Rwanda and exported from the Congo for the benefit of Rwanda, which has become, through fraud, the third largest producer of coltan of which it has only limited known deposits.

There is no doubt that this illicit trafficking of the DRC's natural resources threatens peace, security and stability in the Great Lakes region, as the USA recognised when it sanctioned the crooked traffickers in this chain on Thursday 17 March 2022, including Alain GOETZ. It is even indicated that the M23 terrorists are working in connection with certain mining companies in the Kivus for the benefit of their sponsor, Rwanda, which is the real beneficiary of this covert economic war.

### Section 3. The alleged hate speech of the Congolese population against Rwandan-speaking people

In the same vein, the Rwandan government has elaborated an argument on the development of an alleged hate speech of the Congolese population against Rwandophone speakers on the territory of the DRC. This argument is illustrated by the diplomatic note that the Rwandan government sent to the DRC government on 10 June 2022, in which the Rwandan Minister of Foreign Affairs and International Cooperation claimed that "the DRC government and officials of the Congolese security forces had incited the population to commit acts of violence against Kinyarwanda-speaking people". This strategy aims to circumvent the real motivations for the war. The cause of the general anger in the Congolese community is linked to the new Rwandan aggression and not to an alleged anti-Rwandan discourse.

98. Idem

99. See Zoom-eco, "DRC: Alain GOETZ and companies sanctioned by the United States for illicit gold trafficking" 18 March 2022

100. See Zoom-eco, "tribune-connexion avérée entre SMB et le M23 dans le Masisi", 14 June 2022

This allegation is false. On the ground, apart from a few isolated cases of assault that were quickly brought under control and repressed (the perpetrators having been arrested), the DRC government has worked to persuade the population not to fall into the trap and play the game of the Rwandan government and its M23 affiliates. For example, at the highest level of the State, the President of the Republic, Félix Antoine TSHISEKEDI TSHILOMBO, in his communications to the Council of Ministers, insisted on the imperative of peaceful coexistence between the communities living in the DRC.

For its part, Congolese civil society has made its voice heard as firmly as the public authorities, particularly through the statements and positions of the Catholic Church, the Church of Christ in Congo, the revival churches and human rights associations, condemning all attempts to make hateful, ethnic or xenophobic comments against a part of the Congolese population and calling on all Congolese to show national unity. Indeed, in his statement to the fifty-eighth meeting of the Council of Ministers on 17 June 2022, the Head of State asked "Congolese men and women to respect the established order and to avoid falling into the trap of xenophobia. The faces of some or others must not open the way to threats or discrimination, while at the same time urging the Deputy Prime Minister, Minister in charge of the Interior, to follow this issue very closely.

At the fifty-ninth meeting of the Council of Ministers on 24 June 2022, the Head of State "once again insisted on the obligation not to sink into the temptation of the enemy by avoiding any speech, any act or any attitude that would amount to hatred, discrimination, stigmatisation and xenophobia. To commit these deplorable acts would give way to the enemy who has always played at victimisation, to make it a profitable business in international decision-making bodies". He went on to encourage the Congolese people to continue to prove to the world that they remain a plural, welcoming, peaceful and hospitable people. For the Democratic Republic of Congo is and will remain a Nation, a breeding ground for peaceful cohabitation between communities in this richly diverse way of living together which has always been its strength.

In truth, the Rwandan leaders are seeking to divide the Congolese people and to crack the national cohesion that has been consolidated around the defence of the territorial integrity and sovereignty of the DRC, which they have violated. As for the alibi of the FARDC's "collaboration" with the FDLR, they raise the spectre of genocide to attract the world's sympathy and condemnation of the DRC and to have their crimes condoned in that country. The Congolese people are not genocidaires.

#### Section 4. Rwanda's insidious denials

At the Security Council meeting of 29 June 2022, as in its usual strategy of denial, disinformation, concealment and cover-up, Rwanda claimed to denounce the "baseless claims by the DRC's political and military leaders that its country supports the M23, recalling that any such allegations should be reported to the appropriate verification mechanism for independent investigation". However, the images in this White Paper may well prove the contrary, in addition to the abduction of the Congolese citizen living in Gisenyi, Patrick Bala, who was the subject of an exchange with the two Rwandan soldiers arrested in the DRC.

But this is to forget that Rwanda has often opposed the submission of MCVE reports to the ICGLR Chiefs of Staff and Defence Ministers for validation.

Such is the case when, after repeated and insistent accusations by Rwanda on the presence of the FDLR alongside the Imborerakure in Burundi a few years ago, the CVEM was able to investigate freely with the participation of all its members, including those from Rwanda, which refused to sign the report indicating that it had not found any trace of the FDLR in Burundi. It will do everything to block its evolution and prevent any discussion on the conclusions of the report by the ICGLR ministers.

Would or could he change his attitude and mind today as if by a miracle. It is simply the usual strategy of Rwanda, made of subterfuge, pretence, cunning and underhandedness, the famous and usual "Talk and Fight", to advance and gain ground, to legitimise the fait accompli and then to win outright, even in defiance of the founding pacts of the universal, regional and sub-regional organisations to which it is a member, especially at the price of the blood of millions of Congolese, taking advantage of the embargo to which the Congo is subject.



*Angry demonstration of the population of Goma against Monusco.*

## CHAPTER V: RWANDA'S OBSTRUCTION OF THE PEACE PROCESS AND MONUSCO'S LACK OF ACTION

The Democratic Republic of Congo is mindful that the end of the security crisis in the east of its national territory must not be achieved exclusively by military means.

As the Russian Federation's representative on the Security Council has stated, "it is within the framework of constructive and sincere cooperation between the countries of the region that it will be possible to find a lasting solution to the problems of the region", especially the problem of the Rwandan aggression which has increased insecurity on Congolese territory.

It is in the same logic that the UN Secretary-General has launched an appeal for sincere dialogue with the support of regional mechanisms relayed by several diplomats in the Security Council. Also, the DRC is currently engaged with its aggressors in the Nairobi and Luanda peace processes.

All these peace processes are in the struggle to making progress due to systematic obstructions by the Rwandan authorities, who have never been in good faith or sincerity. At the same time, MONUSCO, whose main missions are to protect the civilian population, to maintain peace and, if not to impose it, is only marginally involved in the field to accomplish them.

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101. See UN/Security Council, Summary of the 9081st meeting, Security Council considers the situation in the DRC, dominated by worsening insecurity in the East and tensions with Rwanda, 30 June 2022, P.13



Meeting of the tripartite of Luanda for the return of peace in the East of the DRC.

## Section 1. Rwanda's obstruction of peace processes

Before denouncing Rwanda's hypocrisy in pretending to be involved in peace negotiations while it has a firm foothold in the war against the DRC, it is important to recall the various peace processes undertaken to date to resolve the security crisis in the east of the DRC and in the Great Lakes region in general.

§1. Initiatives for the return of peace and the calming of tensions in the East of the DRC. Two peace processes are noteworthy. The Nairobi process (a) and the Luanda process (b).

### a. The Nairobi process

Within the framework of this process conducted under the patronage of the Community of East African States, of which the DRC and Rwanda are all members, and facilitated by the Honorary President of Kenya, His Excellency UHU-RU KENYATTA, it was decided at the end of their second conclave on 21 April 2022 to take into account the political and military tracks in order to put an end to the insecurity in the East of the DRC, by engaging in a dialogue with all the armed groups, including the M23 and the rapid deployment of a joint regional force in this part of the country.

