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Austrian Centre for Country of Origin
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Query response on DR Congo: 1) Current situation in Kinshasa in terms of political violence and politically motivated human rights violations following election-related violence in November and December 2011; 2) Situation of people who are of the same ethnicity (Luba) as the opposition UDPS leader Etienne Thisekedi; are Luba perceived as supporters of the UDPS; are UDPS supporters singled out for violence or human rights abuses? [a-8011]

14 May 2012

This response was commissioned by the UNHCR Protection Information Unit. Views expressed in the response are not necessarily those of UNHCR.

This response was prepared after researching publicly accessible information currently available to ACCORD within time constraints and in accordance with ACCORD's methodological standards and the *Common EU Guidelines for processing Country of Origin Information (COI)*.

This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status, asylum or other form of international protection.

Please read in full all documents referred to.

Non-English language information is comprehensively summarised in English. Original language quotations are provided for reference.

1) Current situation in Kinshasa in terms of political violence and politically motivated human rights violations following election-related violence in November and December 2011

Among the sources consulted by ACCORD within time constraints only little information could be found with regard to the current situation in Kinshasa in terms of political violence and politically motivated human rights violations following election related violence in November and December 2011.

The following terms were used in research: Security, Kinshasa, police, demonstration, violence, injured, killed, arrest, opposition, UDPS, election, political, party, tuée, demonstration, blessé, droits de l'homme, arrêtée, etc.

Research in English and French language has yielded information on demonstrations and the blocking of media broadcasters in 2012, however, most of the currently available reports, articles and other publications still focus on violence in November and December 2011 following the presidential election.

A report released in April 2012 by several organisations and published on the website of the Open Society Foundations provides the following overview on the current situation in DR Congo:

"Abuse by Congolese security forces extends beyond immediately conflict-affected zones. The abuse has been most visible in the brutal suppression of political protest or internal unrest, notably in the suppression of the Bundu dia Kongo group, the crushing of MLC forces loyal to Jean-Pierre Bemba in Kinshasa, and heavy-handed responses to political protests around the 2011 elections. It has also been felt in the arbitrary arrest or killing of regime opponents, human rights activists and journalists, as well as day-to-day predation and lack of access to even-handed justice." (ASADHO, 16 April 2012)

The newspaper La Prospérité reports in May 2012 that since the beginning of 2012, the NGO Journaliste En Danger (JED) has documented 64 different cases of press freedom violations. Journalists have been arrested, attacked and several media broadcasters blocked:

"Depuis le début de cette année, JED a documenté au total 64 divers cas avérés d'atteinte à la liberté de la presse sur l'ensemble du territoire national. Ces violations se répartissent de la manière suivante : - 01 journaliste arrêté et jeté en prison au Bas-Congo - 21 journalistes interpellés par divers services de sécurité ou de renseignement - 05 cas d'agression contre les professionnels des médias pendant leur travail - 04 cas de menace directe ou anonyme dirigée contre les journalistes - 04 cas de pression judiciaire ou administrative sur les journalistes ou les organes de presse - 29 cas de censure ou d'entrave au travail des journalistes.

A la même période du 03 mai 2011, JED avait recensé 35 cas d'attaque ou d'atteinte à la liberté de la presse. En comparant les chiffres des deux périodes de 2011 et 2012, soit 29 cas de différence, on constate que la situation de la liberté de la presse s'est détériorée de 83%. L'analyse de ces chiffres indique une augmentation sensible des cas de censure ou entrave au travail des journalistes (+20), ainsi qu'une augmentation des cas d'interpellation des journalistes (+11).

Cette détérioration du climat de la liberté de la presse est surtout consécutive à la crise politique qui s'est installée dans le pays à l'issue des dernières élections présidentielle et législative qui ont vu le Président Joseph Kabila être désigné vainqueur, tandis que son principal challenger, Etienne Tshisekedi, en a contesté les résultats en s'autoproclamant Président de la République. Depuis, les journalistes semblaient être pris dans la tourmente de cet imbroglio politique.

