



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



**Technical cooperation and advisory services in the
Democratic Republic of the Congo**

Human Rights Resolution 2005/85

The Commission on Human Rights,

Reaffirming that all States Members have an obligation to promote and protect human rights and fundamental freedoms,

Noting that the Democratic Republic of the Congo is a party to several international and regional human rights instruments and to several instruments pertaining to international humanitarian law,

Recalling its previous relevant resolutions, the most recent of which is resolution 2004/84 of 21 April 2004, those of the General Assembly, the most recent of which is resolution 59/207 of 20 December 2004, and the Security Council resolutions on the subject, including resolution 1592 (2005) of 30 March 2005 and resolution 1325 (2000) of 31 October 2000,

Recalling also the communiqué of the Peace and Security Council of the African Union (PSC/AHG/Comm. XXIII) adopted by heads of State and Government of the African Union in Libreville on 10 January 2005,

Recalling further the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2003/3/Add.3), concerning the massacres that took place in the region of Kisangani on 14 May 2002 and thereafter, and referring in that connection to the statements made by the President of the Security Council, the most recent of which dates from 2 March 2005 (S/PRST/2005/10),

Taking note of the seventeenth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo (S/2005/167), particularly the parts of the report relating to human rights, and the report of the Group of Experts on the Democratic Republic of the Congo (S/2005/30),

Taking note also of the letter dated 9 February 2005 from the Secretary-General addressed to the President of the Security Council, regarding cases of sexual abuse committed by certain members of the United Nations Organization Mission in the Democratic Republic of the Congo (S/2005/79),

Concerned at reports of violations of human rights and international humanitarian law,

including in the eastern part of the Democratic Republic of the Congo, and more particularly in North Kivu and South Kivu, northern Katanga and Ituri, as described, among others, in the above-mentioned reports,

1. *Welcomes:*

(a) The gradual establishment inside the country of the five institutions supporting the transition;

(b) The strengthening of the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo, including with regard to the human rights component, and the increase in its personnel in accordance with Security Council resolutions 1565 (2004) of 1 October 2004 and 1592 (2005) of 30 March 2005;

(c) The action of the Congolese Ministry of Human Rights to promote and protect human rights;

(d) The action taken by the field office of the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo, and encourages the Government to continue to cooperate with the International Committee in Support of the Transition and the United Nations agencies in place, particularly the field office and the United Nations Organization Mission in the Democratic Republic of the Congo;

(e) The joint initiative of the Government of the Democratic Republic of the Congo, United Nations agencies and non-governmental organizations to combat sexual violence against women and children;

(f) The current process of reform of the judicial system by the Transitional Government with the support of the European Union;

(g) The oral report presented by the independent expert on the situation of human rights in the Democratic Republic of the Congo at the fifty-ninth session of the General Assembly, his visits to the Democratic Republic of the Congo from 22 August to

2 September 2004 and from 9 to 18 November 2004, and his report to the Commission on Human Rights at its sixty-first session (E/CN.4/2005/120), and thanks the independent expert for his work;

(h) The implementation of the national disarmament, demobilization and reintegration programme and the close cooperation with the United Nations Organization Mission in the Democratic Republic of the Congo, other United Nations bodies, humanitarian organizations and the World Bank with a view to continuing to ensure the rapid demobilization and reintegration of armed groups, and of child soldiers in particular;

(i) The Dar es Salaam Declaration adopted on 20 November 2004 at the first summit of heads of State of the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region;

2. *Takes note of:*

(a) The signing in October 2004 by the Democratic Republic of the Congo and the Office of the Prosecutor of the International Criminal Court of an agreement on judicial cooperation and a provisional memorandum of understanding on the privileges and immunities of members of the International Criminal Court in the territory of the Democratic Republic of the Congo;

(b) The continued investigation of crimes presumed to have been committed in the territory of the Democratic Republic of the Congo since the entry into force, on 1 July 2002, of the Rome Statute of the International Criminal Court;

3. *Expresses its concern at:*

(a) The persistent reports of violations of human rights and international humanitarian law in the Democratic Republic of the Congo, particularly in North Kivu and South Kivu, northern Katanga and Ituri, as described in the above-mentioned reports;

(b) The attacks on human rights defenders in the Democratic Republic of the Congo, particularly in the eastern part of the country;

4. *Condemns:*

(a) The violations of human rights and international humanitarian law, particularly in Ituri, North Kivu and South Kivu, northern Katanga and other areas in the eastern part of the Democratic Republic of the Congo, including armed violence and reprisals against the civilian population and the recourse to sexual violence against women and children, which is being used as a weapon of war;

(b) The impunity enjoyed by those responsible for violations of human rights and international humanitarian law;

(c) The massacres that have been perpetrated, including those reported in Lukweti, Nyabiondo, Walikale, Bweremana and Kanyabayonga in North Kivu and in Kalehe, Bukavu, Kaniola and Uvira in South Kivu;

(d) The ambush and murder of members of the United Nations Organization Mission in the Democratic Republic of the Congo on 25 February 2005 in Kafé;

(e) The illegal exploitation of the natural resources of the Democratic Republic of the Congo, which is linked to the continuation of armed clashes, thereby putting the population groups in the areas concerned at great risk of a deterioration in their health and economic situation;

