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Technical assistance and capacity-building

Belgium,* Cameroon, Germany, Greece,* Ireland,* Luxembourg,* Netherlands, Slovenia,* Turkey*: draft resolution**

48/... Technical assistance and capacity-building in the field of human rights in the Democratic Republic of the Congo

The Human Rights Council,

Reaffirming that all States have a responsibility to promote and protect the human rights and fundamental freedoms enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights and to discharge their obligations under the International Covenants on Human Rights and other relevant instruments to which they are parties,

Recalling General Assembly resolution 60/251 of 15 March 2006,

Recalling also its resolutions 5/1 of 18 June 2007, 7/20 of 27 March 2008 and S-8/1 of 1 December 2008,

Recalling further its resolutions 10/33 of 27 March 2009, 13/22 of 26 March 2010, 16/35 of 25 March 2011, 19/27 of 23 March 2012, 24/27 of 27 September 2013, 27/27 of 26 September 2014, 30/26 of 2 October 2015, 33/29 of 30 September 2016, 35/33 of 23 June 2017, 36/30 of 29 September 2017, 39/20 of 28 September 2018, 42/34 of 27 September 2019 and 45/34 of 2020, in which the Human Rights Council called upon the international community to support the efforts of the Democratic Republic of the Congo and its institutions with a view to improving the situation of human rights and responding to its requests for technical assistance,

Taking note of the report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo,¹ submitted to the Council in accordance with its resolution 45/34,

Deeply concerned about the continuing violations being committed against children and women, including sexual and gender-based violence, and affirming the necessity of preventing, condemning and eliminating all forms of violence against women and girls, of

* State not a member of the Human Rights Council.

** On behalf of the States Members of the United Nations that are members of the Group of African States.

¹ A/HRC/48/47.



ensuring access to justice and of meeting the obligation to bring the perpetrators of these violations to book,

Concerned by the deteriorating security and human rights conditions in some sectors in the eastern part of the Democratic Republic of the Congo, with a situation that continues to give cause for concern in Ituri, North Kivu, South Kivu, Maniema and Tanganyika in particular,

Noting the progress made by the Armed Forces of the Democratic Republic of the Congo in preventing and ending the recruitment and use of children,

Noting also the updating of the National Action Plan to Combat the Worst Forms of Child Labour in the Democratic Republic of the Congo,

Concerned about the humanitarian consequences of the violence affecting civilian populations, particularly children and women, which have led to a significant increase in the number of internally displaced persons and persons in need of humanitarian assistance,

Welcoming the progress made in 2020 and the measures taken by the President to put an end to the violations of fundamental freedoms and human rights in the Democratic Republic of the Congo,

Concerned by the resurgence of violations of fundamental freedoms linked to restrictions on liberties and by the worsening situation in detention centres,

Concerned also by the resurgence of hate speech and of incitement of hatred in contravention of article 20, paragraph 2, of the International Covenant on Civil and Political Rights, as detailed in a report issued by the United Nations Joint Human Rights Office in the Democratic Republic of the Congo in March 2021, and by the threat that this resurgence poses to national cohesion, peace, lasting security and the protection of civilians in increasing the risk of inter-ethnic and other forms of violence and discrimination,

Calling on the Government of the Democratic Republic of the Congo to continue and to step up its efforts to respect, protect and uphold all human rights and fundamental freedoms for all, in accordance with its international obligations, and to respect the rule of law,

Concerned about the arbitrary arrests, carried out by the security services, targeting court officers, including lawyers, and other civil society actors, such as human rights activists and whistle-blowers,

Concerned also about the cases of arbitrary arrest by the judiciary, and recalling that detention should under all circumstances remain an exception to the principle of respect for the fundamental freedoms of Congolese citizens,

Recalling the need to guarantee not only the right of opposition, but also the full exercise by Parliament of its mandate in a democratic system,

Welcoming the report of the team of international experts on the situation in Kasai,² submitted in accordance with Human Rights Council resolution 45/34, taking note of its conclusions and recommendations, and welcoming the ongoing cooperation between the Government of the Democratic Republic of the Congo and the team of international experts, including the steps taken to facilitate access to the country, sites and persons,

Recognizing the important role played by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the United Nations Joint Human Rights Office in the Democratic Republic of the Congo in documenting human rights violations and abuses and in improving the situation of human rights in the country,

Bearing in mind that the recommendations of the team of international experts on the situation in Kasai should continue to be implemented on the ground by the Government of the Democratic Republic of the Congo, with support from the United Nations Joint Human Rights Office in the Democratic Republic of the Congo,

² A/HRC/48/82.