The political perspective is for the Heads of State in the region to reach out to armed groups in their respective countries to get them to lay down their arms and return to civilian life. Those groups that do not take up this offer will be considered as negative forces to be neutralised by the East African Community Regional Force. The political track is led by the former Head of State of Kenya, President UHURU KENYATTA.

President Félix Antoine Tshisekedi Tshilombo reached out to local armed groups, in particular through consultations on peace and security in the provinces of Ituri, North Kivu and South Kivu, extended to the leaders of the grassroots communities and to civil society.

The objectives of the political component are threefold. Firstly, to express the Head of State's outstretched hand to all his fellow citizens and communicate his call for unconditional disarmament. Secondly, to listen to the representatives of the armed groups and grassroots communities, in order to identify the political and institutional positions necessary to re-establish the confidence required to restore the authority of the state and to accompany disarmament, while recalling the intangible and non-negotiable principles of the Disarmament, Demobilisation, Community Reintegration and Stabilisation Programme (P-DDRCS), namely No systematic integration of combatants into the army, no amnesty, and priority to the reintegration of combatants into their communities of origin. Third, a warning to recalcitrant combatants. Disarmament is not optional. It is voluntary or, if necessary, forced by military force.

On the military level, it is a matter of neutralising, through the use of force, the national and foreign armed groups that have not responded favourably to the similar application of their respective leaders. To this end, it was decided to accelerate the establishment of an East African Community Regional Force to monitor and, if necessary, combat these negative forces. The military component is under the leadership of President Félix Antoine Tshisekedi.

As soon as political consultations started in Nairobi with the national armed groups, the M23, defeated in 2013 by the MONUSCO Intervention Brigade, was exhumed from its grave and, with the support of the Rwandan army, resumed attacks against the positions of the DRC Armed Forces and even against the international troops of MONUSCO, thus deliberately violating the principle of suspension of hostilities as a condition of the peace process, resumed attacks against the positions of the Armed Forces of the Democratic Republic of Congo and even against the international troops of MONUSCO, thus deliberately violating the principle of suspension of hostilities as a condition for participation in the consultations led by the Head of State of the DRC.

Despite this impediment, the political process made significant progress with the organisation of the first consultations in Nairobi from 23 to 27 April, which brought together delegates from 23 local armed groups and the team from the Kenya/DRC Joint Secretariat of the Nairobi Process. From 17 to 24 May, the Joint Secretariat also visited three provinces in the East of our country, to meet a total of 56 other armed groups and representatives of more than forty communities in Ituri, North Kivu, and South Kivu.

In fact, the strategy of the Rwandan leaders is to prevent political consultations or, at least, to delay them in order to allow the M23 to conquer more territorial space in Congo and to create a favourable balance of power in order not only to force the Congolese authorities to negotiate with this armed group on its own, but also to extend its area of influence from Rwanda to North Kivu, which, if necessary, would be proclaimed an autonomous state.

It is within the framework of this strategy of sabotage and blocking efforts to restore peace that, sensing the deployment of the East African Community's regional force, the Rwandan army hastened to support the M23 in order to attack the FARDC and seize Rutshuru and Kiwandja. The aim is to prevent this deployment and the implementation of the Luanda roadmap, which calls for an end to hostilities, the withdrawal of the M23 from occupied Congolese localities, the cessation of all support for the armed group and the return of war-displaced people to their homes.

#### **b. The Luanda Process**

As a mediator to keep contacts between the DRC and Rwanda and to report on his diplomatic efforts to immediately silence the arms in the region and rapidly establish mechanisms for dialogue between the two Member States, His Excellency Joao Manuel Gonçalves Lourenço,

President of the Republic of Angola and current Chairperson of the ICGLR, mandated by the AU at the end of the Malabo Summit of 29 May 2022, convened the first tripartite meeting on 6 July 2022 in Luanda, Republic of Angola.

At the close of this meeting, a series of concrete actions were agreed upon, including the cessation of hostilities, the immediate and unconditional withdrawal of the M23 from occupied Congolese localities, the return of displaced persons to their homes in order to restore confidence between the two states, the return of refugees from both countries, the creation of an ad hoc mechanism for the verification of reciprocal accusations between the DRC and Rwanda, led by an Angolan General Officer, and the reactivation of the Rwanda-DRC Permanent Joint Commission.

Meeting for the first time, the joint commission thus set up reaffirmed, in its press release signed by the Foreign Ministers of the two countries on 21 July 2022, the urgency of the cessation of hostilities by the M23 and its immediate withdrawal.

As usual, each time a prospect of compromise and peace appears on the horizon, Rwanda has again disrupted the implementation of this roadmap by launching, through the M23, new attacks against the positions of the DRC Armed Forces in the region of Rutshuru and Kiwandja, with the aim of taking the strategic city of Goma, capital of the province of North Kivu.

#### **§2. Rwanda's non-compliance with the Nairobi and Luanda commitments**

As demonstrated above, even as the above-mentioned peace initiatives, whose aim is the total cessation of criminal activities that exacerbate insecurity not only in the East of the DRC, but also in the Great Lakes Region in general, are underway, Rwanda's attitude has remained constant, namely: To disrupt them so that they do not succeed, with the ulterior motive of creating a perimeter of influence and a zone for the exploitation of the DRC's natural wealth in North and South Kivu.

Indeed, as a member of the East African Community, Rwanda is bound to respect both the political and military measures taken by the Community in April 2022. On the contrary, the Rwandan authorities have continued to take actions that contradict their commitment to contribute to the end of the crisis and the restoration of peace in the region. What is worse, they behave as true guarantors of the peace process and the normalisation of diplomatic relations with the DRC.

102. See Press Release at the end of the work of the Permanent Joint Commission between the Democratic Republic of Congo and the Republic of Rwanda, 21 July 2022, p.2, §3 point a.i.

Also, as soon as the political consultations initiated by the President of the DRC, Félix Antoine Tshisekedi, with the Congolese armed groups were announced, Rwanda incited the M23 to launch hostilities by attacking the positions of the Armed Forces of the DRC (FARDC) in the localities of Chanzu, Runyo-nyi and Sabinyo. And in defiance of the international community, M23 shot down a MONUSCO helicopter, killing 8 peacekeepers of Russian, Serbian and Pakistani nationality. Since then, Rwanda has not only provided the M23 with intense diplomatic support, even acting as an advocate for this armed terrorist group in the international community, but also with massive military support in terms of war material and troops, as attested by the UN experts' report on the security situation in the East of the DRC of August 2022.

Indeed, between April 2022 and the present day, the UN Panel of Experts has documented the highly visible and active presence of several Rwandan soldiers on Congolese territory who, for example, in June, helped the M23 terrorists occupy the territory of Bunagana.

Furthermore, Rwanda has ignored the Luanda roadmap agreed with the DRC under the mediation of the President of Angola, which provides for the cessation of hostilities, the withdrawal of the M23 from occupied Congolese localities, the return of the displaced population of these localities to their homes and the cessation of all support for the M23.