A titre illustratif de ces atteintes au droit d'informer et d'être informé, on peut citer notamment : - La coupure du signal de la Radio France Internationale (RFI) pendant 10 jours, du 31 décembre 2011 au 09 janvier 2012, sur ordre de M. Lambert Mende, ministre de la Communication et des Médias. Le gouvernement de Kinshasa avait mal digéré la « juxtaposition » du message des vœux de M. Etienne Tshisekedi (président autoproclamé) à celui du président Joseph Kabila, proclamé élu à l'issue des présidentielles controversées du 28 novembre 2011. - La Radio Communautaire du Katanga (RCK), une station émettant à Lubumbashi, capitale de la province du Katanga, a vu son signal coupé, jeudi 5 janvier 2012, pendant six jours sur ordre de M. Munkanya Ilunga, chef de division de la communication du Katanga. La RCK a été accusée d'avoir relayé les programmes de la RFI, interdits par les autorités de Kinshasa." (La Prospérité, 3 May 2012)

Pambazuka News reports in March 2012 that security forces in Kinshasa have continued to pick up young people, whose destination and fate are unknown. On 16 February 2012, the police and a militia of the People's Party for Reconstruction and Democracy (PPRD) beat up worshippers in churches before a planned protest march against electoral fraud:

„Since 26 November 2011, the police and the security forces have, in Kinshasa and elsewhere, continued to pick up young people, whose destination and fate are unknown. On 16 February 2012, when the Catholic Church asked its faithful to march in commemoration of the 1992 March of Christians and in protest against electoral fraud, the police and the militia of Kabila's party, the People's Party for Reconstruction and Democracy (PPRD), went into churches even before the march was to start to beat up on worshippers, and their weapons included tear gas and clubs. Why aren't President Kabila and his security forces being held responsible for election-related violence by the ICC?“ (Pambazuka News, 22 March 2012)

Laura Seay, an assistant professor of political science at Morehouse College in Atlanta, states in an article published on the website of the United States Holocaust Memorial Museum that Tshisekedi has largely been kept under de facto house arrest since early December 2011. His supporters have attempted to rally in Kinshasa and other opposition stronghold cities but have been prevented by security forces, which used violence and tear gas against UDPS supporters:

“Despite having scheduled several protest marches, strikes, and his own presidential inauguration ceremony, however, Tshisekedi and his allies have yet to mobilize enough popular support to pose a significant challenge to Kabila's rule. Tshisekedi has largely been kept under de facto house arrest since early December. His supporters who have attempted to rally in Kinshasa and other opposition stronghold cities have been prevented from doing so by Congo's elite Presidential Guard and other security forces, which have not hesitated to use violence and tear gas against UDPS supporters. Tshisekedi responded to this violence by ordering his party's deputies not to attend the parliamentary session currently underway and by continuing to refuse to recognize the Kabila government's legitimacy.“ (Seay, 2 March 2012)

A press release by Journaliste En Danger (JED) in March 2012 states that Radio Lisanga Télévision (RLTV) was accused of reporting results from the 28 November presidential and legislative elections before official results had been compiled and announced by the country's independent electoral commission and its broadcasts were suspended for several weeks. JED alleges the sole purpose of these measures was to silence a prominent opposition voice:

“On 29 February 2012, Kinshasa-based broadcaster Radio Lisanga Télévision (RLTV) was finally allowed back on the air. [...] RLTV was initially accused of reporting results from the 28 November presidential and legislative elections before official results had been compiled and announced by the country's independent electoral commission. As a result, the broadcaster was handed a week-long suspension. However, the station had remained off the air ever since, officially due to unspecified legal action undertaken by the government. JED believes the sole purpose of these measures was to silence a prominent opposition voice.“ (JED, 1 March 2012)

In February 2012, the Catholic Information Service for Africa (CISA) reports that the Radio and Television of the Archdiocese of Kinshasa had been blocked on the orders of the Ministry of Communications from 15 February to 17 February 2012 after priests and nuns were arrested on 16 February 2012 during a march:

"The priests and nuns arrested on February 16, 2012 during a march organized by lay Catholics have been released. [...] From February 15 to 17 the signal of the Radio and Television of the Archdiocese of Kinshasa had been blocked on the orders of the Ministry of Communications. The DRC is going through a particularly tense moment after the disputed presidential and legislative elections won by President Joseph Kabila. In this climate there are even disturbing signs towards the Catholic Church, as evidenced by the killing of Sr Liliane Mapalayi, of the congregation of the Sisters of Charity of Jesus, stabbed to death on February 2 in Eastern Kasai." (CISA, 21 February 2012)

AllAfrica reports on the above-mentioned incident in an article published on 16 February 2012:

"Security forces in the Democratic Republic of Congo on Thursday fired teargas to break up a 'March of Christians' organized by the local Roman Catholic Church to protest alleged fraud in the recent presidential and legislative elections, news reports said. Police in the capital, Kinshasa, used armored vehicles and water cannon to patrol the neighborhoods where the protesters were to demonstrate. They were prevented from marching and gathered in churches, Radio France Internationale reported. There were no immediate reports of deaths, although Agence France-Presse reported that thugs entered a church and beat women inside. There were also reports that three priests, two nuns and two protesters were detained." (AllAfrica, 16 February 2012)

Radio Netherlands Worldwide (RNW) mentions in January 2012 that police prevented Etienne Tshisekedi, who proclaimed himself president-elect, from leaving his residence in Kinshasa and dispersed a group of supporters, who gathered to "accompany" Tshisekedi to the Presidential Palace:

"La police a empêché jeudi l'opposant Etienne Tshisekedi, qui s'est autoproclamé président-élu de la République démocratique du Congo (RDC), de quitter les abords de sa résidence à Kinshasa et a dispersé ses partisans venus pour "l'accompagner" jusqu'au palais présidentiel, a constaté l'AFP." (RNW, 26 January 2012)

The UK Foreign Office (FCO) reports in its Travel Advice, updated 9 May 2012, that there is continued risk of further political demonstrations that can turn violent in DR Congo:

"Recent Presidential and parliamentary elections on 28 November 2011 saw some politically motivated violence. Their [sic] remains the risk of further political demonstrations and these can turn violent." (FCO, 9 May 2012)

The US Bureau of Consular Affairs (BCA) in its current Travel Advice reports that there have been sporadic, small-scale election-related protests and some violence throughout the country, which could continue through mid-March 2012. Both inside and outside Kinshasa, security forces are known to set up occasional roadblocks, especially after dark:

„The country held presidential and national assembly elections on November 28, 2011, and the Congolese Supreme Court certified the provisional results of the presidential election on December 16, declaring the incumbent President Joseph Kabila the winner. Provisional results from the legislative races were scheduled to be released on January 13, 2012, but have been delayed. The revised date of the announcement is uncertain. There have been sporadic, small-scale election-related protests and some violence throughout the country, which could continue through mid-March, when the Congolese Supreme Court is expected to ratify the provisional results of the legislative elections. Both inside and outside Kinshasa, security forces are known to set up occasional roadblocks, especially after dark. Vehicles are often searched for weapons and valuables, and travelers are checked for identity papers. Security forces regularly seek bribes.“ (BCA, undated)

An article published in April 2012 by Voice of America (VOA) mentions that there are no members of the opposition in the new government of Prime Minister Matata Ponyo Mapon:

“The new prime minister of the Democratic Republic of Congo, Matata Ponyo Mapon, has named the ministers who make up his new government. Political observers say the new team contains more technocrats and fewer politicians, but also does not include any members of the opposition. [...]

Jean Claude Katende heads of one of Congo’s leading human rights organizations, ASADHO [African Association for the Defense of Human Rights]. He said he is disappointed that the new government is not more inclusive.