5. *Urges* all the parties, including non-signatories of the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo, signed in Pretoria on 17 September 2002:

(a) To provide support for the transition and its institutions, in order to permit the restoration of political and economic stability and the progressive strengthening of State structures throughout the Democratic Republic of the Congo in accordance with their obligations under the Transitional Constitution, and for the smooth functioning of the electoral process;

(b) To allow free and secure access to all areas in order to permit and facilitate investigations of the presumed serious violations of human rights and international humanitarian law, so that the perpetrators are brought to justice, and to that end to cooperate fully with national and international human rights protection mechanisms in the interests of the investigations of the presumed violations of human rights and international humanitarian law in the Democratic Republic of the Congo;

(c) To ensure that the military officers whose names are mentioned in the report of the High Commissioner in connection with serious violations of international humanitarian law and human rights continue to be investigated, are suspended from duty until the investigations are completed and, if the conclusions of the investigations so warrant, are brought to justice;

(d) To protect human rights and to respect international humanitarian law, in particular by ensuring the safety, security and freedom of movement of all civilians, as well as free access for humanitarian personnel to all affected population groups throughout the Democratic Republic of the Congo;

(e) To guarantee the rights and welfare of persons displaced within the country, repatriates and groups of refugees;

(f) To respect and promote the full exercise of all human rights by women and to take special measures to protect women and children from all sexual and other forms of violence;

(g) To support the national disarmament, demobilization and reintegration programme and the disarmament and community reintegration programme in Ituri, and to put a stop to the recruitment and use of child soldiers in violation of international law and the African Charter on the Rights and Welfare of the Child;

6. *Requests* the Transitional Government to take specific measures:

(a) To achieve the objectives of the period of transition as laid down in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels, enabling the establishment of a democratic constitutional regime and the formation of a restructured and integrated national army and an integrated national police force that are provided with adequate financial resources and equipment with which to accomplish their tasks;

(b) To comply fully with its obligations under international human rights instruments, and accordingly to continue to cooperate with United Nations mechanisms for the protection of human rights and with the field office of the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo;

(c) To intensify its efforts to restore the rule of law throughout the Democratic Republic of the Congo, thus enabling the population to experience peace and progress once again;

(d) To pursue and accelerate reform of the judicial system;

(e) To put an end to impunity and ensure, as it is duty-bound to do, that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice in accordance with due process, and to that end requests the United Nations High Commissioner for Human Rights to ensure that consultations continue between the field office of the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo and the Secretary-General concerning ways to assist the Transitional Government of the Democratic Republic of the Congo in tackling the problem of impunity, and requests the High Commissioner to submit a report to the Commission on Human Rights at its sixty-second session on these consultations and on possible options for putting an end to the impunity of the perpetrators of crimes committed before 1 July 2002;

(f) To continue to cooperate fully with the International Criminal Court and the International Tribunal for Rwanda, by ensuring that they have all necessary means with which to accomplish their task;

(g) To reinstate the moratorium on capital punishment and persevere in its declared objective of progressively abolishing the death penalty;

(h) To respond to the specific needs of women and girls during and after the conflict and to ensure as soon as possible the full participation of women in every phase of the peace-making process, in particular peacekeeping, conflict management and the consolidation of peace;

(i) To continue with and to step up its efforts to put a stop to the recruitment of child soldiers;

(j) To continue with its programme for the disarmament, demobilization and reintegration of former combatants, taking into account the special needs of the women and children, especially girls, associated with these combatants;

7. *Requests* the international community:

(a) To continue to provide support for the transition and its institutions, in particular by providing financial and political support in the fields of reform of the security sector, the rule of law and the electoral process;

(b) To provide the financial resources and technical assistance needed by the Transitional Government and the United Nations Organization Mission in the Democratic Republic of the Congo to complete the process of disarmament, demobilization, repatriation and reintegration;

(c) To support the field office of the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo in order to enable it to implement its programmes fully;

(d) To facilitate the holding of the second summit of the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region, under the auspices of the United Nations and the African Union, to be attended by all the Governments of the region and all the other parties concerned, and, in this connection, to call on the latter to fulfil their commitments under the Dar es Salaam Declaration of 20 November 2004;

8. *Decides:*

(a) To extend the mandate of the independent expert for one year and to request the Secretary-General to provide all necessary assistance to enable the independent expert to fulfil his mandate;

(b) To request the independent expert to submit a progress report to the General Assembly at its sixtieth session, and to report to the Commission at its sixty-second session;

(c) To renew its request to the Secretary-General that he should provide advisory services to the Democratic Republic of the Congo in the field of human rights;

(d) To reconsider the matter at its sixty-second session under the same agenda item;

9. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/85 of 21 April 2005, approves the decision of the Commission:

(a) To extend the mandate of the independent expert for one year and to request the Secretary-General to provide all necessary assistance to enable the independent expert to fulfil his mandate;

(b) To request the independent expert to submit a progress report to the General Assembly at its sixtieth session, and to report to the Commission at its sixty-second session;

(c) To renew its request to the Secretary-General that he should provide advisory services to the Democratic Republic of the Congo in the field of human rights.”

*61st meeting
21 April 2005*

[Adopted without a vote. See chap. XIX, E/CN.4/2005/L.10/Add.1]