



# Time for Concerted Action in DR Congo

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# Principal Findings

**What's the issue?** President Joseph Kabila's apparent determination to remain in power threatens to prolong the Democratic Republic of Congo's (DRC) political stalemate. Having subverted the December 2016 Saint Sylvester agreement that set out a path toward elections, the regime is increasingly confident while the opposition grows weaker and more divided.

**Why does it matter?** The DRC is already among the world's worst humanitarian crises. Violence has been intensifying across several provinces and the risk of further escalation is high. A rapid implosion would have dire consequences for stability in the DRC and its neighbours.

**What should be done?** Western and regional powers need to redouble efforts to encourage a peaceful transition. The recently-announced electoral calendar provides an opening for reinvigorated international engagement, ideally behind the Saint Sylvester principles. The Congolese opposition and civil society should engage in, not boycott, the political process.

## *Executive Summary*

The political impasse in the Democratic Republic of Congo (DRC) continues, and violence has been rising in several provinces throughout 2017. Yet the regime of President Joseph Kabila appears determined to stay in power by postponing elections. It has outmanoeuvred the opposition and international actors alike. The blockage carries grave dangers for Congolese and regional stability; the longer the crisis drags on, the harder it will be to pick up the pieces. To minimise these risks, Western and African powers need to overcome their inertia and forge consensus on how to pressure President Kabila. Revising international coordination mechanisms for the DRC could help. A joint Western and African approach should focus on advancing election preparations based on the recently published electoral calendar while actively pushing to open political space and eventually establish the confidence necessary to carry out a credible and peaceful vote and to maintain stability in its aftermath.

Since the signing of the 31 December 2016 Saint Sylvester agreement, which stipulated that elections should occur in 2017 and that President Kabila should leave power, the regime has dug in, weakening the opposition through attrition. In contravention of the agreement, it now controls the government and the agreement's national oversight committee, as well as the electoral commission. It has no grand strategy for staying in power, nor does it need one. The Kabila regime's control of state finances and key institutions, the opposition's weakness following the death of its historic leader, Etienne Tshisekedi, and dwindling international attention have allowed it to subvert the agreement's implementation.

Although the opposition coalition platform, the Rassemblement, has remained relatively coherent, it is weak and has been losing traction with a restless population. It is now calling for the establishment of a transitional government without Kabila at the end of 2017, an outcome that has no chance of occurring. The opposition's weakness along with the regime's repressive tactics has opened space for armed groups. Insurgencies, massive prison breaks, and vicious or clumsy security force reactions have all grown throughout 2017. There are tentative signs that armed groups are attempting to coordinate their positions, which could become a serious threat to the region's stability. At least ten provinces now are in the grip of armed conflict, resulting in one of the world's most complex and challenging humanitarian crises. Neighbours, particularly Angola and the Republic of Congo, are worried by renewed or potential refugee surges into their territory. It is a vicious cycle: as the government's grip on power loosens, it increasingly uses heavy-handed tactics and disregards the rule of law while invoking the unrest to justify election delays, all of which only further fuels discontent.

The electoral commission, after months of delay, finally has produced its electoral calendar, with presidential polls now scheduled for 23 December 2018 – a full year beyond the Saint Sylvester deadline. Left on its own, the government is likely to drag out electoral preparations even longer. International actors have been unwilling to engage more actively, partly out of frustration at the parties' intransigence, partly due to their own differences over how to pressure the government. Many Western powers have become more critical of the regime, with the European Union (EU) and U.S.

sanctioning nearly two dozen officials. In contrast, African heads of state generally have acquiesced as the government violates the spirit and terms of the Saint Sylvester agreement and tend to dismiss Western sanctions as ineffectual. Although neither Western nor African powers hold homogenous views, these broad divides allow the government to forum shop and portray pressure as a form of neo-colonialism. The sheer number of actors involved, including a multitude of regional organisations, adds to the problem.

The starting point is for both Western and African powers to recognise that the direction in which President Kabila is driving the country poses the gravest threat to its stability, notwithstanding the uncertainty that a transition would bring. Even if many believe the current regime is highly unlikely to willingly leave power, working toward elections and a more open political environment remains vital. International actors share an interest in holding President Kabila to the Saint Sylvester deal's main principles – notably the effective organisation of elections, no constitutional amendment to allow President Kabila to remain in office and an opening of political space and respect for human rights – which still offer the best route out of the crisis.

