



Home Office

Country Policy and Information Note **Democratic Republic of Congo (DRC):** **Opposition to the government**

Version 1.0

November 2016

Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002. Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this note has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

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The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Policy guidance

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1. Introduction

1.1 Basis of claim

- 1.1.1 Fear of persecution or serious harm by the Congolese authorities because of the person's actual or perceived support for a political party in opposition to the government.

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2. Consideration of issues

2.1 Credibility

- 2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing: (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Assessment of risk

i. Domestic situation

- 2.2.1 Political parties are generally able to operate most of the time without restriction or outside interference but the state will arrest, harass or arrest opposition members particularly to prevent them from holding public rallies, especially during periods of heightened political tension. On occasion state forces use excessive violence to disperse political gatherings and demonstrations against the government. (See [Freedom of expression and assembly](#) and [Delays to 2016 elections](#)).
- 2.2.2 At the time of writing, the DRC is currently in a heightened state of political tension following the likelihood that President Kabila will not step down when his term of office ends in December 2016. Because of this, political opponents may be at increased risk of intimidation and arbitrary arrest which may reach the level of being persecutory. The authorities tend to be unpredictable and volatile in such an uncertain political climate when they can become increasingly hostile and may react in a hard and brutal fashion (See [Arbitrary arrest, harassment, detention and abuse](#)).
- 2.2.3 The government has reportedly arbitrarily detained and, in some, cases ill-treated 'scores' of opposition party leaders and activists, although exact numbers are not available. Those arrested have been detained for varying lengths of time, sometimes weeks or longer although the government has recently released several political detainees in an apparent attempt to diffuse

political tensions. Harassment or intimidation of party members (for example harassing of party affiliated businesses and interests) is common. While arrests of party members do occur, the available evidence does not indicate that these are widespread, against all opposition parties or all their members (See [Arbitrary arrest, harassment, detention and abuse](#)).

2.2.4 In the country guidance case of [AB and DM \(Risk Categories Reviewed – Tutsis Added\) DRCCG \[2005\] UKIAT 00118](#), (21 July 2005) the Tribunal found that mere membership of an opposition party will not demonstrate that a person is of adverse interest to the authorities on account of their actual or perceived military or political activities or involvement (para 45).

2.2.5 The Tribunal in the country guidance case of [MM \(UDPS members, Risk on return\) Democratic Republic of Congo CG \[2007\] UKAIT 00023](#), (13 March 2007) held that:

‘Looking at the objective situation as a whole, and mindful of the past history of the DRC, we have concluded that despite what appears to be a dramatic change in the political landscape, that carries with it the hope that it will result in much needed stability in this vast and previously divided country, it would be premature to hold that these prospects have yet translated to adequate improvements on the ground, so as to justify a revision at this stage of the Tribunal's view of risk to UDPS members, as held in AB and DM, endorsed in MK and which we thus re-affirm. (Para 201)

‘It follows that we continue to believe that low level members/sympathisers of the UDPS [Union for Democracy and Social Progress] for that reason alone, will not be at real risk on return to the DRC in the current climate, but conclude that it is too early in the process of the transition of the DRC to democratic rule, to find that there is no continuing threat on the part of the current Kabila regime to persecute UDPS activists. As the Tribunal in AB and DM rightly observed, the risk category to those having or being perceived to have a military or political profile in opposition to the government is one that "fluctuates in accordance with the political situation." (See paragraph 51(iii) of their determination).’ (Para 202).

2.2.6 Although these country guidance cases were heard over 9 years’ ago, the current country information indicates the finding that being a member of a political party is not enough on its own to bring a person to the adverse attention of the authorities remains valid. It also remains the case that while there has been a growing tolerance by the government of opposition parties, this fluctuates with the prevailing political climate (See [Treatment of opposition groups](#)).

2.2.7 Persons who oppose the government and are considered a threat to it may be at risk of serious harm or persecution. In general, opposition party leaders and / or high profile activists who have come to the attention of the authorities and who are considered a threat may be at risk of persecution; party members and low-level activists are unlikely to be at risk of such treatment. Whether a person is at risk of persecution, though, depends on the prevailing political climate, the nature and profile of their activities and the organisation they represent, whether they have come to the attention of the authorities previously, and, if so, the nature of this interest.

2.2.8 Decision makers need to consider each case on its facts. The onus is on the person to demonstrate why and how they have come to the adverse attention of the authorities on account of their political activities and that it will put them risk of persecution or serious harm.

ii. [Sur place activities](#)

2.2.9 In this country guidance case of [BM and Others \(returnees – criminal and non-criminal\) DRC CG \[2015\] 293 \(IAC\)](#) (2 June 2015), the Upper Tribunal provided country guidance on treatment of members of the political group, Alliance de Patriotes pour la Refondation du Congo (Alliance of Patriots for the Re-establishment of the Congo) (APARECO) – one of a number of diaspora political groups that operate in the UK and other countries. Although the findings in [BM](#) refer to APARECO, they can be taken to be equally applicable to other diaspora groups who aggressively oppose the regime.

2.2.10 The Upper Tribunal in [BM](#) found that:

‘Persons who have a significant and visible profile within APARECO (UK) are at real risk of persecution for a Convention reason or serious harm or treatment proscribed by Article 3 ECHR by virtue of falling within one of the risk categories identified by the Upper Tribunal in [MM](#). Those belonging to this category include persons who are, or are perceived to be, leaders, office bearers and spokespersons. As a general rule, mere rank and file members are unlikely to fall within this category. However, each case will be fact sensitive, with particular attention directed to the likely knowledge and perceptions of DRC state agents. (Paragraph 88 (iii)). (See also [Opposition groups outside of DRC](#)).

There is little current information available on monitoring and how APARECO and similar diaspora political groups are currently viewed by the authorities and neither is there evidence of APARECO operating within the DRC. (See [Opposition groups outside of DRC](#)).

2.2.11 Decision makers need to consider each case on its facts. The onus is on the person to demonstrate why and how they have come to the adverse attention of the authorities on account of their political activities and that it will put them risk of persecution or serious harm.

2.2.12 See also country policy and information on [Democratic Republic of Congo: Treatment on return](#).

2.2.13 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.3 [Protection](#)

2.3.1 As the person’s fear is of persecution or serious harm at the hands of the state, they will not be able to avail themselves of the protection of the authorities.

2.3.2 For further guidance on assessing the availability or not of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.4 Internal relocation

- 2.4.1 As the person's fear is of persecution or serious harm at the hands of the state, they will not be able to relocate to escape that risk.
- 2.4.2 For further guidance on internal relocation and the factors to be taken into account, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.5 Certification

- 2.5.1 Where a claim is refused it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.5.1 For further information and guidance on certification, see the [Appeals Instruction on Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#).

3. Policy summary

- 3.1.1 Generally, political parties are able to operate freely, but with some restrictions or obstructions to holding political rallies. During periods of heightened political tension, the government may increase its harassment, arrest and detention of the political opposition. Additionally the authorities' reaction to political demonstrations is often heavy handed, although this is generally of an arbitrary nature and not specifically targeted at individuals.
- 3.1.2 Caselaw has established that in general mere membership of an opposition political party does not give rise to a need for international protection.
- 3.1.3 Opposition party leaders and/or high profile activists in the DRC who have come to the attention of the authorities and who are considered a threat to the government may be subject to treatment amounting to persecution or serious harm. Low-level activists and party members are unlikely to be at risk of such treatment. However the risk a person may face will depend on prevailing political climate, their profile and activities, and whether they are likely to be perceived as a threat to, and attract the attention of, the authorities in such a way that amounts to a real risk of persecution or serious harm.
- 3.1.4 The onus is on the individual to show that their position within a party and/or their activities are such that they have come to the adverse attention of the authorities and may be at risk on return of treatment which amounts to serious harm or persecution.
- 3.1.5 Caselaw has found that with regard to sur place activities, particularly those involving APARECO, each case should be considered carefully on its own merits. Those persons who are, or are perceived to be, leaders, office bearers and spokespersons of the organisation may be at risk of persecution on return. However rank and file members are unlikely to be monitored by the DRC authorities and be at risk on return.