Thus, while the Nairobi and Luanda processes are taking place, Rwanda, which has become the mouthpiece of the M23 and hides behind this terroir organisation, is orchestrating incursions against FARDC positions to conquer other Congolese territory, particularly in North Kivu province, in total disregard of international law and of the incessant demands for the end of the criminal activities of the M23, its unconditional and timely withdrawal from occupied localities and the unconditional return of war displaced persons to their homes, as unanimously formulated by the UN Security Council, the AU, the EAC and the SADC. For more than 20 years, each time the hope of restoring lasting peace has appeared on the horizon, the Rwandan authorities have multiplied the obstacles and alibis to block this path.

This is the case of the ceasefire agreement signed by the belligerents under Angolan mediation, which should have come into force

on 25 November at 6pm, which the M23/RDF violated by attacking, on the same day, on the ISHASHA-KIWANJA-KISEGURU axis, the FARDC positions in BISHUSHA in the BWITO area, precisely in KYUMBA on the hills of KABAROZI and KITEMBE, about 30 km from KITSHANGA.

On 26 November 2022, the RDF/M23 once again violated the ceasefire by attacking FARDC positions on the KITSHANGA axis in a bid to gain a foothold in MASISI territory in order to secure control not only of the cobalt- and cassiterite-rich mining area of RU- BAYA, but also of the KIVU mining company (SOMIKIVU), which mines niobium.

This violation of the ceasefire was also observed on 29 November 2022, with the fighting between the RDF/M23 and the Mai-Mai NYATURA CMC and with the Mai-Mai APCLS in the village of KISHISHE, in the BAMBU groupement, where the RDF/M23 were trying to regain control of this locality, which they had lost a week earlier after clashes with the FARDC.

These Mai-Mai deployed between KITSHANGA and CHUMBA, groupement BISHUSHA to prevent the M23 from making an assault on KITSHANGA. Other factions of these Mai-Mai will carry out repeated attacks against the M23 between KATALE and BIRUMA, on national road number 2 and between NKWENDA and KISHARU, in the BINZA groupement.

In general, Rwanda is today the principal obstacle to the eradication of insecurity and the restoration of peace in the Great Lakes Region. Its behaviour undermines the successful and rapid completion of the efforts deployed by the other states, which further casts doubt on the effectiveness and relevance of the action of the international community in the DRC, particularly through the United Nations Stabilisation Mission in the Congo, MONUSCO.

Section 2. The ineffectiveness of MONUSCO's action

From 1999 to 2022, precisely 23 years after the peacekeeping mission was established in the DRC, almost all the reports of the UN Secretary-General on the mission, from MONUC to NUSCO, still mention numerous civilian victims of the activities of armed groups<sup>104</sup> as well as the serious errors and mistakes committed by the Blue Helmets<sup>105</sup> not forgetting all the denunciations made by the Congolese government<sup>106</sup> and civil society organisations to the point of wondering whether peacekeeping is equivalent to the deterioration of peace.

103. See above.



That is why the frustrated and bruised population, that can no longer trust the mission, swears by its total withdrawal, as in the latest "anti-Monusco" demonstrations. For them, the absence of offensive action against armed groups, including the M23, makes it lose its raison d'être. The inaction of the UN mission is interpreted as a desire to prolong the conflicts and their suffering for the greater personal benefit of the Blue Helmets<sup>103</sup>, despite the fact that it has been given all the legal, coercive and operational resources. The population's revolt has been exacerbated by the fact that the UN's highest political and administrative authority, the Secretary-General, has publicly confirmed MONUSCO's powerlessness and its inability to impose peace.

Indeed, the fact that MONUSCO has not been able to clearly implicate Rwanda, while peacekeepers have died and their bombed helicopter, in addition to the other violence endured by the elements of this mission as noted in the second chapter, has annoyed the population that follows the situation on the frontline minute by minute. This ineffectiveness stems not only from the ambivalence of its mandate and the inconsistency in its implementation, but also from the inadequacy of the material means at its disposal to deal with the M23 terrorists.

### **§1. Ambivalence of MONUSCO's mandate and inconsistency in its implementation.**

The initial and ever-renewed mandate of the MONUSCO is to guarantee the stability (institutional and security) of the DRC and the protection of the civilian population against any danger that threatens it.

In concrete terms, stability implies the active accompaniment of the Congolese government's efforts to consolidate restored peace and security, while the security of the civilian population aims principally at the participation of MONUSCO troops in military operations against anything that threatens the physical integrity and property of this population, or at the conduct of such operations by themselves. It is therefore both a peacekeeping and a peace enforcement mandate using deterrence and, if necessary, the offensive through the use of force.

In this regard, it should be highlighted that while peacekeeping operations have traditionally been characterised by three fundamental principles:

the impartiality of the mission, the consent of the parties and the prohibition of the use of force except in cases of legal defence, with the evolution of things, the possibility of an offensive use of force and the possibility of carrying out an operation in a partial manner, with or without the consent of the State on whose territory these operations are being carried out, is now accepted.

This refers to peace enforcement operations that are in line with Chapter VII of the United Nations Charter. MONUSCO has already adopted this logic, notably through the creation within its ranks of the Intervention Brigade, whose mandate is to carry out offensive operations against armed groups unilaterally or jointly with the FARDC. It was in this sense that this brigade helped to impose peace in 2013 against the same M23 terrorists.

Similarly, by interpreting its mandate in a variable way depending on the circumstances, MONUSCO often deviates from its mission to stabilise the DRC and protect its civilian population under attack by armed groups. Sometimes it invokes human rights violations committed by leaders of the regular armed forces, sometimes the insufficiency of resources, sometimes its duty of "neutrality" not to get involved in the fighting alongside the FARDC against these armed groups, particularly the M23. One wonders whether it is possible to bring stability to a country and protect its population without battling the negative forces that create insecurity in the country and rape the population to death. In reality, it is the interplay of the interests of the great powers and the troop-contributing countries giving contradictory orders to the troops that determine MONUSCO's interventions and sometimes paralyse it.

### **§2. Inadequate material resources for MONUSCO**

During the recent attacks by the M23 supported by the Rwandan Defence Forces, the inadequacy of the material means, more precisely the armament available to MONUSCO, was highlighted and invoked successively by its spokesperson, the Special Representative of the UN Secretary General in the DRC, Head of MONUSCO, and the Secretary General of the United Nations to justify its inability to support the Congolese army in the fighting against the M23 equipped with sophisticated weapons with the striking power of a conventional army. In fact, the UN's top political and administrative hierarchy has itself disqualified MONUSCO from stabilising the DRC and protecting its populations..

104. These reports mention several deaths, injuries and displacements, not to mention the number of other sufferings inflicted on the population. See Report 2022, pp.3/39 et seq; Report 2021 (1 December 2021), pp.3/20 et seq; etc.

105. M.-A. LAGRANGE and T. VIRCOULON *Réflexions sur les 17 ans de présence de l'ONU en République démocratique du Congo*, IFRI Notes, April 2016, p.12.

106. Read usefully O. THIELEN, *Le recours à la force dans les opérations de maintien de la paix contemporaines*, ed. L.G.D.J., 2013, p.11; United Nations, *Report on the Fundamental Principles of Peacekeeping*, New-York, 9 October 1958, §84-86.