Behind closed doors, African leaders recognise the dangers, but the forces of inertia are more complex to overcome. The result: continued public support for Kabila on the continent provides his regime breathing space. Western powers should redouble efforts to overcome differences with their African counterparts, listening to their concerns and, for now, refraining from further sanctions. Even united, it would not be easy for Western and regional powers to nudge Kabila toward a transition and the DRC out of its current predicament; divided, the prospects are close to zero.

One option to reinvigorate and sustain regional and international diplomacy around the DRC would be to set up a smaller group of envoys, composed of the institutions that have initiated the group of experts for electoral support – the African Union (AU), UN, la Francophonie, EU and the Southern African Development Community (SADC) – preferably along with the U.S. Ideally, then, a consensus position would involve active African and Western diplomacy to promote the following:

❑ **Adherence to the electoral timeline and a transparent elections budget.**

The recent publication of a feasible timeline – one that gives the opposition time to organise ahead of polls – is an opportunity for active engagement. International actors involved in electoral preparations, including the UN as well as regional groups and the EU, should monitor adherence to the calendar and warn against unjustified slippage. The government and electoral commission (CENI) should make it a priority to clarify and detail the funding of the process. The CENI should also rapidly clarify the financial and operational impact of its proposed semi-digital vote. Any option proposed should include a thorough and open assessment of its impact on the timing of elections. Parliament urgently needs to adopt relevant electoral legislation. Electoral legislation as well as other legal initiatives should avoid restricting political space.

❑ **Implementation of previously agreed confidence-building measures.**

The government should establish a credible process to assess the legality and validity of the prosecution of several opposition leaders. It also should allow peaceful political protest, party activity and free media reporting. International

actors, including regional ones, should pressure the government to this end. Recent initiatives, such as a restrictive law on civil society, run counter to the spirit of the Saint Sylvester and will hamper the transparency of the electoral process.

- **Opposition parties' intensified engagement in the process.** Rather than boycotting talks or refusing to engage on key issues such as the electoral calendar, opposition figures should intensify their engagement in the process, including by actively challenging the regime's manipulation of the judiciary. The opposition should transform its narrative and address key social and economic questions, proving their relevance to a restive citizenry. They also should start preparing their party structures and base for upcoming elections.

Last, international actors, including the UN, have to be prepared for a potential short-term deterioration of the situation. The UN Security Council should give careful consideration to the recommendations of the September 2017 strategic review of the UN Mission, especially regarding greater flexibility in force deployment and human rights monitoring. The risk of violence escalating over the coming months is high and international actors, including the UN, should be prepared to manage the consequences as best possible.

**Nairobi/Brussels, 4 December 2017**

# Time for Concerted Action in DR Congo

## I. Introduction

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On 31 December 2016, the Democratic Republic of Congo's (DRC) ruling political party coalition known as the Alliance of the Presidential Majority (hereinafter "the Majority") and the opposition signed the "Comprehensive and Inclusive Political Agreement", commonly known as the Saint Sylvester agreement. Mediated by the Congolese Catholic Church, it came about under pressure both from the street and international actors. By clearly stating that elections should be held in 2017 and that the constitutional provision on presidential term limits should not be changed, it appeared to answer the question dominating Congolese political life: how to organise a democratic transition of power with an unwilling incumbent.<sup>1</sup>

Over the next eleven months, the Majority controlled implementation to suit its agenda of further elections delay (*glissement*). It has exploited its opponents' weakness and divisions and profited from a largely passive international community. The 5 November electoral calendar has now officially confirmed additional delay with polls planned for 23 December 2018 and the presidential inauguration scheduled in January 2019.<sup>2</sup> While tension is rising throughout the country, there are few signs that either opposition or international actors have the capacity to shift the status-quo.

The talks that led to the Saint Sylvester agreement were the most recent in a series of dialogues following the defeat of the M23 insurgency in 2013.<sup>3</sup> The Majority sought to use these earlier rounds to stay in power beyond the end of President Joseph Kabila's second and, according to the constitution, final term in office in 2016. However, it was far from plain sailing: talks did not produce an adequate consensus to amend the constitution and in January 2015, surprisingly large popular protests, sparked by government plans to implement an expensive and time-consuming census before it would hold elections, ended any illusion within the Majority that it could quickly engineer an outcome allowing the president to run for a third term. Shortly thereafter, fractures emerged within the Majority: then-Katanga Governor Moïse Katumbi left it in 2015, followed by parties that would form the "Group of Seven" (G7) opposition coalition.<sup>4</sup> The regime's crack-down on Katumbi and the G7 provided them with some credibility and sympathy among a public desperate for change.<sup>5</sup>

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<sup>1</sup> See Crisis Group Africa Report N°225, *Congo: Is Democratic Change Possible?*, 5 May 2015; "Congo: Une bataille électorale périlleuse", Congo Research Group, August 2016.