3.1.6 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded'.

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4. Political system

4.1 Participation in the political process

4.1.1 The United States Department of State 2015 country report on human rights practices for the Democratic Republic of Congo (DRC) (USSD 2015 report), published 13 April 2016, noted, 'The constitution provides citizens the ability to choose their government in free and fair elections based on universal suffrage, but the right was restricted.'¹ The current constitution limits a president to two terms.²

4.1.2 The USSD 2015 report continued:

'Several international observer missions stated the results of the [2011] elections were "seriously flawed" and "lacked credibility" due largely to irregularities and a lack of transparency in the vote tabulation process. NGOs reported security forces killed or arbitrarily detained dozens of citizens prior to the voting. The UN confirmed at least 41 persons had died at the hands of the SSF [state security forces] throughout the electoral period and security forces physically harmed hundreds.'³

4.1.3 Reuters noted that the DRC that has not seen a peaceful change of government since independence in 1960.⁴

4.2 President and ruling party

4.2.1 Joseph Kabila succeeded his father, who was assassinated, as president in 2001 and subsequently won elections in 2006 and 2011.⁵ Although President Kabila was nominally an independent, the president's political alliance - which included his former party (the People's Party for Reconstruction and Democracy), the Alliance of Democratic Forces for Congo, and other parties - enjoyed majority representation in government, parliament, and judicial bodies, including the Constitutional Court and CENI [The Independent National Electoral Commission].⁶ Under the current

¹ USSD, Country Report DRC 2015 (section 3), 13 April 2016

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Accessed 31 August 2016

² BBC News, DR Congo president unlikely to give up power, 23 December 2015.

<http://www.bbc.co.uk/news/world-africa-35072001> Accessed 31 August 2016

³ USSD, Country Report DRC 2015 (section 3), 13 April 2016

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Accessed 31 August 2016

⁴ Reuters, UPDATE 2-Congo pardons 24 critics to ease political tension, 19 August 2016.

<http://af.reuters.com/article/congoNews/idAFL8N1B03AZ> Accessed 19 September 2016

⁵ BBC News, DR Congo president unlikely to give up power, 23 December 2015.

<http://www.bbc.co.uk/news/world-africa-35072001> Accessed 31 August 2016

⁶ USSD, Country Report DRC 2015 (section 3), 13 April 2016

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Accessed 31 August 2016

constitution, President Kabila must stand down in December 2016, when his second five-year term ends.⁷

4.2.2 Jane's Sentinel Security Assessment of the DRC, Internal Affairs, posted 18 April 2016, outlined details about the ruling People's Party for Reconstruction and Democracy (PPRD)

- 'Political stance: Centrist.
- 'Support base: The PPRD overwhelmingly drew its support from the east of the country during the 2006 elections, while its main rival, the MLC [Congo Liberation Movement], was more popular in the west, particularly the capital, Kinshasa. The 2011 elections saw a diminished performance, particularly in the party's erstwhile eastern stronghold.
- 'Recent history: The PPRD is part of the Alliance of the Presidential Majority (Alliance pour la Majorité Présidentielle: AMP), with some 30 other parties. The alliance won 332 out of 500 seats in the National Assembly in 2006. While the presidential camp maintained its parliamentary lead in the 2011 elections, it still lost more than 40% of the vote compared with its achievements in 2006, highlighting shifts in electoral support, including among opposition parties. According to delayed final results announced by the electoral commission in February 2012, the PPRD's tally dropped to 63 seats (from 111 in 2006), although its alliances with other parties still gave it a majority, with 260 seats. Headed by President Joseph Kabila, the People's Party for Reconstruction and Democracy (Parti du Peuple pour la Reconstruction et la Démocratie: PPRD) was set up from the old AFDL [Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre] in early April 2002 and contains loyalists close to the president's late father, Laurent Kabila. From its outset, the party was always going to be a force to be reckoned with, boasting more than 250 founding members at a time when the political scene in pre-transition Kinshasa was highly fragmented.'⁸

4.2.3 The same source also noted:

'President Joseph Kabila's December 2014 "Government of National Cohesion" includes opposition parties the Movement for the Liberation of the Congo (Mouvement pour la Libération du Congo: MLC) and Union of Forces for Change (Union des Forces du Changement: UFC). Prime Minister Augustin Matata Ponyo was reconfirmed in his post and several leaders of the parties comprising the ruling Alliance for a Presidential Majority (Alliance pour la Majorité Présidentielle: AMP) were rewarded with ministerial positions.'⁹

⁷ BBC News, DR Congo president unlikely to give up power, 23 December 2015. <http://www.bbc.co.uk/news/world-africa-35072001> Accessed 31 August 2016

⁸ Jane's Sentinel Security Assessment, DRC, Internal Affairs, posted 18 April 2016. Subscription site. Accessed 31 August 2016

⁹ Jane's Sentinel Security Assessment, DRC, Internal Affairs, posted 18 April 2016. Subscription site.

4.3 Elections: 2016

4.3.1 Jane's Sentinel Security Assessment of the DRC, Political Leadership, posted 24 March 2016, noted:

'In late 2013, Kabila announced that he was establishing a new government of "national cohesion", while also stating his desire for a national census ahead of the next elections, which are due to take place in 2016. The terms of the constitution limit a president to two consecutive elected terms, requiring Kabila to step down in 2016, so the idea of a census - which will take time to organize and carry out - has been viewed by critics as a means of prolong his second elected term. There has also been increasing speculation that Kabila will seek to engineer a change to the constitution to allow him to run for a third elected term.'¹⁰

4.3.2 The Guardian reported on 20 May 2016:

'Critics accuse Kabila, in power since 2001, of manoeuvring to delay the vote [of the presidential elections] and remain in office beyond his constitutionally permitted two terms.

'Kabila had "deliberately sabotaged the electoral process" and instituted a "policy of chaos and fear", said Olivier Kamitatu Etsu, a member of Congo's national assembly and a former minister of planning...

'The DRC's ambassador to the US, François Balumuene, denied the charge and said Kabila was committed to holding fair and peaceful elections.

'Balumuene said it was impossible for the president to change the constitution to stay in power. He insisted that logistical and financial problems had to be resolved before any polls...

'The country's highest court ruled a week ago that Kabila would stay in power until elections could be held.'¹¹

4.3.3 The report explained the background to the unrest:

'Kabila's backers and some opposition members announced an agreement on the timing of elections last week. Alexis Thambwe Mwamba, the justice minister, said an interim government including members of the opposition would be formed and the election postponed until mid-2017.

"The government will be redone. We will put in place a government that we will co-manage between the presidential majority, the opposition and civil society," Mwamba said.

Accessed 31 August 2016

¹⁰ Jane's Sentinel Security Assessment, DRC, Political Leadership, posted 24 March 2016. Subscription site. Accessed 31 August 2016

¹¹ The Guardian, Fears DRC president's push to keep power will spark major violence, 20 May 2016 <https://www.theguardian.com/world/2016/may/20/democratic-republic-congo-president-joseph-kabila-power-violence-katumbi> Accessed 31 August 2016

'Most major opposition parties have boycotted the discussions and it appears unlikely the announced agreement will end the unrest. One point of contention is the timing of different sets of elections. Another is the revision of the electoral roll...