107. MONUSCO, *La force de la Monusco... Pour la protection des civils*, Echos de la Monusco, May-August 2019, p.11.

This public admission of impotence by the MONUSCO authorities has increased the hostility of the Congolese population towards MONUSCO on one hand, and undermined confidence between it and the Congolese government on the other.

Indeed, the spokesperson for the UN mission, Matthias Gilman, declared on Radio France International that MONUSCO did not have the military means to confront the M23. These words were similar to those of the Head of MONUSCO, Madame Bintou Keita, who had spoken of the quality and importance of the war material as well as the firepower of the M23 before the Security Council in her statement of 29 June 2022.

Antonio Guterres, Secretary General of the UN, on his part affirmed in September 2022 before the journalists of Radio France Internationale and France 24 that the MONUSCO troops did not have the weapons to confront the M23, which was better equipped than them with sophisticated weapons from somewhere. Moreover, he advised that MONUSCO's mandate should be re-chartered as an offensive one, backed up by adequate resources.

How can one comprehend such an attitude knowing that the peacekeeping operation in the DRC is so costly that it requires more or less 1.6 billion US dollars each year, which, according to the International Court of Justice, is financed under the compulsory expenditure voted by the UN General Assembly?

The priority for MONUSCO should be to equip itself with the necessary means to ensure its mandate of protecting the Congolese population against aggression and other crimes from all sides, particularly from elements of the M23 and RDF.

We would be tempted to say that protecting civilians has never been a priority and that resources are often allocated elsewhere. As the DRC representative to the Security Council pointed out at the meeting of 30 June 2022, Congolese citizens are not convinced that the protection of civilians is the top priority for MONUSCO<sup>108</sup>;

In this regard, MONUSCO should ensure that peacekeeping is not simply a deployment of blue helmets and UN uniforms, but a responsible activity that aims to save lives at all cost. Indeed, it is essential that this UN mission is able to impose itself and dissuade the armed groups as much as any foreign army on the ground.



It is in this context of a United Nations intervention that has lasted for more than 20 years without any great success in relation to the expectations of the Congolese people and the impotence of MONUSCO in the face of the suffering inflicted on them by the Rwandan army and its M23 allies that the Congolese of North Kivu and even those of other regions have expressed their displeasure and rightly demanded its departure from the DRC.

In view of this unanimous observation of the impotence of the UN mission and the legitimate and amply justified rejection of UN intervention in the Congo by its People, the Government of the Republic has decided to re-evaluate the implementation of the programme for the gradual and responsible withdrawal of MONUSCO drawn up by the DRC-MONUSCO Joint Committee, in implementation of Security Council resolution 2556 (2020), with a view to adjusting it to the realities on the ground for greater effectiveness, reducing its duration and enabling the DRC to fully assume its responsibilities as a sovereign State.

The Government of the DRC has condemned the acts of violence against Monusco personnel and their installations. In an official communication, it reiterated its commitment to ensuring the security of the UN Mission and to evaluating the implementation of the agreed plan for the gradual and sequenced withdrawal of Monusco in September 2021, a departure desired by the Congolese population. In this regard, the Government has set a deadline of 31 December 2023.

108. See VOA Afrique, Kinshasa expels UN mission spokesman. This spokesperson was even expelled from Congolese territory by the Government.

109. See ICJ, Advisory Opinion, Certain Expenses of the United Nations, 20 July 1962, Reports, 1962.

110. See UN/Security Council, Minutes of the 9081st meeting, Security Council considers situation in DRC, dominated by worsening insecurity in the east and tensions with Rwanda, 30 June 2022, p.14.

111. Y. YENDA ILUNGA, Renouveau du mandat 2021 de la MONUSCO: Transition et sortie, Norwegian Institute of International Relations, 2021, p.23.

## Mediation by the French President

In order to support regional initiatives in the framework of the Nairobi and Luanda processes, French President Emmanuel Macron also undertook a mission of good offices between the DRC and Rwanda. Thus, a meeting was held in Paris between the various heads of intelligence services to relaunch discussions between the different parties. Following this meeting, he met with Presidents Félix-Antoine Tshisekedi and Paul Kagame on the sidelines of the United Nations General Assembly in New York on Wednesday 21 September 2022..

At the end of this meeting, the Rwandan President had once again committed himself to ensuring that the M23 would withdraw from Bunagana and other parts of the country that it occupies. Nothing has been done. On the contrary, with the M23's all-out offensive launched in October 2022, it has expanded the occupied areas.

It is on the margins of the Francophonie Summit held in Djerba in November 2022 and following the boycott of the family photo by Prime Minister SAMA LUKONDE, representing the President of the Republic, President Macron met with President Kagame to whom he expressed his total disapproval of the M23's continued occupation strategy. He also told him that it looked like a political destabilisation of power in Kinshasa and, as usual, it had not been followed by any effect on the ground.

And the weak means of pressure used by France on Rwanda nourishes a feeling of annoyance in Kinshasa towards France. This is why calls have multiplied, notably from the Catholic Church, asking us to leave the International Organisation of the Francophonie.

Rwanda's intransigence in not honouring its commitments under these different frameworks requires more vigorous action from the international community.

## Luanda mini-summit

To achieve a rapid return to peace and the normalisation of relations between the DRC and Rwanda is the objective of both the Luanda and Nairobi processes. Thus, at the end of the talks relaunched in Luanda on Angola and the consultative meeting of Heads of State held in Sharm El Sheikh on the sidelines of COP 27 in Egypt.

It was agreed to organise a meeting in Luanda between the current President of the East African Community and the Angolan President, the mediator mandated by the AU, the United Nations and the African Union, in order to create synergy between the two processes and thus achieve the implementation of the various commitments made since last July, which have still not produced concrete results on the ground.

The Luanda mini-summit resulted in the unprecedented signing of a communiqué by Heads of State with a well-defined timetable of actions to be taken to achieve peace. A more binding document for all parties was signed.

Despite this and the observation of a relative calm, the M23 continued to arm and organise itself, according to military sources, to attack FARDC positions on 1 December 2022 and, as in the past, committed a massacre of rare violence against the peaceful population of Kishishe, setting the scene for the beginning of a genocide. This provoked the condemnation of the Congolese government and the entire international community.

Once again, the United States of America, the only country that can clearly point the finger at Rwanda for its responsibility in the persistence of the crisis in the East, asked this aggressor country to stop supporting the M23, according to the verbatim that followed the meeting between Secretary of State Blinken and President Paul Kagame.

It is worth noting that the US position has evolved considerably since Blinken's last visit to the region regarding the FDLR scarecrow. He no longer mentions it as a major security problem justifying aggression against Rwanda. And thus killing any pretext that could justify the Rwandan military presence in the Democratic Republic of Congo.



*An FARDC patrol in North Kivu province*

## CHAPTER VI: IMPERATIVE TO LIFT ALL RESTRICTIVE MEASURES ON THE ACQUISITION OF WAR MATERIALS AGAINST THE DEMOCRATIC REPUBLIC OF THE CONGO

While recovering from a "triple aggression" from 1998 to 2003, the DRC fell under UN sanctions concerning the direct or indirect supply, sale or transfer of arms and related materiel, as well as the provision of any assistance, advice or training to the DRC related to military activities, particularly in the provinces of North Kivu, South Kivu and Ituri.