He said his organization is concerned that there are no members of the opposition in the new government, as the president appeared to have promised when he was sworn into office. Katende said that after the controversy surrounding the last elections, he thought it was necessary to include some opposition members in government.” (VOA, 30 April 2012)

The following documents contain current information on the election-related violence in November and December 2011:

- EC - European Commission: République Démocratique du Congo, Rapport Final, Élections présidentielle et législatives 28 novembre 2011, 29 March 2012 (available at ecoi.net)
http://www.ecoi.net/file_upload/2016_1333363336_rfeueomrdc2011comp.pdf
- OHCHR - UN Office of the High Commissioner for Human Rights: United Nations Report Details Human Rights Violations During General Elections in the Democratic Republic of the Congo, 20 March 2012 (available at ecoi.net)
http://www.ecoi.net/local_link/212715/318825_en.html
- UNO Stabilization Mission in the Democratic Republic of the Congo (formerly MONUC): Report of the United Nations Joint Human Rights Office on Serious Human Rights Violations Committed by Members of the Congolese Defense and Security Forces in Kinshasa in the Democratic Republic of the Congo between 26 November and 25 December 2011, March 2012 (available at ecoi.net)
http://www.ecoi.net/file_upload/1788_1334586190_unjhro26-novembre-25-december-2011.pdf

A report in French language released by the Association Africaine de Défense des Droits de l'Homme (ASADHO) in April 2012 and published on the website of Radio Okapi contains detailed information on the human rights situation in DR Congo between 2006 and 2011:

- ASADHO - Association Africaine de Défense des Droits de l'Homme: Rapport sur l'état de Droit sous la Legislature de 2006 a 2011 en RDCongo, April 2012
<http://radiookapi.net/files/Etat-de-droits-sous-la-legislature-de-2006-Asadho.pdf?55c0b5>

2) Situation of people who are of the same ethnicity (Luba) as the opposition UDPS leader Etienne Thisekedi; are Luba perceived as supporters of the UDPS; are UDPS supporters singled out for violence or human rights abuses?

Among the sources consulted by ACCORD within time constraints only little information could be found with regard to the current situation of people who are of the same ethnicity (Luba) as the opposition UDPS leader Etienne Thisekedi. The following information provides an overview on the Luba ethnicity and the situation of UDPS members in general:

In January 2006, the International Crisis Group (ICG) provides an overview on Luba from Kasai:

"The election campaign has reignited conflict between native Katangans and immigrants from Kasai province. Under Belgian rule, many Luba from Kasai came to run the mining companies and state administration, creating tensions manipulated by politicians, who in 1992-1993 organised militias to ethnically cleanse the province. More than 5,000 Luba were killed. The Union of Congolese Nationalists and Federalists party (UNAFEC), which is run by some of the same figures who led the violence in the early 1990s, is using its youth gangs to intimidate its opposition, who are often Luba. Leaders of the party's youth wing have called for 'necklacing' opponents with burning tyres." (ICG, 9 January 2006, p. 1)

The Minority Rights Group International (MRGI) provides the following profile on Kasaians of Luba origin, published in 2005:

"When copper was discovered in Katanga in the late nineteenth century mineworkers were recruited from outside the region, particularly from areas such as Kasai where education and acculturation to colonial practices were more advanced. Economic opportunities continued to attract migrants from Kasai to Katanga even after the discovery of diamonds in Kasai; many Kasaians adopted local languages and many have lived in Katanga for several generations. Most are of Luba origin, from Kasai Oriental. [...]

Violence against Kasaians in Katanga began soon after the election of Etienne Tshisekedi, himself a Kasaiian of Luba origin, as prime minister in 1992. [...]

In a prolonged campaign of harassment and violence, around 6,000 people were killed and up to 400,000 were forced to flee to Kasai, overcrowding its cities and often facing unemployment or destitution. [...]

In the scramble for control over natural resources, the Mai-Mai have targeted each other and come into conflict with the army. [Laurent] Kabila had difficulties making regular

payments to his forces and his army became dependant on stealing local resources. Civilians in southern Katanga, especially Kasaians of Luba origin, have suffered immensely amid the violence, and many have been killed or displaced. Eruptions of violence continued after Laurent Kabila's assassination in January 2001 and throughout Joseph Kabila's transitional government. [...]