'Kabila loyalists say problems with the electoral roll make it impossible to hold a fair poll this year. The current version is thought to exclude about half of the DRC's 45 million potential voters, including about 7 million new voters who have come of age since 2011. Independent experts have said a complete revision could take 10-18 months.'¹²

- 4.3.4 From 25 May to 17 June 2016, the Consortium for Elections and Political Process Strengthening (CEPPS) deployed an assessment team to Kinshasa to examine voter registration and election preparations. The report, published 18 July 2016, concluded:

'Broadly, the CEPPS assessment team found that, at the time of writing, there exists no option that allows both for elections to be organized within a constitutional timeframe and for the development of a voter roll that can satisfy the demands of all political actors. Determining an "acceptable option" that navigates these two competing interests is beyond the scope of the assessment, as this is something that can only be resolved by Congolese stakeholders through dialogue.'¹³

- 4.3.5 Their report, [Support to DRC Elections Assessment](#), published on 18 July 2016 includes the findings of the assessment team and provides a technical analysis of the voter registration and election preparations corresponding to the time period when the team was on the ground.¹⁴

- 4.3.6 News 24, reporting on a UN press conference on 15 July 2016 noted:

'The head of the United Nations mission in the Democratic Republic of Congo says he does not believe the country will be able to hold its presidential election as scheduled in November.

'Maman Sidikou told at a press conference on Thursday in Kinshasa that even a partial revision of the electoral register in preparation for the vote would take at least nine months, meaning the election could not be held until next year.

¹² The Guardian, Clashes in Kinshasa leave 50 dead, say DRC opposition groups, 20 September 2016. <https://www.theguardian.com/world/2016/sep/19/democratic-republic-congo-demonstrations-banned-police-killed-joseph-kabila-etienne-tshisekedi> Accessed 21 September 2016

¹³ Consortium for Elections and Political Process Strengthening, Support to DRC Elections Assessment Report, (Executive summary) 18 July 2016 https://www.ndi.org/files/CEPPS_DRC_Assessment_Report_Final_09.01.pdf Accessed 4 October 2016

¹⁴ Consortium for Elections and Political Process Strengthening, Support to DRC Elections Assessment Report, 18 July 2016 https://www.ndi.org/files/CEPPS_DRC_Assessment_Report_Final_09.01.pdf Accessed 4 October 2016

'Tension has been mounting in this central African country amid opposition claims that President Joseph Kabila wants to delay the vote so he can stay in power past his mandate, which expires at the end of the year.'¹⁵

4.3.7 Amnesty International, in a report published 15 September 2016, 'Dismantling Dissent: DRC's Repression of Expression Amidst Electoral Delays' stated:

'Questions around whether President Kabila would continue for a third term, and whether elections would be held, also caused divisions within the Presidential Majority. A grouping of politicians within the Presidential Majority calling themselves the G7 parties, published letters in February, March and September 2015 opposing attempts to bypass the two term limit. Following their last letter on 14 September 2015 they were expelled from the Presidential Majority. At the time of their expulsion, the G7 parties had four ministers, the Vice-President of the National Assembly and 78 members of parliament (out of the 350 of the Presidential Majority).

'The Presidential Majority still retained their majority in Parliament with around 280 seats, but lost their absolute majority, meaning they no longer had the numbers needed to effect constitutional amendments.'¹⁶

4.3.8 The Africa Research Unit noted that 'leading personalities' in the G7 are:

- Pierre Lumbi, leader of the Mouvement Social du Renouveau (MSR),
- Olivier Kamitatu, president of the Alliance pour le Renouveau du Congo (ARC)
- Gabriel Kyungu wa Kumwanza, chairman of the Union National des Fédéralistes du Congo (Unafec)¹⁷
- Moïse Katumbi, the former governor of Katanga province

4.3.9 The Guardian, reported on 28 September 2016:

'The United States has imposed sanctions on two senior officials in the Democratic Republic of Congo in an apparent warning to President Joseph Kabila to respect the constitution of the vast, unstable African country and call elections later this year...

'The decision to sanction the pair followed "increasing indications that the Government of the Democratic Republic of Congo continues to suppress

¹⁵ News 24, UN expects DRC presidential election to be delayed, 15 July 2016.

<http://www.news24.com/Africa/News/un-expects-drc-presidential-election-to-be-delayed-20160715>
Accessed 31 August 2016

¹⁶ Amnesty International, Dismantling Dissent: DRC's Repression of Expression Amidst Electoral Delays, 15 September 2016, <http://www.refworld.org/docid/57da8f6c4.html> (section 5.1) Accessed 4 October 2016

¹⁷ Africa Research Unit, Democratic Republic of Congo – Expert Briefing, undated, <http://www.africaresearchinstitute.org/newsite/democratic-republic-of-congo-expert-briefing/> Accessed 8 November 2016

political opposition in the country, often through violent means”, the US Treasury said in a statement.¹⁸

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5. Opposition parties in DRC

5.1 Overview

5.1.1 Jane’s Sentinel Security Assessment of the DRC, Internal Affairs, posted 18 April 2016, noted, that ‘conventional political ideology is of little significance in DRC, making it difficult to make distinctions between parties’ platforms, although the opposition generally professes to be more left-wing than the governing coalition.’ It continued with a description of the opposition parties:

‘The major opposition parties are Etienne Tshisekedi’s Union for Democracy and Social Progress (Union pour la Démocratie et le Progrès Social: UDPS), the Movement for the Liberation of Congo (Mouvement pour la Liberation du Congo: MLC), and the Union for the Congolese Nation (Union pour la Nation Congolaise: UNC). The UNC formed ahead of the 2011 election as a result of Vital Kamerhe, the party’s leader and the former National Assembly speaker, falling out of favour with Kabila. Although both Kabila and his PPRD party saw their popularity diminish in the 2011 polls, the presence of the new UNC further split the opposition vote. Kabila’s “Government of National Cohesion” of November 2014 included the MLC, further eroding the opposition’s potential. The UDPS has been led by Etienne Tshisekedi’s son Félix Tshisekedi since the former’s hospitalisation in August 2014, and Félix’s engagement with Kabila’s June 2015 national consultations indicates that he may be more willing to co-operate with Kabila’s administration than his father, although he would likely stop short of joining the government. However, opposition to a third Kabila mandate is likely to be a powerful rallying call, which is likely to boost Kamerhe’s standing. If the opposition rallies behind Kamerhe, a more united front against Kabila’s PPRD is likely.’¹⁹

5.1.2 The CIA World Factbook provided a list of parties and their leaders:

- Christian Democrat Party or PDC [Jose Endundo]
- Congolese Rally for Democracy or RCD [Azarias Ruberwa]
- Convention of Christian Democrats or CDC
- Forces of Renewal or FR [Mbusa Nyamwisi]
- Movement for the Liberation of the Congo or MLC [Jean-Pierre Bemba]
- Social Movement for Renewal or MSR [Pierre Lumbi]

¹⁸ Guardian, US imposes sanctions on top DRC officials after election delay, 28 September 2016. <https://www.theguardian.com/world/2016/sep/28/us-sanctions-drc-officials-democratic-republic-congo> Accessed 4 October 2016

¹⁹ Jane’s Sentinel Security Assessment, DRC, Internal Affairs, posted 18 April 2016. Subscription site. Accessed 31 August 2016

- Unified Lumumbist Party or PALU [Antoine Gizenga]
- Union for the Congolese Nation or UNC [Vital Kamerhe]
- Union for Democracy and Social Progress or UDPS [Etienne Tshisekedi]²⁰

5.1.3 The same source provided a breakdown of seats won by various parties in the 2011 elections, noting a large diversity of parties of varying degrees of popularity:

‘Senate - percent of vote by party - NA; seats by party - PPRD 22, MLC 14, FR 7, RCD 7, PDC 6, CDC 3, MSR 3, PALU 2, independent 26, other 18; National Assembly - percent of vote by party - NA; seats by party - PPRD 62, UDPS 41, PPPD 29, MSR 27, MLC 22, PALU 19, UNC 17, ARC 16, AFDC 15, ECT 11, RRC 11, independent 16, other 214 (includes numerous political parties that won 10 or fewer seats and 2 constituencies where voting was halted)’.²¹

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5.2 Union for Democracy and Social Progress (UDPS)