These sanctions have resulted in legal and administrative restrictions on the acquisition of war materiel and assistance to the DRC's armed forces. They continue to have a detrimental impact on their firepower and the capacity of the Congolese state to carry out one of its essential sovereign missions, namely the defence of the country's territorial integrity, sovereignty and independence, as well as its population and republican institutions. Combined with the weakness of MONUSCO's accompaniment and the interventions of certain neighbouring countries, these restrictions have weakened the DRC and favoured its aggressors and the armed groups who are killing its people and robbing its natural resources in the eastern part.

Indeed, on 28 July 2003, the Security Council, in its Resolution 1493 (2003), decided that "all States, including the Democratic Republic of the Congo, shall take the necessary measures to prevent the direct or indirect supply, sale or transfer from their territories or by their nationals of arms and related materiel"<sup>102</sup>

This decision concerned, for an initial period of 12 months, all forms of arms supplies to armed groups located in the provinces of North and South Kivu and Ituri, excluding from its scope supplies intended for MONUC/MONUSCO; the Emergency Interim Multinational Force deployed in Bunia and only the integrated forces of the Congolese national army and police, as well as all non-lethal military equipment for humanitarian use<sup>103</sup>.

One year after this first embargo, the Security Council, by resolution 1533 (2004), established a sanctions committee composed of all its members to ensure the implementation of the measures adopted in the previous resolution. Subsequently, by resolution 1596 (2005), the Council required the Congolese Government, in the event of a shipment of arms or related materiel, to (i) designate the destination sites and (ii) notify the Sanctions Committee in

112. The triple aggression refers to the acts of aggression committed against the Congo by Rwanda, Uganda and Burundi between 1998 and 2003.

113. See UN Security Council Resolution 1493 (2003) of 28 July 2003, §20.

114. *Idem*, §21.

advance of the decision. In this case, the Congolese government finds itself deprived of one of its sovereign rights, that of freely deciding on the deployment on its territory of the means of its own defence.

In 2008, Security Council Resolution 1807 substituted this restriction with a general obligation for states to notify the Committee of any shipment of arms or related material to the DRC and any provision of assistance, advice or training related to the conduct of military activities in the country. The Committee considers each notification on a case-by-case basis and makes a decision which it forwards to the Security Council.<sup>115</sup>

Resolution 1807 (2008) seems to ease the sanctions on the Congolese government when it states that the previously adopted arms measures no longer apply to the supply, sale or transfer to the DRC government of arms and related materiel or to the provision of assistance, advice or training related to the conduct of military activities to the government.

This is a lure since, unfortunately, behind this avowed desire to lift the embargo on the acquisition of arms by the Congolese government, there is an unspoken desire to maintain it through an artifice of procedural mechanisms likely to preserve the status quo.

Subsequently, Security Council Resolution 2641 (2022) of 30 June 2022 reduced the types of arms and related materiel subject to notification to the Sanctions Committee to only those weapons up to 14, 5mm and their ammunition, mortars up to 82mm, grenade launchers and rocket launchers up to 107mm and their ammunition, man-portable air defence systems (MANPADS) and anti-tank guided missile systems. One might be tempted to believe that the restrictions have been softened. However, in reality, Resolution 2641 does not substantially improve the current situation on the ground.

Indeed, it is unquestionable that the restrictive measures taken by the United Nations Security Council through its successive resolutions recalled above against the Democratic Republic of Congo in relation to the supply of arms, ammunition, advice, training and any other service to its Armed Forces, have enormously hindered the efforts of the Congolese government efforts to rebuild the national army, to equip it with the instruments necessary to carry out its regalian missions and to increase its strength in the face of the armed groups that commit abominable crimes and create insecurity in the east of the DRC, groups supported by well-trained troops and sophisticated weapons from neighbouring countries, including Rwanda, which are not subject to any restrictions in this area.

Resolution 2641 (2022) does not remove the suspicion and mistrust that hangs over the DRC and continues to undermine its credibility with bankers, suppliers, shipowners and other transporters who are reluctant to have deals or contracts with them as long as they are on the Security Council's blacklist, regardless of the nuance of the resolution of 30 June 2022. Under these conditions, one may ask questions such as: how can the UN Security Council claim to support the right of the DRC to respect its territorial integrity and sovereignty and want to help her restore peace and security in its eastern part while at the same time preventing her from arming herself, i.e. acquiring the means required to defend herself. Is it possible to prevent a country invaded by negative forces and attacked by other countries armed at will from acquiring arms without weakening it?

The DRC thus appears like a swimmer with his hands tied behind his back and who is asked to reach the shore of peace and stability by eradicating terrorist groups and repelling external aggressors at a time when the latter, superbly armed, are shooting at his back and crying "thief" with great media coverage in the international public arena, where their accomplices and bad faith actors are listening attentively.

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112. See UN/Security Council Resolution 1807 (2008) of 31 March 2008, §2



*RDF military uniforms abandoned in Congolese territory*

Furthermore, it is important to note that the obligation to notify a state's military procurement to an outside power, even to an international institution, has the disadvantage of exposing its ability to defend herself to the public, weakening its defence system and leaving it open to its enemies. Every state is committed to the secrecy of its defence, which is part of its security and protection against external enemies. The DRC is neither an importer of nuclear weapons or weapons of mass destruction nor a hostile country for the United Nations to subject it to any surveillance or quarantine.

From all the above, the attitude of the Security Council can only be perceived by the majority of Congolese as a contradiction bordering on complicity and treason on the part of the UN. It provides not only an endorsement of violations of the UN Charter and of international law in its essential segments, notably in the area of relations between states, human rights and international humanitarian law, but also a guarantee of impunity for the perpetrators.

As was deemed relevant by China's representative to the Security Council, Mr DAI BING, at the meeting of 30 June 2022 at which the issue of the embargo was discussed, the requirements concerning imports of arms and ammunition should be lifted so that the DRC can preserve its security by its own means. This is its most legitimate right.

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The Council's treatment of the DRC is not based on any objective reason at the moment. It is unjust and unacceptable to the Congolese people. If only for the sake of its own credibility, it is high time that the Security Council washed away the opprobrium with which it has covered the Congolese state and rehabilitated it in all its rights as a sovereign state, a member of the UN, free to organise its defence system and to protect itself as it sees fit against any internal or external danger of destabilisation and attack on the survival of the Congolese nation.

In the same order, it would be fair and just for the Security Council to sanction Rwanda for openly arming and supporting a terrorist group responsible for massacres.