Noting the efforts made in the region, in particular by the Southern African Development Community, the African Union, the International Conference on the Great Lakes Region and the Economic Community of Central African States, aimed at contributing to peace and stability in the Democratic Republic of the Congo,

Noting also the progress made in combating impunity for perpetrators of sexual violence and in ensuring that victims have access to justice for the reparation of harm suffered, including through the establishment, by the Office of the Personal Representative of the Head of State tasked with fighting against sexual violence and the recruitment of children, of a helpline for victims of sexual violence, which contributes to the fight against impunity, commending the Government of the Democratic Republic of the Congo on its tireless efforts to prevent, on a lasting basis, the recruitment and use of children by its armed forces, and calling on the Government to find a durable solution to the problem of sexual and gender-based violence against children by implementing the 2012 plan of action and by prioritizing the provision of services to child survivors,

Noting further the efforts of the Democratic Republic of the Congo to meet its commitments under the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, signed in Addis Ababa on 24 February 2013,

1. *Condemns* all violations of human rights, in particular in the areas affected by armed or intercommunal conflict in the eastern part of the Democratic Republic of the Congo, where the situation continues to lead to significant population displacement;

2. *Notes* the efforts made by the authorities of the Democratic Republic of the Congo to bring the alleged perpetrators of those acts to justice, encourages them to take all necessary measures to ensure that all the alleged perpetrators are brought to justice, and welcomes the convictions already pronounced;

3. *Encourages* the Government of the Democratic Republic of the Congo to vigorously pursue the awaited legislative changes aimed at enhancing respect for human rights and fundamental freedoms, as the President has pledged to do, to continue efforts to strengthen the rule of law and democratic institutions, to advance political openness, to provide adequate protection for human rights defenders and whistle-blowers, and not to allow any retrogression or new violations of the political rights of Congolese citizens;

4. *Underlines* the responsibility incumbent on all stakeholders to act in strict respect for the rule of law and human rights, and urges them to reject all forms of violence;

5. *Notes* the proclamation by the Head of State, effective 6 May 2021, of a state of siege in the provinces of North Kivu and Ituri, the objective of which is to restore State authority, peace, the rule of law and respect for human rights, and calls on the Government to provide information on the scope of that measure in accordance with article 4, paragraph 3, of the International Covenant on Civil and Political Rights;

6. *Encourages* the Government of the Democratic Republic of the Congo to respect the rule of law and to continue with its efforts to respect, protect and uphold human rights and fundamental freedoms for all, in accordance with the international obligations of States, in particular during the state of siege in effect in the provinces of North Kivu and Ituri, where military justice has assumed the functions of the civilian courts in dealing with criminal cases;

7. *Welcomes* the strong commitment of the President to improving the human rights situation and the positive steps taken since his inauguration to launch his reform agenda and open up the political environment, which have resulted in the release of political prisoners, the closure of the detention centres where they were being held, the return of political actors, and progress in ensuring respect for fundamental freedoms;

8. *Regrets* the steady rise in the number of violations of political rights and public freedoms, as reflected in a high number of arbitrary arrests, including of whistle-blowers, infringements of freedom of expression and the press and threats against human rights defenders;

9. *Welcomes* the establishment of the Disarmament, Demobilization, Community Recovery and Stabilization Programme, following the signature, by the President, on 5 July 2021, of the order on the creation, organization and functions of the programme;

10. *Welcomes* the efforts of the Armed Forces of the Democratic Republic of the Congo, supported by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, to counter armed groups that are spreading terror in certain conflict zones in the east of the country;

11. *Welcomes also* the efforts undertaken by the authorities of the Democratic Republic of the Congo to strengthen the rule of law and the independence of the judiciary, and invites them to continue, in cooperation with international partners, to develop national capacities in the conduct of investigations and the prosecution of perpetrators of grave human rights violations that could amount to crimes against humanity and war crimes, to facilitate the continuance of legal proceedings initiated against alleged perpetrators of grave violations of human rights and of international humanitarian law, to tackle the issues of slow judicial proceedings and congestion in the courts, and to ensure that guilty parties are convicted;

12. *Welcomes* the pursuit of the trial proceedings launched against the persons who allegedly killed two United Nations experts and the persons accompanying them, the conviction of the perpetrators and compensation of the victims in the case linked to the Kamuina Nsapu militia in the Kasai region, the trials of persons alleged to be recruiters of children, the conviction, for war crimes, including the recruitment and use of children, of the former head of Nduma Defence of Congo, Ntabo Ntaberi Sheka, and the convictions of 17 soldiers of the armed forces and 11 police officers for child rape;