5.2.1 Janes stated that:

- ‘Political stance: Social democratic.
- ‘Support base: Young urban unemployed.
- ‘Recent history: The Union for Democracy and Social Progress (Union pour la Démocratie et la Progrès Social: UDPS) was founded in 1982 by political forces opposed to the autocratic rule of Mobutu. Led by veteran opposition politician Etienne Tshisekedi, the party was the leading force in the Sacred Union alliance of some 130 anti-Mobutu parties in the years before Laurent Kabila deposed Mobutu in 1997. However, the fortunes of the party did not change for the better with the end of Mobutu's regime, with Tshisekedi moving into exile. He returned in April 2001 in anticipation of the lifting of restrictions on political parties by President Joseph Kabila, who rose to power following his father's death that year. Tshisekedi was subsequently expected to be the main challenger to Kabila in the 2006 presidential elections. However, by urging UDPS supporters to reject the new constitution and to boycott voter registration in protest, the party's chances of participating in the election process were crippled. Tshisekedi wanted to register as a presidential candidate but opted out when the electoral commission resisted pressure to re-open voter registration to include UDPS boycotters. He successfully registered

²⁰ Central Intelligence Agency, World Factbook, Democratic Republic of Congo, Government, updated 20 September 2016, <https://www.cia.gov/library/publications/the-world-factbook/geos/cg.html>, accessed on 27 September 2016

²¹ Central Intelligence Agency, World Factbook, Democratic Republic of Congo, Government, updated 20 September 2016, <https://www.cia.gov/library/publications/the-world-factbook/geos/cg.html>, accessed on 27 September 2016

his candidacy for the November 2011 presidential elections, at which he was Kabila's leading challenger but ultimately took second place according to results released by the electoral commission. The UDPS meanwhile won 41 seats in the legislative polls.²²

5.3 Congo Liberation Movement (MLC)

5.3.1 Jane's noted that:

- 'Political stance: Social democratic.
- 'Support base: The bulk of support has come from the west of the country, particularly the capital, Kinshasa.
- 'Recent history: The Congo Liberation Movement (Mouvement de Libération du Congo: MLC) was set up in late 1998 to fight Laurent Kabila and was used as a proxy by Uganda on the northern front between Kisangani and Mbandaka. The party had General Alengbia Nzambe as the military commander of Katanga, the sixth military region. It also held the governorship of Bandundu province. Jean-Pierre Bemba, the MLC's presidential candidate in the 2006 elections, emerged as the leading opposition challenger to Kabila, securing 41.95% in the second-round run-off. The MLC won 64 seats in the National Assembly elections in July 2006. However, Bemba was unable to contest the 2011 election due to his trial at the International Criminal Court in the Hague for alleged war crimes committed in the Central African Republic between 2002-2003, charges which he denies. The MLC participated in the 2011 elections but saw its tally drop to 22 seats. Besides Bemba's absence, a poorer overall electoral showing for the MLC had seemed likely amid the entrance of the UDPS into the November poll.'²³

5.4 Union for the Congolese Nation (UNC)

5.4.1 Jane's noted:

- 'Political stance: Centre left.
- 'Support base: The party's strongest support is derived from the east of the country, where the UNC ate into the PPRD's erstwhile support base in the 2011 elections, thanks in part to frustration at Kabila's rapprochement with Rwanda's government, which was strongly resented by many citizens in the provinces that border this militarily powerful neighbour.
- 'Recent history: The Union for the Congolese Nation (UNC) was established as an opposition party in 2010 by Vital Kamerhe, a former parliamentary speaker who was previously considered a Kabila ally. Kamerhe fell out with the president over the decision in 2009 to allow

²² Jane's Sentinel Security Assessment, DRC, Internal Affairs, posted 18 April 2016. Subscription site. Accessed 31 August 2016

²³ Jane's Sentinel Security Assessment, DRC, Internal Affairs, posted 18 April 2016. Subscription site. Accessed 31 August 2016

Rwandan troops into the still volatile east of the country to confront the rebel Democratic Forces for the Liberation of Rwanda (FDLR), a group that includes alleged perpetrators of Rwanda's 1994 genocide. He was among Kabila's presidential challengers in the November 2011 elections, coming third with 7.7% of the vote. His UNC meanwhile made its entrance into parliament, having won 16 seats in the legislative elections. Kamerhe remains a vocal challenger of President Kabila, but rallies in provinces in early 2014 were repressed by the police and impeded by administrative obstacles.²⁴

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5.5 Coalition

5.5.1 Voice of America (VOA) reported on 13 June 2016 that:

'Leading opposition parties in the Democratic Republic of Congo (DRC) say they have organized themselves under one umbrella called "Rassemblement" or "Rally" to force President Joseph Kabila to leave power...

'The new coalition was formed last week in Belgium and includes the Union for Democracy and Social Progress (UDPS) led by veteran opposition figure Etienne Tshisekedi; the Dynamic Opposition, and the G7, which recently chose the governor of Katanga Province, Moise Katumbi, as its presidential candidate.

'Vidiye Tshimanga is Vice President of Alternative 2016, one of the groups making up the new coalition. He said the new alliance will be led by veteran politician Tshisekedi.

"A lot of people thought some time ago that Mr. Katumbi was the leader of the opposition, but finally everybody knows and understands that he is really new in the opposition and he cannot handle all the opposition and this very important role. But Mr. Tshisekedi who is an opponent not only of Mr. Kabila the son, but also Kabila the father, and before that an opponent of Mobutu. Finally, we all recognize in him the leadership that we need today to lead all of us," he said.²⁵

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²⁴ Jane's Sentinel Security Assessment, DRC, Internal Affairs, posted 18 April 2016. Subscription site. Accessed 31 August 2016

²⁵ VOA DRC Opposition Unites Against President Kabila, 13 June 2016
<http://www.voanews.com/a/drc-opposition-unites-against-president-kabila/3373403.html> Accessed 21 September 2016

6. Opposition groups outside of DRC

6.1 L'Alliance des Patriotes pour la Refondation du Congo (APARECO)

- 6.1.1 Neither the United States Department of State, the CIA Factbook nor other sources used within this document refer to APARECO operating within the DRC.
- 6.1.2 The Immigration and Refugee Board of Canada in a 'response to information request' of 15 May 2013 noted:
'APARECO was founded outside the Democratic Republic of the Congo (DRC) (Agence Belga 17 June 2012; RFI 3 June 2012), on 4 June 2005 (APARECO n.d.a, 2). In an article on radical groups that oppose DRC president Joseph Kabila, Le Vif / L'Express, a Belgian weekly newsmagazine launched in 1983 (Roularta Media Group n.d.), describes APARECO as [translation] "a virulently anti-Kabila organization" (20 Jan. 2012).' ²⁶
- 6.1.3 For information on sources and the full 'response to information request' see Immigration and Refugee Board of Canada: [Democratic Republic of the Congo: The Alliance of Patriots for the Refoundation of the Congo \(Alliance des patriotes pour la refondation du Congo, APARECO\) in Kinshasa, including its structure, objectives and activities; the membership card; treatment of party members and recruiters by the authorities \(2012-May 2013\)](#).
- 6.1.4 Cedoca, the country of origin information research section of the Belgian Office of the Commissioner General for Refugees and Stateless People, noted in research published on 6 September 2013:
'Apareco is an opposition platform claiming to be peaceful, founded in 2005 by its founder-president Honoré Ngbanda in exile in Paris. Very little information is available as to the structure of the party...
'The main party website, www.apareco-rdc.com, out of action at the time of writing this report, states that "the structures of APARECO and their leaders inside the Democratic Republic of the Congo cannot be made public for obvious reasons to do with their safety. They [are] actually the fifth column of our organisation, and act clandestinely across the whole of the territory of Congo".²⁷
- 6.1.5 Cedoca summarised their findings, referring to anonymised sources, in a 'focus on the party':
'Apareco provides no precise information on its structure and explains this as being on account of obvious issues for the safety of its members. When

²⁶ IRBC Democratic Republic of the Congo: The Alliance of Patriots for the Refoundation of the Congo (Alliance des patriotes pour la refondation du Congo, APARECO) in Kinshasa, including its structure, objectives and activities; the membership card; treatment of party members and recruiters by the authorities (2012-May 2013). <http://irb-cjsr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454987&pls=1> Accessed 3 October 2016

²⁷ Cedoca, Situation of members of APARECO in the DRC, 6 September 2013, Accessed 19 September 2016. Copy available on request.

questioned on the situation of members of Apareco, a high ranking member of the direction of the party explained by telephone on 30 August 2013 that the militants of the party run an immediate risk of arrest, as the party is the bête noire of those in power.