CHAPTER VII:  
SUMMARY TABLES AND PHOTOS OF ACTS OF  
AGGRESSION AND CRIMES PERPETRATED BY RWANDA  
AND ITS FORCES IN THE DRC

## A. Synoptic tables

### I. Acts of aggression

N°	Facts or eventss	Dates
1	Act of invasion established by the confirmed presence of RDF soldiers in an M23 camp on Mount Visoke.	21 November 2021
2	Invasion of Congo by RDF marching in columns and crossing the borders of Congolese territory through the entry points of Kabuhanga, Chegera, Kibaya and Kasisi.	24 May 2022
3	Attack of the position of the 3408th regiment of the FARDC by RDF troops on the Nyondo hill in Kibumba on the instructions of RDF Major General Alexis KAGAME.	24 May 2022
4	Invasion by about 51 RDF soldiers of Congolese territory carrying one of their wounded soldiers.	25 May 2022
5	Attack on FARDC positions on the Kisinga hill in Kibumba by RDF troops.	25 May 2022
6	Attack on FARDC camp in Rumangabo by M23 terrorists with substantial RDF reinforcement.	25 May 2022
7	Capture of two RDF soldiers on a mission on Congolese territory..	28 May 2022
8	Presence and occupation of Bunagana by the M23/RDF.	13 June 2022
9	After the capture of Bunagana by the M23/RDF, more than two hundred Rwandan soldiers staged a parade through the site for future operations.	14 June 2022
10	Destruction by missile fire of an FARDC helicopter by M23/RDF elements between the localities of Chengerero and Bunagana.	17 June 2022
11	M23/RDF offence on the villages RANGIRA and MATEBE, before pursuing it on Rutshuru-Centre, the city of Kiwanja and the MABENGA bridge.	20 October 2022
12	Continued offence in NTAMUGENGA, about 4 km east of the National Road No. 2 and occupation of the BAMBU locality.	23 October 2022
13	Intensification of the offence on different fronts: LANGIRA and KABINDI, in the grouping of JOMBA, MUSEZERO, in the grouping of BUSAN- ZA and NTAMUNGENGA, in the grouping of BWEZA, before approaching KIBUMBA	26 October 2022
14	Fighting towards KAKO between the M23/RDF near RUBARE, NYESISI, KANOMBE and in CHUMIRWA, not far from the military camp of RUMANGABO, in the KISIGARI grouping, at the exit of the NTAMUGENGA axis, near the National Road No. 2, causing a disruption of road traffic on the GOMA-RUTSHURU axis	27 October 2022
15	Attack by the RDF on the axis ISHASHA-KIWANJA-KISAGURU, of FARDC positions in BISHUSHA in the chiefdom of BWITO, precisely in KYUMBA on the hills of KABAROZI and KITEMBE, about 30 km from KITSHANGA in violation of the "immediate ceasefire" signed on 23 November 2022 by the belligerents in the Angolan capital, which should come into force on 25 November 2022 at 6 pm.	25 November 2022
16	Attacking FARDC positions on the KITSHANGA axis in order to gain a foothold in the MASISI territory and secure control not only of the cobalt and cassiterite-rich RUBAYA mining area but also of the KIVU mining company (SOMIKIVU), which exploits niobium.	26 November 2022



## II. Different crimes perpetrated

### a. Crime of aggression

N°	Facts or events	Dates
1	Declaration of war by President Paul Kagame	22 February 2022
2	Declaration of war by Jean Bosco KAZURA, Chief of General Staff of the RDF	12 January 2022
3	Declaration of war by Deputy General Alexis KAGAME	24 May 2022
4	Declaration of war by James KABAREBE, Special Security Advisor to the Rwandan President	24 May 2022

### b. War crimes

N°	Facts or events	Dates
1	Destruction of the MONUSCO helicopter by direct fire from Tchanzu hill under the control of the M23/RDF.	29 March 2022
2	M23 terrorists and Rwandan forces fired a dozen shells into Congolese territory in and around Katale and Rumangabo, about 45 kilometres from Goma, the provincial capital of North Kivu. They were fired from Rwandan territory, destroying a primary school in Katale few hours after the children had left.	23 May 2022
3	- Bombing by the M23/RDF and their M23 allies of the localities of BIRUMA and KABAYA in NYIRAGONGO territory. - Ten bombs dropped from Rwanda killed two schoolchildren playing on the football pitch of the Institut Saint Gilbert school in Biruma.	10 June 2022
4	Destruction by M23/RDF elements in the localities of Biruma and Kabaya of several houses, school buildings and banana plantations	10 June 2022
5	Destruction by M23/RDF elements of the equipment of the community radio "La voix de Mikeno."	13 June 2022
6	Summary execution of 13 civilians in Ruvumu including 3 children by the M23/RDF	21 June 2022
7	Massacre in Ruseke of 8 civilians including a woman and a 16-year-old girl by the M23/RDF	1 July 2022
8	Attack on a FARDC ambulance in Ruseke, that came to evacuate wounded civilians.	1 July 2022
9	In Ruseke, the M23/RDF injured two civilians, one of whom was a 13-year-old boy.	1 July 2022
10	- Heavy artillery attack on the new Rwanguba hydroelectric power station in Rutshuru territory; - Two explosive devices fell in the middle of the construction site, causing significant material damage.	16 August 2022
11	Bombing of homes in Chakere (Rwanguba locality) and Rangira, which injured five (5) well-identified civilians.	16 August 2022
12	The massacre of 214 people killed by the RDF/M23, among them 64 in the villages of Munindo, Rusekera and Bugina in the Tongo groupement and 30 in Bambo Centre, Kibumba and Kapopi.	From 15 to 30 November 2022.

### c. Crimes against humanity

N°	Facts or events	Dates
1	Kidnapping of four civilians by RDF near Rugari in Mike-no forest, forcing them to show them the way to the FDLR camp and to carry their belongings for three days, after which they also forced them to show them the way to Kibumba.	29 March 2022
2	Arrest and torture of journalist Henry SERUSHAGO by M23 elements on the orders of an M23/RDF major who goes by the name of SEBYONO	5 July 2022

### d. The crime of genocide

N°	Facts or events	Dates
1	Genocide by ethnic cleansing of more than 25,000 people, all locally identified Congolese nationals, who were forced to flee their villages by the occupation of Bunagana.	Since 13 June 2022
2	Mass displacement of more than 158,000 people, more than half of whom are children, fleeing M23/RDF attacks in Rutshuru and Nyirangongo territories	Since May 2022
3	Genocide by targeted killings of over 100 Congolese Hutus by the M23/ RDF because of their ethnicity	From the 28 to 30 November

### e. Ecocrimes or ecocide

N°	Facts or events	Dates
1	Killing of Virunga National Park ecoguard Etienne KANYARUCHINYA by M23/RDF terrorists.	22 November 2021
2	M23/RDF attacks on Virunga National Park and destruction of gorilla habitat through the occupation of distribution sites of 10 inhabited mountain gorilla families.	16 August 2022
3	M23/RDF attacks on Virunga National Park resulting in the deforestation of 868.6 km <sup>2</sup> of shrubby savannah.	16 August 2022