13. *Welcomes* the proceedings brought against perpetrators of human rights violations through the organization of trials in the civilian and military courts and of mobile court hearings in remote areas where there are no fixed courts, as well as the resumption of the trial of the killers of human rights defenders Floribert Chebeya and Fidèle Bazana;

14. *Welcomes also* the legal proceedings against persons who allegedly engaged in corruption, bribery, embezzlement of public funds and other acts of financial impropriety reported by the Inspectorate General of Finances, and the referral of all the cases to the Office of the Attorney General of the Republic;

15. *Encourages* the Government of the Democratic Republic of the Congo to pursue its efforts to adopt legislative measures aimed at promoting and protecting human rights and fundamental freedoms and facilitating their full enjoyment by all citizens;

16. *Welcomes* the efforts made by all parties, including the Government of the Democratic Republic of the Congo, the political opposition and civil society, to create a fully open political environment;

17. *Welcomes* the steps taken to revitalize the Interministerial Committee on Human Rights, which is tasked with preparing and drafting all the reports required under international and regional human rights treaties and the universal periodic review process and for follow-up on all recommendations, and recommends that the authorities of the Democratic Republic of the Congo do everything necessary to increase budgetary resources for the committee in order to optimize its work;

18. *Welcomes* the fact that the Interministerial Committee on Human Rights has been given office and computer equipment by the United Nations Joint Human Rights Office in the Democratic Republic of the Congo to enable it to optimize its work;

19. *Welcomes also* the note of August 2021 of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo reporting a decrease in the number of violations compared to the previous period;

20. *Encourages* the authorities of the Democratic Republic of the Congo to do everything necessary to guarantee the independence of the National Committee for the Prevention of Torture in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

21. *Welcomes* the process under way to develop the transitional justice machinery in the Democratic Republic of the Congo through the establishment of a national commission on transitional justice and reconciliation, including the creation of a fund for victims of serious crimes, their family members and their communities, a mechanism that could balance the fight against impunity with reconciliation and the possibility of warding against the recurrence of such crimes, in accordance with Human Rights Council resolution 38/20 of 6 July 2018, also welcomes the creation of a working group on transitional justice in Congolese civil society, together with the implementation of a transitional justice programme in Kasai, which could be replicated in other provinces;

22. *Welcomes* the commitment made by the Minister for Human Rights, in cooperation with the United Nations Joint Human Rights Office in the Democratic Republic of the Congo, to launch a major national campaign to raise awareness of issues relating to hate speech, identified as a source of community violence in the Democratic Republic of the Congo;

23. *Welcomes* the creation, by the President, of the Agency to Prevent and Combat Human Trafficking and the appointment of key figures to lead it, in the framework of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, while recalling the need for ensuring synergies with regard to the charging and prosecution of those responsible for this practice;

24. *Urges* the Government of the Democratic Republic of the Congo to do everything possible to ensure the success of the follow-up given to the signature of the peace accord with the Patriotic Resistance Force of Ituri, in accordance with international law, by making the related transitional justice mechanism an effective one, and to acquire the means to apply the same process in all parts of the country where tensions flare up because of the presence of local armed groups;

25. *Welcomes* the establishment of a ministry for persons with disabilities and other vulnerable persons, the adoption in the Parliament of laws for the protection of persons with disabilities and of indigenous persons in the Democratic Republic of the Congo, as well as the preparation of the initial report on the implementation of the Convention on the Rights of Persons with Disabilities;

26. *Welcomes* the effective action taken to establish an interministerial committee for the voluntary principles on security and human rights in the extractive industries, the decision by the Democratic Republic of the Congo to sign up to the initiative regarding those same principles, in particular in the mining sector where child labour and other human rights violations are regularly to be found, invites all its partners to lend it assistance in the application of the principles at the national level, and recommends that the Government takes clear and coherent action to provide unified coordination of all related initiatives, from whatever quarter they may come, with a view to ensuring transparency at the national and multilateral levels;

27. *Encourages* the Government of the Democratic Republic of the Congo to continue with and strengthen incentives designed to enhance and increase the presence and participation of women in the political and administrative domains;

28. *Notes* the commitment of the President of the Democratic Republic of the Congo to combating impunity, reiterates its encouragement to the Government to actively pursue its efforts, in conjunction with civil society organizations and the international community, to end impunity for the perpetrators of grave human rights violations and abuses, including sexual and gender-based violence and violence against children, as well as violations of international humanitarian law, in particular in the east of the Democratic Republic of the Congo and the province of Kasai, and to ensure that the victims of such violations, abuses and related crimes receive adequate reparation, and declares that it will follow the regulatory initiatives being prepared in this regard with interest;