‘The media in general give very little information on the party. The party itself on its website puts out articles and debates, but Cedoca has found no information on Apareco demonstrations in Kinshasa.

‘All human rights NGOs who responded agree on the fact that Apareco has extremely low visibility in Kinshasa. This is illustrated by the NGO 2 in particular by there being no headquarters in Kinshasa or any public demonstrations. The NGO 4 refers to a movement “of no great size”. However, with regard to the problems that might be encountered by members of Apareco, views are more nuanced. On the one hand, the NGO 2 and Coalition of NGOs in NGO 1 say they are unaware of problems for members of Apareco. NGO 5 mentions that human rights NGOs deal with cases quietly. NGO 4 and NGO 3 share the view that anyone claiming to be from the movement would automatically be exposed to the risk of arrest.

‘In terms of international bodies, it will be recalled that the international organization refers, despite the low visibility of the party, to the systematic risk of arrest for its members or sympathisers, and gives examples to support this. While Amnesty International and the International Crisis Group and the US Department of State make no judgment on the specific situation of Apareco, Human Rights Watch has published a communiqué on the growing repression of freedom of expression in Congo.’²⁸

6.1.6 The Immigration and Refugee Board of Canada in a ‘response to information request’ of 15 May 2013 noted: ‘Representatives of the Black Togas stated that people who are known to be members of APARECO are “mistreated” by the government... Information to corroborate this or additional information on the treatment of APARECO members and recruiters by the authorities could not be found among the sources consulted by the Research Directorate.’²⁹

6.1.7 The Upper Tribunal in *BM and Others* addressed ‘the discrete question of risk to those who are considered to be opponents of the Kabila regime by reason of their sur place activities in the United Kingdom.’ In addressing and determining this question, they made the following specific findings from the information presented to them during the case, including written statements made by an expert witness, Dr Eric Kennes:

- ‘APARECO is a cohesive, structured organisation which has its main base in France and strong basis in certain other European countries,

²⁸ Cedoca, Situation of members of APARECO in the DRC, 6 September 2013, Accessed 19 September 2016. Copy available on request.

²⁹ IRBC Democratic Republic of the Congo: The Alliance of Patriots for the Refoundation of the Congo (Alliance des patriotes pour la refondation du Congo, APARECO) in Kinshasa, including its structure, objectives and activities; the membership card; treatment of party members and recruiters by the authorities (2012-May 2013). <http://irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454987&pls=1> Accessed 3 October 2016

including the United Kingdom. It also operates in Canada and the United States.

- 'APARECO is implacably opposed to the regime of President Kabila which has governed DRC during the past decade. Its overarching aims are the defeat of this regime and the re-establishment of the state on a different basis.
- 'APARECO has no overt presence in DRC, where it operates underground.
- 'The external opposition of APARECO to the governing regime of DRC is overt and visible. Its highest profile activities unfold in public places, accessible to all. Activities of this nature are accompanied by advance publicity.
- 'In common with many comparable regimes throughout the world, both present and past, the DRC Government has a strong interest in opposition organisations, including APARECO. Such organisations are monitored and data is recorded. This includes information about the identities of the most prominent members of such organisations, that is to say their leaders, office holders and spokespersons.
- 'The monitoring of APARECO (UK) is likely to be undertaken by and on behalf of the DRC Embassy in London. This is the agency with the most obvious motivation to carry out and co-ordinate such scrutiny. Such scrutiny is likely to generate periodic reports to the DRC Government, in particular its ANR [National Intelligence Agency] and DGM [Directorate of General Migration] agencies.
- 'It is likely that the leaders, office bearers and spokespersons of APARECO (UK) are known to the DRC UK Embassy and the DRC Government, in particular ANR and DGM'.³⁰

6.1.8 The party website www.apareco-rdc.com can be accessed and although in French does have a translation facility. The website reported on a APARECO conference in London just before the timing of writing, although this was not available in English, and referred to a forthcoming one in Belgium.³¹

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7. Treatment of opposition groups

7.1 Freedom of expression and assembly

7.1.1 The USSD 2015 report noted, 'The law recognizes opposition parties and provides them with "sacred" rights and obligations. While political parties were able to operate most of the time without restriction or outside interference, government authorities - sometimes through violent surrogate

³⁰ Upper Tribunal (Immigration and Asylum Chamber). *BM and Others*, 2 June 2015 <http://www.bailii.org/uk/cases/UKUT/IAC/2015/293.html> Accessed 14 September 2016

³¹ APARECO main party website, www.apareco-rdc.com Accessed 21 September 2016

groups - arbitrarily arrested, harassed, and prevented opposition members from holding public rallies.’³²

7.1.2 The USSD report 2015 also stated:

‘The constitution provides for freedom of peaceful assembly, but the government sometimes restricted this right. The government requires organizers of public events to register with local authorities in advance. If the authorities deny permission for the event, they must do so in writing within five days of the deposit of registration. The SSF [state security forces] occasionally beat, detained, or arrested participants in unauthorized protests, marches, or meetings.

‘Authorities sometimes denied permission for opposition party and civil society group demonstrations, and arrested protest leaders. In October [2015] local authorities banned, or the SSF violently repressed, seven demonstrations planned or organized by opposition parties and civil society organizations and monitored by the UNJHRO [UN Joint Human Rights Office]. On the other hand, at least 11 demonstrations, most of them (nine) organized by the ruling majority, took place without problems. For example, in September [2015] in Mbuji-Mayi, the capital of Kasai Province, the governor successfully organized a march in support of the head of state. The mayor, however, banned a march scheduled by the opposition party Union for Democracy and Social Progress two weeks later and deployed police in all major arteries of the city to prevent the rally.’³³

7.1.3 Amnesty International in a report of 15 September 2016 stated that:

‘Local authorities in several cities and territories have imposed blanket bans on public demonstrations in violation of DRC’s obligations under international human rights law. In numerous cases, authorities prohibited planned protests in violation of DRC’s Constitution which does not require permission for demonstrations. People organizing demonstrations are only obliged to notify local authorities. In contrast, assemblies organized by the Presidential Majority have largely taken place without any disruption from the authorities.’ See section 6.1 of Amnesty’s report, ‘[Dismantling Dissent: DRC's Repression of Expression Amidst Electoral Delays](#)’, for specific details.³⁴

7.1.4 The UK Foreign and Commonwealth Office, Democratic Republic of the Congo (DRC) - Human Rights Priority Country report, updated 21 July 2016, stated:

³² USSD, Country Report DRC 2015 (section 3), 13 April 2016
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Accessed 13 September 2016

³³ USSD, Country Report DRC 2015 (section 2b), 13 April 2016
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Accessed 13 September 2016

³⁴ Amnesty International, Dismantling Dissent: DRC's Repression of Expression Amidst Electoral Delays, 15 September 2016, <http://www.refworld.org/docid/57da8f6c4.html> (section 6.1) Accessed 4 October 2016

'We were concerned about the tightening of political space during 2015...The British Embassy in Kinshasa monitors trials of political detainees on a regular basis, and raises concerns at the highest levels of the DRC government. We officially raised the Filimbi activist case, involving young people arrested in March and April 2015 at a workshop designed to encourage Congolese youth to perform their civic duties peacefully.'³⁵

- 7.1.5 A report of the situation of human rights and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo (33rd session, covering the period June 2015-May 2016), [UNHRC August 2016 report] published 12 August 2016, stated:

'In the western provinces, steadily growing restrictions on the political space have been observed throughout the reporting period, including offences against freedom of expression, opinion, association and peaceful assembly, mainly in provinces where opposition parties and civil society are particularly active. PNC [Congolese national police] members and FARDC [Armed Forces of the Democratic Republic of the Congo] soldiers have applied excessive force and have resorted to the use of lethal weapons during the suppression of demonstrations and other gatherings...