Since November 2004 around 150,000 Katangans, many of Kasai-Luba origin, have been displaced by fighting among Mai-Mai militias and the army." (MRGI, 2005)

The UN Committee on the Elimination of Racial Discrimination (CERD) in August 2007 reports on de facto segregation in Kinshasa. Luba Congolese and Swahili-speakers are discriminated against and have difficulty finding housing:

"The Committee notes with concern the information received about the de facto segregation in Kinshasa, where Luba Congolese and Swahili-speakers are discriminated against and have difficulty finding housing." (CERD, 17 August 2007, p. 4)

In a query response dated April 2011, the Immigration and Refugee Board of Canada (IRB) provides the following information on the treatment of UDPS members and leaders:

"According to the UDPS diplomatic adviser in the Canadian representative office, opposition leaders and members officially have freedom of expression; however, in practice, they are at the mercy of the police and military in power (UDPS 18 Mar. 2011). As example, he reports that the authorities systematically refuse to allow members of the opposition to organize public demonstrations (ibid.). Similarly, the Committee of Human Rights Observers (Comité des observateurs des droits de l'homme, CODHO), a human rights advocacy organization in the DRC (CODHO 30 Apr. 2003), states in a 27 September 2010 news release that the government of the DRC has still not authorized—either before or after the 2006 elections—peaceful demonstrations to be held by opposition political parties and independent civil society organizations. According to the CODHO news release, on 26 September 2010, UDPS members attending a meeting in Kinshasa to discuss, among other things, the 2011 election process were arbitrarily arrested and detained (CODHO 27 Sept. 2010). Members of the Congolese National Police (Police nationale congolaise, PNC) reportedly fired live rounds at UDPS members and arrested approximately 30 people (ibid.). PNC officers also seized all equipment, including over 100 chairs and an electrical generator (ibid.). CODHO notes that, according to its sources, [translation] 'despite informing municipal authorities of its meeting through correspondence, a National Police battalion ... attacked the building with barbaric violence' (ibid.). According to the 30 September 2010 statement signed by UDPS spokesperson Bernard Ali Risasi Kasongo, the 27 party members who were arrested on grounds of [translation] 'malicious destruction and incitement to disobedience' were released." (IRB, 6 April 2011)

In March 2012, Amnesty International (AI) also provides information on the treatment of UDPS members and perceived supporters:

"Amnesty International has also collected information describing acts of torture, illtreatment and arbitrary and illegal arrests by the defence and security forces, carried out with the purpose of intimidating members of opposition parties, notably the UDPS and their actual and perceived supporters, as well as journalists, military personnel and police officers." (AI, 23 March 2012, p. 2)

In March 2012, BBC reports on the detention of people who come from the same province as Etienne Tshisekedi:

"It said it had documented the arrest of at least 265 civilians, most of whom had been detained illegally or arbitrarily. Many of these, the report alleges, were detained due to their affiliation with the UDPS opposition party or because they came from the home province of its leader, Etienne Tshisekedi. It blames the bulk of these acts of violence on the Congolese Republican Guard and officers of the National Congolese Police and its specialised units. Witnesses are quoted as saying some of the bodies were dumped in the Congo river, while others were buried in mass graves." (BBC, 20 March 2012)

Human Rights Watch (HRW) reports in October 2011 on the situation of and violence against people from the Kasai provinces, the home of the opposition presidential candidate Etienne Tshisekedi, and on an attack against the UDPS office in Lubumbashi. In addition, supporters of Kabila use inflammatory language against Kasaians, HRW reports:

„In Katanga province, the president of the provincial assembly, Gabriel Kyungu, and others supporting Kabila, have frequently used offensive and inflammatory language against people from the neighboring Kasai provinces, the home of the opposition presidential candidate Etienne Tshisekedi, leader of the Union for Democracy and Social Progress (UDPS) party. Kyungu is the leader of the National Union of Congolese Federalism (UNAFEC) party, a member of Kabila's electoral alliance.

