

Report on the
field visit of
the Coordinator of the OENZ
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to the Democratic Republic of the Congo

March 2011

Humanitarian situation in Eastern Congo

The humanitarian situation in the Kivu region stays alarming. UNHCR still reports more than 1,5 Mio IDPs in the eastern region, even after most of the refugee camps have been closed. Some of their inhabitants have returned home to their villages in the Kivus or even in Rwanda, but still many families seek shelter with relatives or even in the forests, as they stay afraid of returning home to areas that are still insecure after the fighting during “Umoja Wetu” and “Kimia II”, or who are dominated by rebel groups or the national army FARDC.

Sexual violence keeps at a very high level and is still caused by all armed forces in the area, with a high proportion of FARDC among the perpetrators. The World Bank is currently preparing a study on the root causes and dominating patterns of this form of violence, which wants to establish why single fighters or whole groups rape, and in how far these atrocities have been commanded by superiors (equalling rape as a weapon of war), or if they are mostly conducted as irregular acts of indiscipline. According to the findings of this study, more precise action for the protection of civilians can be demanded from the FARDC, but also the MONUSCO.

To overcome armed violence, the reform of the security sector (SSR) needs substantial support. Although EUSEC helped to take a biometrical fingerprint of every member of the FARDC, the chain of payment is not yet functional, and corruption lasts at a high level, leaving parts some brigades unpaid for months or even years. Most of the FARDC are stationed in remote areas without regular food deliveries or even barracks to accommodate them, which also provokes lootings, demands of road tolls or attacks on villages, to generate income.

MONUSCO still faces the dilemma of its mandate. It is bound to cooperate with FARDC troops, as they are led by the legitimate government, even if FARDC is regularly accused of being responsible for severe human rights violations and illegal mineral trade. But keeping a distance to FARDC operations also means losing influence on them which sometimes helped to prevent the worst.

MONUSCO has already announced that it is ready for logistical support to the elections in 2011 and 2012. This might also result in a dilemma, forcing the UN mission to assist elections who are spoiled by fraud.

Rebel groups

While FDLR rebels seem to be reduced to ca. 1.900 troops, the LRA has gained force and still is responsible for regular attacks, killings, abductions in the northern regions towards Uganda and Central African Republic and Sudan. Therefore all human rights groups in the area call for a joint regional military and political strategy by UN, USA and local armies, to reduce the military strength of the LRA, try to arrest their leadership and offer demobilization to their combatants.

CNDP refuses to accept orders from the government to relocate from the Kivus, where they are deeply involved in illegal exploitation and trade of mineral resources. Even though they are integrated into the FARDC, they seem to form an army within the army. They are facing internal fractions, (Fraction Bosco Ntaganda – fraction Laurent Nkunda, political wing that is close to the PPRD, military wing on the ground). All fractions seem to have a greater distance now to Rwanda, especially the Ntaganda-fraction, and increasingly refuse cooperation. It is reported that they are recruiting new members, and it is unclear if they will politically stay in alliance with the ruling party PPRD during the election campaign.

Currently the government of the DR Congo is trying to negotiate with FDLR leaders to achieve a resettlement of the remaining FDLR forces to Maniema.

Upcoming Elections

In the whole Kivu region the population shows signs of frustration of 2006 elections and feels disappointed by the government and democratic system, who have failed to live up to their expectations. Promises that were made before the last elections like rehabilitation of infrastructure, education, health care and peace and stability have not been achieved. The enthusiasm that the population displayed in 2006, where most people were convinced of the benefits of fair and free elections, seems to have diminished already. It seems likely that the participation in the presidential elections 2011 will be significantly lower than in 2006.

The national government needs the presidential elections to renew its formal legitimacy, which is a prerequisite for further donor support. It seems as if President Kabila is trying to ensure his re-election by all means. The change of the constitution and the election law in February¹ and the repeated disruption of opposition party meetings indicate that the government is concerned if it will be able to receive a save majority of votes. The new electoral commission CENI has already decided to install fewer voting stations in areas, where less support to the government is expected, making it more difficult for oppositional voters to reach their polling station in remote areas. Critics are also concerned that the CENI does only include government and oppositional representatives, but none of the civil society.

Already in the planning phase the government argues that it has hardly enough financial means to organize the presidential elections and has asked the MONUSCO for logistical and international donors for financial support. Therefore it is unlikely that provincial, communal and local elections will be held at all. The government so far shows no interest in decentralization and a process of power sharing with local constituencies. But to improve local administration and to enhance participation of civil society, the international community, who will be asked to contribute substantially to the financing of the elections, should use all their influence to ensure that local elections must take place.

Scenarios for the post-election phase

Vital Kamerhe and Étienne Tshisekedi are the most important opposition candidates, but it stays unclear if they will form a coalition or concur for presidency. To achieve a better result as president Kabila already in the first round, a coalition of the two, or even three oppositional parties, including Jean Pierre Bemba MLC, might be useful, but so far the parties have not agreed on a memorandum of understanding. Both candidates enjoy some support in the society, where the former president of the parliament Kamerhe (UNC, Union pour la Nation Congolaise) is seen as supported in the Kivu region, while former prime minister Tshisekedi (UDPS, Union pour la Démocratie et le Progrès Social) has his electorate foremost in the Kasai provinces an in Kinshasa.