'On 14 December 2015, Parliament adopted a law establishing modalities for ensuring the freedom to demonstrate, subject to prior notice, in accordance with the Constitution and international law. However, the Office of the President has returned the text to Parliament for review.

'Since then, general prohibitions on demonstrations were enacted by local authorities, for example in Kalemie, Lubumbashi and Bandundu, in violation of the principles of necessity and proportionality. The Office has observed that different principles are applied by the local authorities and security forces, depending on the political affiliation of the organizers. In fact, demonstrations by the opposition and civil society are in most cases prohibited, while those of the presidential majority are generally permitted.'³⁶

- 7.1.6 France 24, however, reported on how crowds of a hundred thousand people had massed at Kinshasa's airport on 28 July 2016 to welcome back opposition leader Etienne Tshisekedi:

'Veteran opposition leader Etienne Tshisekedi returned to the Democratic Republic of Congo on Wednesday after a two-year convalescence in Belgium, landing at Kinshasa airport to a rapturous welcome by thousands of supporters.

'Large groups of supporters sporting Tshisekedi T-shirts and waving his flag headed for the airport from districts across the city of 11 million, as

³⁵ FCO, Democratic Republic of the Congo (DRC) - Human Rights Priority Country report, updated 21 July 2016, <https://www.gov.uk/government/publications/democratic-republic-of-the-congo-drc-human-rights-priority-country/democratic-republic-of-the-congo-drc-human-rights-priority-country> Accessed 13 September 2016

³⁶ UN Human Rights Council, Situation of human rights and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo , 12 August 2016, <http://www.refworld.org/docid/57c991264.html> Accessed 14 September 2016

opposition members accused the government of deliberately delaying his landing.

'France 24's correspondent, Thomas Nicolon, said up to 100,000 people had gathered around N'Djili international airport, where security forces struggled to contain the crowd.

'Tshisekedi's return comes amid growing tension in the mineral-rich but unstable count[r]y over fears that President Joseph Kabila will postpone elections due to be held late this year in a bid to extend his rule.'³⁷

7.1.7 Freedom House, in its report 'Freedom in the World 2016: DRC' noted:

'Although constitutionally guaranteed, freedoms of speech and the press are limited. Radio is the dominant medium in the country, and newspapers are found mainly in large cities. The content of private television and radio stations is occasionally restricted, but lively political debate occurs in urban areas. Social media usage is expanding among urban youth. The government does not usually restrict internet access or monitor online communications, but internet access and text messaging were temporarily suspended during the January 2015 demonstrations.

'While the media often criticize Kabila and his government, political harassment of outlets and reporters is common. Pro-opposition and government-friendly outlets alike reported being pressured to carry pro-government content during the year. Intelligence officials cut off broadcasts by Canal Kin Télévision (CKTV) and Radio télévision Catholique Elikya (RTCE) after they aired a communiqué from opposition groups calling for protests amid the electoral dispute in January.'³⁸

Demonstrations relating to the proposed changes to electoral law

7.1.8 For information on the proposed changes see [Elections: 2016](#)

7.1.9 Human Rights Watch, in their annual report covering 2015, published 27 January 2016, noted that:

'In January [2015], security forces brutally suppressed demonstrations in the capital, Kinshasa, and other cities by those opposed to proposed changes to the electoral law requiring a national census before national elections could be held, effectively extending Kabila's term for several years.

'Police and Republican Guard soldiers fatally shot at least 38 protesters in Kinshasa and 5 in Goma, in eastern Congo. Dozens were wounded and at least five people in Kinshasa were forcibly disappeared. Soon after a delegation of political opposition and civil society leaders visited wounded

³⁷ France 24, Crowds throng Kinshasa airport as opposition leader Tshisekedi returns to DRC, 28 July 2016, <http://www.france24.com/en/20160727-crowds-throng-kinshasa-airport-opposition-leader-tshisekedi-returns-drc> Accessed 13 September 2016

³⁸ Freedom House, Freedom in the World 2016 – DRC, 14 July 2016 <https://freedomhouse.org/report/freedom-world/2016/congo-democratic-republic-kinshasa> Accessed 13 September 2016

protesters at Kinshasa's General Hospital on January 21, Republican Guard soldiers entered the hospital and fired indiscriminately, wounding at least three visitors.

'In the lead-up to the demonstrations, the government shut down two television stations that had aired messages calling on people to demonstrate: Canal Kin Television (CKTV) and Radio Television Catholique Elykia (RTCE). RTCE was reopened in June while CKTV remained blocked at time of writing. During the January demonstrations, the government also shut down text messaging services and Internet access for several days.

'The same week, security forces arrested nearly a dozen prominent political party leaders and activists. Most were first detained by Congo's National Intelligence Agency (Agence Nationale de Renseignements, ANR) and held without charge for weeks or months with no access to lawyers or family members. In March, the ANR arrested about 30 youth activists and others attending a workshop in Kinshasa to promote the democratic process...

'After seven senior politicians from Kabila's political coalition, known as the G7, sent a public letter to Kabila on September 14, demanding he respect the constitution's two-term limit, security forces surrounded many of their homes, intimidated their supporters, and shut down a radio station that belonged to Christophe Lutundula, a signatory of the letter.'³⁹

7.1.10 In a press statement of 18 February 2016, John Kirby, the US Assistant Secretary and Department Spokesperson at the Bureau of Public Affairs, said:

'The United States is troubled by the harassment and detention of peaceful activists and opposition leaders in the Democratic Republic of Congo (DRC), including those detained in connection with this week's general strike.

'These detentions stifle the free expression of diverse political viewpoints, contributing to a closing of political space while undermining the credibility of the Government of the DRC during the electoral period.

'We have raised our concerns with DRC authorities, and we call on the government to respect the freedoms enshrined in its own Constitution, which was promulgated 10 years ago today. We also call on the DRC to honor its international human rights obligations and immediately release all those being detained or, short of that, accord them the protections and fair trial guarantees to which they are entitled.

'Criminalizing dissent and demonstration violates the DRC's Constitution and threatens the legacy President Kabila has endeavored to build.

'We further underscore the need for all political stakeholders to exercise their rights peacefully and encourage leaders to refrain from inflammatory rhetoric that incites violence.'⁴⁰

³⁹ Human Rights Watch, World Report 2016 – DRC, 27 January 2016 <https://www.hrw.org/world-report/2016/country-chapters/democratic-republic-congo> Accessed 13 September 2016

⁴⁰ USSD, Press statement: Exercise of the Right to Freedom of Expression in the Democratic

7.1.11 The Guardian reported in May 2016 on clashes between police and demonstrators amid growing fears that elections scheduled for later this year will be postponed:

‘One protester died during running battles in Goma, the largest city in the east, while security forces in the capital, Kinshasa, fired teargas at an opposition march.

‘Opposition parties and civil society groups had called for nationwide demonstrations to protest against a ruling earlier this month by Congo’s highest court that would allow president Joseph Kabila to remain in power if presidential and parliamentary elections due in November are not held.

‘While a march that was authorised in Kinshasa drew several thousand opposition supporters, demonstrations in other cities were banned by local authorities.