At the start of the electoral registration period in Katanga, on April 31, Kyungu appeared to use language in a public speech in Likasi, northern Katanga, that local residents would know referred to people from the Kasai provinces living in Katanga. People present during the speech told Human Rights Watch that he said, 'There are too many mosquitos in the living room. Now is the time to apply insecticide.'

On August 1, a group of youth attacked the UDPS office and vehicles parked outside in Katanga's capital, Lubumbashi, during a visit to the province by Tshisekedi. Witnesses told Human Rights Watch that more than 20 buses filled with young UNAFEC supporters, on their way back to Lubumbashi after attending a UNAFEC party congress in Likasi, attacked the UDPS office. As they entered the city, the UNAFEC supporters shouted out the windows, 'We have come to clean up the city of Lubumbashi; we can smell the odor of Kasaians,' while making hand gestures slicing their throats. When the UNAFEC supporters arrived at the UDPS office, they tore down the UDPS flags and threw rocks at the building and four vehicles parked outside.

Kyungu has previously been implicated in inciting violence against people from the Kasai provinces. In the early 1990s, when he was governor of Katanga province (then called

Shaba), he repeatedly used hate speech against Kasaians. During his time in office, the local authorities forcibly expelled hundreds of thousands of Kasaians from the province and thousands died. This brutal period still echoes with many people in this region." (HRW, 28 October 2011)

The UN Secretary-General reports in January 2012 on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo. The election campaign heightened ethnic tensions between Katangans and Kasaians in the Lubumbashi area:

"In Maniema, clashes were reported between FDLR and FARDC in Kabambare territory. In Katanga, the security situation remained tense owing to the presence of FDLR elements in Kisenge, the arrival in Kapanga of significant numbers of Congolese nationals expelled from Angola and the presence of former Mayi-Mayi combatants in Malemba-Nkulu, Mitwaba and Bukama. The election campaign heightened ethnic tensions between Katangans and Kasaians in the Lubumbashi area." (UNSC, 26 January 2012, p. 6)

German newspaper TAZ reports in an article of December 2011 that the conflict between supporters of Tshisekedi and Kabila prolongues in the pro-Tshisekedi Kasai provinces and Kabila stronghold Katanga. In the city of Kamina, Kasaians have been killed with machetes:

"In den Oppositionshochburgen Kinshasa oder Kasai, wo Tshisekedi herkommt, verhalten sich die Unregelmäßigkeiten umgekehrt, so Pottie: auffällig geringe Wahlbeteiligung, die Ergebnisse von knapp 2.000 Wahlstationen gingen irgendwo verloren. Dies macht allein in Kinshasa mindestens 300.000 ungezählte Stimmen für Tshisekedi. Dass dieser die Ergebnisse nicht anerkenne, ‚ist komplett verständlich‘, sagt Pottie.

Der Konflikt zwischen den Rivalen setzt sich in den beiden Pro-Tshisekedi-Kasai-Provinzen und der Kabila-Hochburg Katanga fort. In der Grenzstadt zwischen den beiden Nachbarprovinzen, Kamina - wo die Eisenbahnlinien zusammenlaufen und eine der größten Militärbasen steht - wurden Kasaiier am Wochenende mit Macheten niedergemetzelt. Der Kampf um das Präsidentenamt könnte nicht nur dort zu systematischen ethnischen Säuberungen führen." (TAZ, 11 December 2011)

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1) Current situation in Kinshasa in terms of political violence and politically-motivated human rights violations following election-related violence in November and December 2011

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2) Situation of people who are of the same ethnicity (Luba) as the opposition UDPS leader Etienne Thisekedi; are Luba perceived as supporters of the UDPS; are UDPS supporters singled out for violence or human rights abuses?

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<http://www.amnesty.org/en/library/asset/AFR62/003/2012/en/d5854345-8afd-47f2-a3fe-d0a84c78b80e/afr620032012en.pdf>
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