¹ "On 14 January 2011, Congress (joint session of the Congolese National Assembly and Senate) adopted a proposal for the modification of the 2005 Constitution. In separate sessions, the National Assembly and Senate had already provisionally accepted the proposal; the National Assembly on 11 January, in the absence of the opposition representatives, and the Senate on 13 January. 61 senators voted for, 1 against, and 9 abstained. The most controversial revision was that of constitutional article 71, through which presidential elections formerly took place over two rounds. In the revised Constitution, the President will be elected in a single round with a simple majority." (EURAC Bulletin 1/ 2011).

For the time of or after the elections, different scenarios seem likely:

- Scenario Ivory Coast, where election outcome is not accepted by defeated party, with danger of civil war
- Scenario Burundi, where opposition parties are boycotting or are hindered to participate at the elections and resume to violence
- Scenario, where government wants to avoid elections at all, by staging unrest and violence
- Scenario of violence staged by several conflict groups who do not believe in elections.

To improve the capacities of the voters to make an informed decision and to participate in the pre-electoral discussion processes, many civil society organization stress the need for information campaigns and trainings for the population, to inform them about the meaning and chances, but also their rights in the democratic society and the elections held.

In the Kivus, the civil society is very concerned about security situation before the elections and worried about possible violence. To watch out for unfair or even illegal means of election campaigning, violence against opposition, media or human rights defenders, it is important to install early warning systems and early election monitoring units by EU, UN or independent organizations and civil society networks. Especially the abuse of governmental funds for PPRD campaigning and attempts of fraud should be researched, documented and denounced. There is also a great demand of civil society organizations that EUSEC and MONUSCO increase and coordinate their efforts for security sector reform before the elections, to ensure that the national army is not abused as a political agent for the PPRD, but follows its duty to protect the local population. Generally, all international donors should find and implement a much stronger joint policy to demand good governance and human rights towards the Congolese government around the upcoming election phase.

Exploitation of mineral resources and certification

In the so called “Dodd Frank Act” the USA decided in 2010 that they will ask all US-based business companies to ensure that all products they use are free of material that has been produced under circumstances that favour terrorism or political violence like in the DR Congo.² The EU is now also discussing to pass a similar law, banning all products from conflict associated mining sites from European companies. President Kabila has reacted to this de facto boycott of Congolese mineral exports and enforced a law banning all mining activities in the Kivu region between 11 September 2010 and 10 March 2011. Even if being well-meaning to eradicate all forms of illegal mineral trade, the law has in reality made thousands of artisanal miners jobless and helped to transform the last parts of legal mining

²“As of 1st January 2011, the DRC no longer holds the status of preferred US trade partner, as defined by the AGOA programme (Africa Growth and Opportunity Act). The Obama Administration took this decision in order to show that the DRC does not respect human rights and that respect for human rights is an essential criterion for American cooperation. In fact, according to a senior American source, *“the DRC’s security forces and other armed groups continue to violate human rights on a grand scale, in particular regarding the subject of rape.”* Above all, Kinshasa *“has not reacted to calls by the USA and the international community to resolve this situation”* (Eurac Newsletter January 2011.)

activities into illegal enterprises, dominated by either rebel groups or parts of the national army, who heavily profit from the illegal trade.

This example underlines the demand of many NGOs who explain that import bans on “conflict minerals” will only offer a productive effect on illegal mining, if they are from the start combined with elaborated certification schemes. If one wishes to close the doors for illegal trade, one has to open new doors for legal exportation at the same time, to avoid unemployment among the already poor miners and to dry out illegal chains of trade.

In the Kivu region, three main donors want to offer a certification system for minerals like coltan, gold, tin or copper. On a national level, MONUSCO wants to open “Centres de Négoce”, where minerals can be registered and certified right at the mining sites, before they are transported to controlled sales points like Goma or Bukavu and be sold to the world market. This project is accompanied by the German BGR and the Congolese CEEC.

On regional level, ICGLR wants to set up a network of certification projects and a joint database, supported by “Partenariat Afrique Canada” PAC, that shall ideally include Rwanda, Burundi, DRC and other neighbouring states that are involved in the illegal network of mineral trade.

The national Congolese certification scheme still leaves many questions unanswered: How can you ensure that the traded minerals undergo no military influence at the mining site or during the complete trading chain? Will there be “comptoirs réglés” in Bukavu and / or Goma to sell the material to the global market in a controlled manner and paying taxes? And most important: How will they overcome blockades from the side of the Congolese government, or even resistance from the armed groups in the region, who all profit from the illegal trade and will lose their main source of income?

Civil society is asked by PAC to install “Vérificateurs” that means agents who verify and guarantee that the mineral sites are not influenced by army or armed groups – an extremely dangerous position, which will probably not be functional, if no heavy security support is guaranteed by governmental or better MONUSCO protection teams.

But even European Companies will face criticism and perhaps not be ready to comply with the certification scheme. Already a Canadian company has started to exploit minerals at the BANDRO mine near Bukavu, has a contract with ministry of mining, but is reported not to be respecting ILO labour and environmental standards. Local inhabitants have been forced to move away, and the miners seem to work under unsafe condition, risking their health and their lives.

Situation of human rights defenders

NGOs, media and human rights defenders report growing pressure against them in the time of electoral preparations. They have repeatedly been threatened and intimidated. The court case to establish the truth about the murder of Floribert Chebeya of VSV has not produced any evidence so far, but seems to be abused as a shield of protection for John Numbi, the Chef of the National Police, who is suspected to be involved in the murder.

The case of Armand Tungulu, who died during police custody after he was throwing a stone at the car of President Kabila, has never been brought to court.

The German embassy has been helpful to provide human rights defenders with visa to enhance their protection. This will still not be enough to ensure that they can work freely in the pre-electoral phase or even campaign for more participatory rights and the respect for human rights.