‘In Goma, at least one civilian was killed and two wounded by gunfire that most likely came from police, said Jose Maria Aranaz, director of the United Nations’ Congo-based human rights centre.

‘There were also reports that a police officer had been killed by protesters throwing stones, but these could not be verified.

‘The UN human rights office said on Twitter at least 59 people had been arrested.’⁴¹

7.1.12 The UN Security Council expressed its “deep concern” at political restrictions in the DRC in a news release of 15 July 2016:

‘In the lead up to the Democratic Republic of the Congo’s (DRC) scheduled presidential election in November, the Security Council today expressed concern at the recent arrests and detention of members of political opposition and of the civil society.

‘In a press statement issued on Friday evening, the Council stressed the importance of a “peaceful and credible electoral cycle, in accordance with the Constitution, for stability, development and consolidation of constitutional democracy.”

‘Council Members called for ensuring the protection of human rights and fundamental freedoms “paving the way for and ensuring an environment conducive to free, fair, peaceful, credible, inclusive, transparent and timely elections in the DRC, in accordance with the Constitution, while respecting the African Charter on Democracy, Elections and Governance.”

‘In the statement, the Council also “expressed their deep concern at increased restrictions of the political space” in the country, particularly in

Republic of Congo, 18 February 2016 <http://www.state.gov/r/pa/prs/ps/2016/02/252635.htm> Accessed 13 September 2016

⁴¹ The Guardian, Scores arrested in Democratic Republic of Congo clashes, 26 May 2016 <https://www.theguardian.com/world/2016/may/26/democratic-republic-of-congo-clashes-protests-joseph-kabila> Accessed 19 September 2016

relation to arrests and detention of members of the political opposition and of civil society.⁴²

- 7.1.13 Amnesty International, in a report published 15 September 2016, 'Dismantling Dissent: DRC's Repression of Expression Amidst Electoral Delays' stated:

'Since their departure from the Presidential Majority, G7 leaders have been specifically targeted by state agents for expressing themselves on presidential term limits. Amnesty International documented several incidents in Haut-Katanga, where three of the G7 parties are headquartered. These parties and their leaders have been prevented from holding public or private meetings on multiple occasions...

'It also appears that the government has used state agencies to target opposition politicians after they joined the G7 to harm their business interests, cut their income and harass them. Amnesty International has not analyzed whether there is a legitimate basis to these tax disputes, but opposition politicians raised concerns that these problems only arose after they joined the G7, and were disproportionately applied against those advocating against a third term and for elections.'⁴³ (See [Elections 2017, paras 4.3.7/8](#) for more information on G7).

- 7.1.14 In '[Dismantling Dissent: DRC's Repression of Expression Amidst Electoral Delays](#)' Amnesty International gave several examples of harassment of opposition parties and their leaders.⁴⁴

- 7.1.15 On 19 September 2016 the United Nations Secretary-General expressed '... deep concern about the violent clashes between protestors and security forces in Kinshasa, and several other locations in the Democratic Republic of the Congo:

"He condemns the violence that has already led to the death of at least 17 people, including three police officers in the capital," according to a statement issued by Mr. Ban's spokesperson in New York.

'The Secretary-General in his statement urged all concerned political leaders and their supporters to refrain from any further violence that could exacerbate the situation.'⁴⁵

- 7.1.16 The Guardian reported on 20 September 2016 on clashes between police and demonstrators in Kinshasa:

⁴² UN News Centre, Security Council expresses "deep concern" at political restrictions in the DR Congo, 15 July 2016 <http://www.un.org/apps/news/story.asp?NewsID=54470> Accessed 31 August 2016

⁴³ Amnesty International, Dismantling Dissent: DRC's Repression of Expression Amidst Electoral Delays, 15 September 2016, <http://www.refworld.org/docid/57da8f6c4.html> (section 5.1) Accessed 4 October 2016

⁴⁴ Amnesty International, Dismantling Dissent: DRC's Repression of Expression Amidst Electoral Delays, 15 September 2016, <http://www.refworld.org/docid/57da8f6c4.html> (section 5.1) Accessed 4 October 2016

⁴⁵ UN News Service, DR Congo: Ban condemns deadly clashes between protestors and security forces in capital, 19 September 2016, available at: <http://www.refworld.org/docid/57e131934.html> Accessed 21 September 2016

'Opposition groups said more than 50 people died on Monday [19 September 2016] in clashes in the capital, Kinshasa. The government said at least 17 people had been killed but warned that the toll could rise further.

'Witnesses said protesters had beaten at least one police officer to death.

'Four people were also killed when the headquarters of three DRC opposition parties were torched overnight and early on Tuesday, Agence France-Presse reported.

'The DRC has suffered repeated bouts of unrest since the president, Joseph Kabila, announced that elections scheduled for later this year would be delayed.

'Opponents say Kabila, whose second term in power expires in December, is trying to cling to power undemocratically. His supporters say logistical and financial constraints mean it is impossible to hold fair polls as planned.

'A witness from the Reuters news agency said police had fired into the crowd in Kinshasa.

'Bruno Tshibala, a spokesman for an opposition party, said activists had recorded several deaths and that he had seen four bodies piled up in the office of an allied faction.'⁴⁶

7.1.17 The International Crisis Group (ICG) report, *Boulevard of Broken Dreams: The "Street" and Politics in DR Congo*, published 13 October 2016, noted

'Demonstrations in Kinshasa, capital of the Democratic Republic of Congo (DRC), turned violent on 19 September 2016, when the Independent Electoral Commission (CENI) should have launched the constitutionally-required presidential election process. Protests were expected as a political dialogue launched on 1 September had failed to agree on what to do about the delay. This has accentuated the risk of violent popular anger in urban centres and of a heavy-handed security response. A risk also remains that political parties, including the ruling majority coalition (henceforth "the majority") and the opposition that looks to the street to force President Joseph Kabila to step down, will seek to manipulate that anger. Depending on loosely organised popular revolts to force political change is a tactic that could spiral out of control.'⁴⁷

7.1.18 For more detailed analysis by the ICG see the report, [Boulevard of Broken Dreams: The "Street" and Politics in DR Congo](#).⁴⁸

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⁴⁶ The Guardian, *Clashes in Kinshasa leave 50 dead, say DRC opposition groups*, 20 September 2016. <https://www.theguardian.com/world/2016/sep/19/democratic-republic-congo-demonstrations-banned-police-killed-joseph-kabila-etienne-tshisekedi> Accessed 21 September 2016

⁴⁷ International Crisis Group (ICG), *Boulevard of Broken Dreams: The "Street" and Politics in DR Congo*, 13 October 2016, Briefing N°123, <http://www.refworld.org/docid/57ff4d3a4.html> Accessed 7 November 2016

⁴⁸ International Crisis Group (ICG), *Boulevard of Broken Dreams: The "Street" and Politics in DR Congo*, 13 October 2016, Briefing N°123, <http://www.refworld.org/docid/57ff4d3a4.html> Accessed 7 November 2016

7.2 Arbitrary arrest, harassment, detention and abuse

7.2.1 The UNHRC August 2016 report stated, 'Arbitrary arrest and detention, incommunicado detention of protesters and political opponents, including persons who had announced their candidatures for the upcoming presidential election and of human rights defenders, journalists and other civil society representatives, are also cause for concern.'⁴⁹

7.2.2 The report continued:

'During the reporting period [June 2015-May 2016], State actors were responsible for a great many violations of fundamental freedoms. The United Nations Joint Human Rights Office documented 553 human rights violations related to the restriction of democratic activities nationwide between June 2015 and May 2016, mainly in provinces where opposition parties and civil society actors are particularly active, and in the towns of Kinshasa, Lubumbashi, Kalemie, Bukavu and Goma.

'The most frequently documented violations concerned the right to liberty and security of the person and the freedoms of peaceful assembly, expression and opinion. The victims were mainly members of opposition political parties (402 victims) and representatives of civil society (200 victims). Those who are alleged to have committed the violations recorded are mainly members of PNC and of the National Intelligence Agency (ANR).'