**B. Photos illustrating international acts and crimes committed by Rwanda in the DRC**



*Ci dessus, les dégâts causés par les bombardements et les tirs des RDF/M23*



# INTERPELLATIONS

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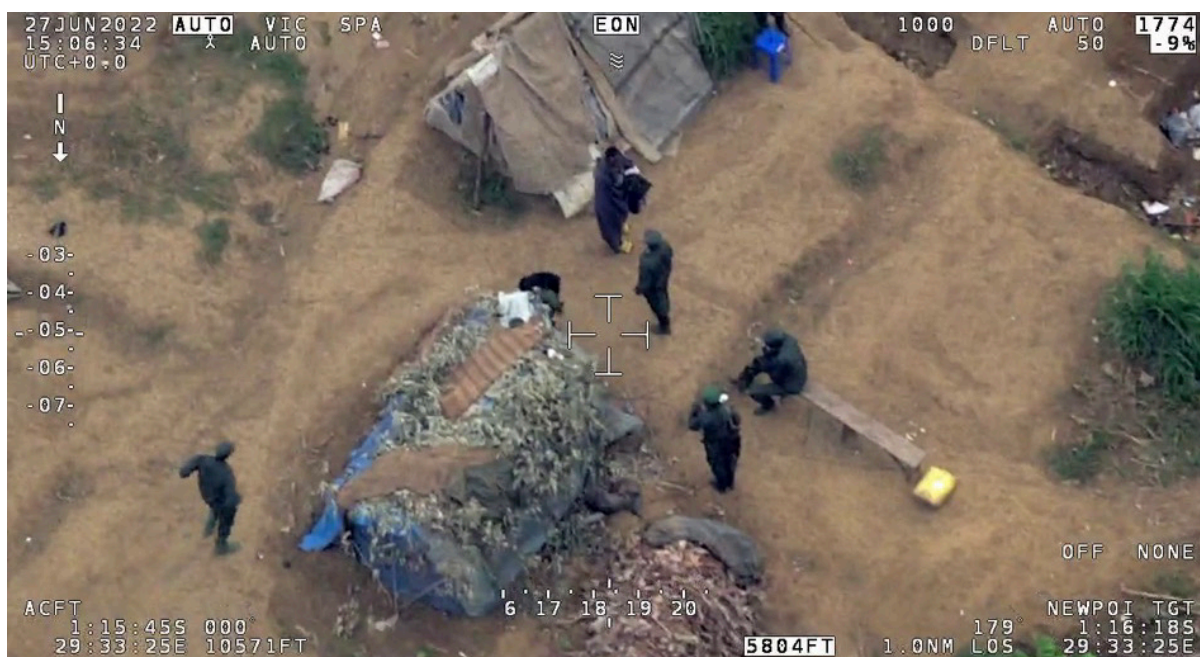
On the basis of the proven facts of aggression against the DRC by Rwanda, established particularly in the Report of the UN Group of Experts on the DRC, the Government requests the Security Council to take, in accordance with the relevant provisions of the UN Charter, the necessary measures to put an end to this aggression and to compel Rwanda to withdraw its forces from the occupied territories in the East of the DRC without delay and without conditions.

It is urgent that the Security Council establishes an international criminal court to punish the crimes committed by the RDF and M23 supporters, including the repeated massacres of innocent and defenceless civilians. Ending impunity will help to break the pattern of such attacks.

The Government reminds the Security Council of the need to apply the sanctions already taken against the perpetrators of the various international crimes and to adopt new sanctions against the current sponsors and alleged perpetrators of the crimes described in this White Paper.

Finally, the Government of the DRC requests the Security Council to put an end to the requirement of prior notification and all conditionalities for the acquisition of arms and thus allow the DRC to use all legitimate means at its disposal to protect its territory and its people from all forms of aggression and predation of its natural resources.

## CONCLUSION



*Ci-dessous la photo des éléments de M23/RDF en pleine parade à Bunagana pour des missions futures.*

In April 1994, the entire world was deeply shocked by the genocide perpetrated in Rwanda against the Tutsi ethnic group by the Rwandans themselves. It was the Rwandans who killed the Rwandans. No Congolese was involved, either directly or indirectly, in this tragedy, which does no credit to Africa and, in general, to the human race after a thousand years of civilisation and so much progress in the mastery of nature.

Meanwhile, the Congolese people have been paying a heavy price for this genocide for the past 28 years, for which they bear no responsibility. This price is the systematic plundering of the DRC's natural resources, the massacres of hundreds of thousands of its people by foreign armed groups, including the M23, the rape of Congolese women as a weapon of war, the recruitment of child soldiers, the massive violation of human rights, the destruction of its ecosystem and the repeated aggressions by Rwanda, which frequently violate the territorial integrity and sovereignty of the DRC.

Congo has become the sacrificial victim of the turpitudes and bad conscience of the decision-makers of the international community who, in reality, are responsible for the Rwandan

genocide through indecision and indifference. To justify their country's aggression against the DRC, Rwandan leaders even accuse the Congolese army of coalescing with the famous (ghostly) Democratic Forces for the Liberation of Rwanda, FDLR.

Back then, when the Congolese authorities decided to expel Rwandan refugees on their national territory, their decision raised a general outcry within the international community, which opposed them to the rule of non-refoulement contained in the 1951 Convention relating to the Status of Refugees.

Thus, for 28 years, the East of the DRC has suffered from recurrent violence that has placed its populations in permanent insecurity, compromising all efforts to improve their living conditions, negatively impacting the implementation of the country's socio-economic development programmes and projects by the Government and contributing to the destabilisation of the entire Great Lakes Region.

It is therefore not understandable and inadmissible, not to say scandalous, that a quarter of a century after the abominable

Rwandan tragedy of sad memory, the community of Nations, in general, and the United Nations, in particular, are still caught in the trap of the Rwandan authorities' unfounded accusations against the DRC, their false denials and their abusive exploitation of the genocide, and are exonerating them of their responsibilities in the security crisis in North Kivu, therefore legitimising the violations of international law, the UN Charter and the Constitutive Act of the AU as well as the proven crimes against humanity they are committing on DRC soil.

Indeed, neither the UN, nor the African Union, nor the European Union condemn Rwanda and sanction its crimes, the materiality and criminalisation in international war have been demonstrated in this White Paper, but the world paradoxically recommends dialogue between the DRC on one hand, and its neighbours, Uganda and Rwanda, on the other.

In the West, only the United States among the permanent members of the Security Council is raising its voice against the criminal and immoral behaviour of Rwanda towards the Congolese people and demanding that they stop supporting the M23 terrorists.

As the Assistant Secretary-General for Africa in the UN Department of Political Affairs and Peacebuilding has noted, "the resurgence of the M23 and its hostile actions against the FARDC and MONUSCO peacekeepers in North Kivu aggravate an already serious situation and constitute a serious threat to regional peace, security and stability"<sup>107</sup>

"The United States urges Rwanda to honour the commitments made in Luanda, including ending Rwanda's support for M23," said the US Secretary of State, following his meeting with Rwandan President Paul Kagame on the importance of peace and stability in the eastern Democratic Republic of Congo.

The European Union is rather lukewarm but is mobilising all parameters to have Russia condemned for similar acts against Ukraine.

Meanwhile, the Nairobi and Luanda peace processes presented above in this White Paper and initiated by the East African Community, EAC, and the African Union, AU, offer real

prospects for a diplomatic solution to the crisis if all the stakeholders respect the commitments made in the framework of these two processes and the unanimous recommendations of the international community contained in the UN Security Council statement of 31st May 2022 as well as in the communiqué of the 1103rd meeting of the AU Peace and Security Council of 31st August 2022 on the situation in the DRC.

In order to implement the above actions, the Heads of State of Angola, Joao Manuel Gonçalves Lourenço, Facilitator appointed by the AU, of Burundi, Évariste Ndayishimiye, current Chairperson of the EAC, and of the DRC, met in Luanda on 23rd November 2022 for a mini-summit, Félix Antoine Tshisekedi Tshilombo with the participation of the Minister of Foreign Affairs of Rwanda representing President Paul Kagame and the former President of Kenya, Uhuru Kenyatta, Mediator of the EAC, adopted, on behalf of the two African organisations, a timetable published in their Final Communiqué with a precise timeframe starting from Friday 25th November 2022.