29. *Encourages* the Government of the Democratic Republic of the Congo to apply all decisions of the treaty bodies and of the African Commission on Human and Peoples' Rights for the protection and improvement of the human rights situation in the country;

30. *Encourages* the Ministry for Gender, the Family and Children to make the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa more widely known;

31. *Welcomes* the adoption, on 22 August 2021, of a road map for follow-up on the commitments made by the Democratic Republic of the Congo to combat statelessness;

32. *Calls on* the Government of the Democratic Republic of the Congo to take all appropriate measures to prevent and eliminate all forms of discrimination and violence against women and girls, including those in situations of risk, notably situations involving armed conflict, humanitarian emergencies and natural disasters;

33. *Encourages* the Government of the Democratic Republic of the Congo to safeguard the dignity of detainees and convicted prisoners by offering them a framework that is conducive to their rehabilitation and proper reintegration into society;

34. *Welcomes* the cooperation that has been established between the Democratic Republic of the Congo, the Office of the United Nations High Commissioner for Human Rights, the Human Rights Council, the United Nations Joint Human Rights Office in the Democratic Republic of the Congo and the team of international experts on the situation in Kasai;

35. *Encourages* the Government of the Democratic Republic of the Congo to improve its cooperation with the special procedures mandate holders by responding to their requests for visits;

36. *Also encourages* the Government of the Democratic Republic of the Congo to step up its efforts in pursuit of security sector reform, including with respect to capacity-building for its members on human rights and international humanitarian law, and to reform and further strengthen its prison system;

37. *Further encourages* the Government of the Democratic Republic of the Congo to take appropriate measures to ensure the smooth functioning of all agencies responsible for monitoring respect for human rights, including the Human Rights Liaison Unit, the National Human Rights Commission, the Interministerial Committee on Human Rights, the National Commission for the Universal Periodic Review and the Unit for the Protection of Human Rights Defenders;

38. *Requests* the Government of the Democratic Republic of the Congo to proceed with the full implementation of the recommendations made by the team of international experts on the situation in Kasai in its report, in cooperation with the United Nations Joint Human Rights Office in the Democratic Republic of the Congo, in particular those recommendations on combating impunity, so that all perpetrators of human rights violations and abuses are brought to justice and so that reconciliation can be promoted;

39. *Expresses satisfaction* with the public commitment of the Democratic Republic of the Congo to foster justice and reconciliation in Kasai and encourages the Government to pursue its efforts to give effect to this commitment, particularly in regard to the conduct of investigations and prosecutions, violence against women, including action against sexual and gender-based violence, reconciliation between communities, and the disarmament and demobilization of militias;

40. *Welcomes* the work done by the team of international experts on the situation in Kasai, together with the technical assistance provided by the Office of the High Commissioner to the judicial authorities in the Democratic Republic of the Congo, in particular in the area of forensic medicine;

41. *Welcomes also* the establishment of an interministerial working group to follow up on the recommendations of the team of international experts on the situation in Kasai, and encourages the Government of the Democratic Republic of the Congo to make sure that this working group meets as often as needed to regularly assess progress made with implementation of the recommendations, to strengthen coordination between the administrative bodies and stakeholders, and to recommend appropriate measures to the Government;

42. *Decides* to confer upon the United Nations Joint Human Rights Office in the Democratic Republic of the Congo the mission of assisting the Government of the Democratic Republic of the Congo in the implementation of the recommendations made by the team of international experts on the situation in Kasai;

43. *Requests* the High Commissioner to provide technical assistance, including forensic expertise, to the Government of the Democratic Republic of the Congo in order to support the judicial authorities in their investigations into allegations of human rights violations and abuses, with a view to bringing those responsible to justice;

44. *Also requests* the High Commissioner to provide the Government of the Democratic Republic of the Congo with technical assistance to support the process under way to develop the transitional justice machinery in the Democratic Republic of the Congo through the establishment of a national commission on transitional justice and reconciliation;

45. *Requests* the High Commissioner to present the Council with an oral update on the situation of human rights in the Democratic Republic of the Congo, in the framework of an enhanced interactive dialogue, at its forty-ninth session;

46. *Also requests* the High Commissioner to prepare a comprehensive report on the situation of human rights in the Democratic Republic of the Congo and to submit it to the Council, in the framework of an enhanced interactive dialogue, at its fifty-first session;

47. *Decides* to remain seized of the matter until its fifty-first session.