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7.2.3 The report also noted:

'Persons who had declared their candidacy for the presidential election were subjected to intimidation. For example, on 14 February 2016, members of FARDC and the National Intelligence Agency arrested national deputy Martin Fayulu, president of the opposition party Engagement pour la citoyenneté et le développement (Commitment to Citizenship and Development) at party headquarters in Kinshasa, then beat him when he resisted arbitrary arrest. He was detained for a few hours at military intelligence headquarters for distributing leaflets advocating a day of protest ("dead town") on 16 February.

'In June 2016, 39 persons who had been arrested in connection with the exercise of their fundamental freedoms or for political reasons were still in detention, including in pretrial detention, in Lubumbashi, Goma and Kinshasa. The citizen's movement Lutte pour le changement (Struggle for Change) (LUCHA) was targeted in particular, with at least 15 members convicted by the courts for exercising their fundamental freedoms. In the case of Fred Bauma, arrested in Kinshasa on 15 March 2015 by PNC and ANR agents during a workshop organized by Platform Filimbi, his trial for

⁴⁹ UN Human Rights Council, Situation of human rights and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo , 12 August 2016, <http://www.refworld.org/docid/57c991264.html> Accessed 14 September 2016

⁵⁰ UN Human Rights Council, Situation of human rights and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo , 12 August 2016, <http://www.refworld.org/docid/57c991264.html> Accessed 14 September 2016

participation in an insurrectional movement and endangering State security is ongoing.’⁵¹

7.2.4 Reuters reported on 19 August 2016 that:

‘The Democratic Republic of Congo's government announced pardons on Friday [19 August 2016] for 24 people considered political prisoners by the opposition, in a bid to ease tensions ahead of a presidential election set for November.

‘Opposition leaders had demanded the release of 26 prisoners as a precondition for participation in talks on the election with President Joseph Kabila.’⁵²

7.2.5 Human Rights Watch in a report, ‘Democratic Republic of Congo at a Precipice: Ending Repression and Promoting Democratic Rule’, published on 18 September 2016, looked back over the last twenty months:

‘Since January 2015, government officials and security forces have arbitrarily arrested scores of activists and opposition leaders, some of whom were held incommunicado for weeks or months while others were put on trial on trumped-up charges. Peaceful pro-democracy youth activists were accused of plotting terrorist acts and wrongfully detained for nearly a year-and-a-half in the face of widespread public indignation, and a Congolese parliamentary report that found no evidence of their supposed wrongdoing.

‘Throughout the country, government officials and security forces repeatedly banned opposition demonstrations, prevented opposition leaders from moving freely, and fired teargas and live bullets on peaceful protesters. The deadliest crackdown occurred during nationwide demonstrations in January 2015 against proposed changes to the electoral law that would require a national census to be conducted before elections, potentially delaying the elections by several years. Police and the Republican Guard presidential security detail killed at least 38 people in Kinshasa and five people in the eastern city of Goma. At least five others were forcibly disappeared in Kinshasa, and dozens more wounded, including three who were shot and injured when Republican Guard soldiers fired upon Kinshasa's general hospital.

‘In a demonstration in Kinshasa in September 2015, senior security and ruling party officials hired thugs to assault peaceful protesters. Armed with clubs and wooden sticks, the assailants beat the demonstrators, spreading fear and chaos throughout the crowd of several thousand. Several recruits told Human Rights Watch that they had been called to a meeting with officials at a military camp in Kinshasa the night before, paid about US\$65 each, and given instructions on how to conduct the attack.

⁵¹ UN Human Rights Council, Situation of human rights and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo , 12 August 2016, <http://www.refworld.org/docid/57c991264.html> Accessed 14 September 2016

⁵² Reuters, Congo pardons 24 people considered political prisoners, 19 August 2016 <http://af.reuters.com/article/congoNews/idAFL8N1B038T> Accessed 13 September 2016

'On May 26, 2016, security forces fired teargas and live bullets as they sought to prevent demonstrations from going forward in Goma, killing at least one person and injuring at least 11 others, including four children. Opposition leaders had called for nationwide demonstrations to protest the Constitutional Court's controversial ruling, on May 11, that the president could remain in office "until the installation of the new elected president."

'During some of the demonstrations over the past two years, protesters responded to the crackdown by hurling rocks at the security forces, injuring a number of police officers.'⁵³

7.2.6 The USSD report stated:

'There were reports of political prisoners and detainees. Authorities charged political prisoners with a variety of common crimes, including abuse of confidence, inciting tribal hatred or civil disobedience, and attacking state security. While the government permitted international human rights organizations and MONUSCO [UN Organization Stabilization Mission in the Democratic Republic of the Congo] access to some of these prisoners, authorities consistently denied access to detention facilities run by the RG [Republican Guard] and the ANR [National Intelligence Agency].

'On March 15 [2015], security forces detained approximately 30 Congolese, Senegalese, and Burkinabe activists during a press conference for a civil society event on youth political participation. The Burkinabe and Senegalese were eventually deported, five activists escaped to Tanzania (and then to Europe), and the activists from the Congolese youth movement Filimbi ("whistle blower" in the local language) were detained by the ANR for a number of days without explanation and without access to legal counsel. In the weeks after March 15, the ANR released the Filimbi activists and others in a piecemeal fashion, with the final two activists, Fred Bauma and Yves Makwambala, released from ANR custody but transferred to a state prison in late May (where they had regular contact with legal counsel). Bauma and Makwambala remained in pretrial detention, charged with attempted attack on the head of state's life, attempted coup, and treason.'⁵⁴

7.2.7 The International Crisis Group (ICG) report, Boulevard of Broken Dreams: The "Street" and Politics in DR Congo, published 13 October 2016, noted:

'UNJHRO (UN Joint Human Rights Office) and Amnesty International reports point to increased repression by the Congolese National Police (PNC) and domestic intelligence service (ANR). The armed forces (FARDC), in particular the Republican Guard (GR), have been deployed to help police quell unrest, particularly during the January 2015 protest and again on 19 September 2016. The presidency tightly controls the ANR, GR and, to a

⁵³ Human Rights Watch, Democratic Republic of Congo at a Precipice: Ending Repression and Promoting Democratic Rule, 18 September 2016, available at: <http://www.refworld.org/docid/57dfaedf0.html> Accessed 21 September 2016

⁵⁴ USSD, Country Report DRC 2015 (section 1e), 13 April 2016 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Accessed 13 September 2016

somewhat lesser degree, the PNC, mostly bypassing civilian structures in the process, and also uses the judiciary against its opponents...

'In the increasing tension during the September dialogue, riot control units were visibly stationed at key locations and major transport axes in Kinshasa. MONUSCO and others have provided crowd control training, and the PNC has purchased non-lethal riot control equipment (such as water cannons). However, in the first days of the September riots, the water cannons were reportedly hardly used; instead, the government escalated the response role to the armed forces, as the police had difficulty coping...

'The ANR has increasingly been used as a secret police. This very powerful institution is present countrywide and is a highly centralised parallel administration. It has focused on youth groups, such as Lucha, and operations against the parties and individuals that have left the majority. For example, it blacklisted and harassed businesses and interests associated with Katumbi. The rival military intelligence service (Etat-Major Renseignement) on occasions has zealously engaged in political repression, most notoriously when it arrested opposition politician Martin Fayulu.'⁵⁵

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⁵⁵ International Crisis Group (ICG), Boulevard of Broken Dreams: The "Street" and Politics in DR Congo, 13 October 2016, Briefing N°123, <http://www.refworld.org/docid/57ff4d3a4.html>
Accessed 7 November 2016

Version Control and Contacts

Contacts

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Clearance

Below is information on when this version of this note was cleared:

- version **1.0**
- valid from **8 November 2016**

Changes from last version of this note:

First version of this country policy and information note.

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