However, as usual, the Rwandan authorities and the M23, who constantly reject with arrogance and contempt the decisions and recommendations of international and regional institutions, have not complied with the demands of the AU and the EAC. On the contrary, Rwanda has continued to disguise itself through convoluted rhetoric that does not express any willingness to be part of the AU and EAC-led peace dynasty. As for the M23, as if to defy the Heads of State signatories of the Final Communiqué of the Luanda Mini-Summit and the international community, not only did it declare itself not concerned by the Luanda Final Communiqué, but, with the support of RDF, it illustrated itself by violating the cease-fire and committing a series of massacres in the Rutshuru territory under its control. Kishishe is the most illustrative example where women, children and men were indiscriminately massacred in the most violent way.

The situation on the ground today means that the financing of the regional force must be completed and the mandate of MONUSCO must be reclassified so that it becomes more offensive, as proposed by the UN Secretary General in his interview with France 24 and Radio France Internationale in September 2022, and that its arms must be reinforced and its intervention brigade reactivated.

This is the challenge faced today by the EAC, the AU and the UN if they want to contribute to the end of insecurity in the East of the DRC and in the Great Lakes Region. And to create the conditions for the establishment of lasting peace and stability as well as regional cooperation that benefits all the peoples of this region.

For the Congolese people and their leaders, the integrity of the national territory, the sovereignty and independence of the Congolese State are non-negotiable and their defence is a sacred duty for every citizen in accordance with Article 63 paragraph 1 of the Constitution of the Republic.

And, as the President of the Democratic Republic of Congo declared in his speech to the 77th ordinary session of the UN General Assembly: "We, the Congolese people, are determined, this time, to put a definitive end to the insecurity in the east of our country, whatever the cost".

To this end, the DRC will use all the means at its disposal to neutralise all negative and terrorist forces roaming its national territory until their definitive eradication.

The DRC will honour its international commitments and fully implement all the peace instruments agreed in the framework of the Nairobi and Luanda processes.

To this end, the Head of State of the DRC, Félix Antoine Tshisekedi Tshilombo, launched the third phase of political consultations with local armed groups, customary and other authorities in Nairobi on 27 November 2022.

local armed groups, customary authorities and civil society in the province of North Kivu (Nairobi III), under the facilitation of the Honorary President of Kenya, Uhuru Kenyatta, and in the presence of the current President of the EAC and Head of State of Burundi, Evariste Ndayishimiye, and culminated in the signing of an act of commitment.

The fact-finding carried out through this White Paper should also serve as a basis for criminal prosecution of the perpetrators and alleged perpetrators of the crimes under international law set out in this book (crime of aggression, war crimes, crimes against humanity and environmental crimes).

The White Paper also constitutes a tool for the fight against impunity of the sponsors and perpetrators of these crimes, with a view to preventing the repetition of these crimes in the future. Hence the following recommendations to the international community.

"The time has come to break the infernal cycle of violence in the east of the DRC forever in order to stabilise the Great Lakes region.

The Congolese people have no problem with the Rwandan people, but they cannot continue to tolerate the hostility and belligerence of the Rwandan regime.



"It is time to stop applauding this country which is developing on the basis of deaths, sexual violence and the illicit exploitation of our resources".

Ms. Julienne LUSENGE, Executive Director of the Congolese Women's Fund (at the United Nations Security Council, 2 July 2022)

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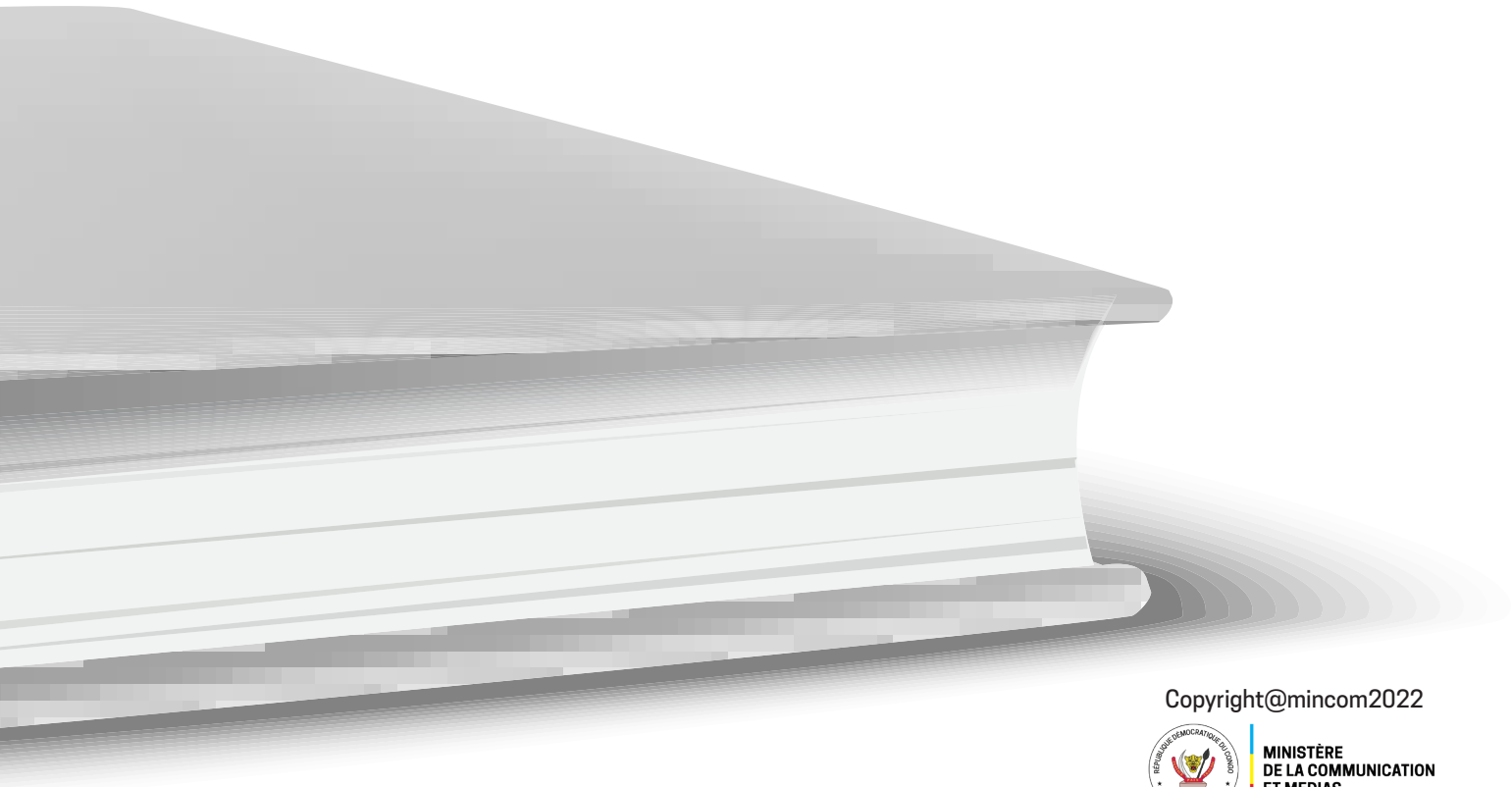
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