<sup>2</sup> "Décision N°065/CENI/BUR/17 du 5 Novembre 2017 portant publication du calendrier des élections présidentielle, législatives, provinciales, urbaines, municipales et locales", CENI, 5 November 2017.

<sup>3</sup> The M23 was an insurgency backed by Rwanda and Uganda that took over parts of North Kivu in 2013 and constituted the biggest security crisis of Kabila's 2011-2016 mandate.

<sup>4</sup> Moïse Katumbi resigned as governor of Katanga in September 2015 and declared his candidacy for president on 4 May 2016. He left the country a few weeks later for medical reasons, after the government launched legal proceedings against him, and remains in exile.

<sup>5</sup> Crisis Group interviews, Congolese citizens, civil society members, politicians, Bukavu, 2016; Goma, 2016-2017; Kananga, 2017; Kinshasa, 2016-2017; Lubumbashi, 2016-2017. See also Crisis Group Africa Report N°239, *Katanga: Tensions in DRC's Mineral Heartland*, 3 August 2016.

Initial attempts to bring together these break-away elements and more established opposition and civil society groups faltered. This changed in June 2016 at a meeting in Genval, Belgium, when newcomers, including Katumbi, and established opponents, including Etienne Tshisekedi and his Union for Democracy and Social Progress (UDPS), joined forces, creating the Rassemblement.<sup>6</sup> It demonstrated strength by mobilising massive crowds on 29 July 2016 when Etienne Tshisekedi returned to Kinshasa after a long absence in Belgium. Although it does not include the entire opposition, the Rassemblement became its centre of gravity.<sup>7</sup>

International actors strongly supported President Kabila following the 2006 elections, but the chaos of the 2011 polls fed doubts as to the country's direction. The DRC government regained some sympathy in 2012 and 2013 when it fought the M23 insurgency, which was backed by neighbouring countries. This led to the Peace and Security Cooperation Framework Agreement (PSCF) signed in Addis in February 2013 and based on the following trade-off:<sup>8</sup> DRC's neighbours promised not to interfere in the country's affairs, while Kinshasa committed itself to democratic reforms. Backed by international actors, the PSCF remains the most recent high-profile international commitment to peace in the DRC and the region.<sup>9</sup> Since then oversight and support for its implementation has lost momentum as the DRC has become bogged down in a seemingly interminable political and constitutional crisis.

Through an analysis of the contentious implementation of the Saint Sylvester agreement this report looks at the intertwined sources of political tension and violence in the DRC throughout 2017. It analyses the international and regional response and argues that, the election delay notwithstanding, there is an urgent need for renewed national and international engagement around some core principles – notably the effective organisation of elections, no constitutional amendment to allow President Kabila to remain in office and an opening of political space and respect for human rights – to prevent the crisis from growing and potentially engulfing the region. It is based on fieldwork throughout 2016 and 2017 in Addis Ababa, Brussels, Goma, Kananga, Kinshasa, Kisangani, Lubumbashi, New York and Pretoria. It builds upon a series of commentaries and op-eds published since December 2016 and is part of a series of publications on the DRC's broader electoral process.<sup>10</sup>

<sup>6</sup> In full: "Le Rassemblement des Forces politiques et sociales de la RDC acquies au changement". Known as Rassop, or more commonly, "*le Rassemblement*", this platform already includes two declared presidential candidates: Moïse Katumbi and Martin Fayulu. It bridges the gap between Katangese (heavily represented in the G7-Katumbi alliance) and Kasaian (UDPS) interests. The regime is strongly focused on disrupting this alliance.

<sup>7</sup> The main opposition parties not part of the Rassemblement remain open to working with the Majority. They include the Union for the Congolese Nation (UNC), led by Vital Kamerhe, and the Movement for the Liberation of Congo (MLC), led by Jean-Pierre Bemba (currently being prosecuted in by the International Criminal Court in The Hague) and Eve Bazaiba, who is in the DRC. For example, the UNC participated in the 2016 AU dialogue and the subsequent national union government led by then-Prime Minister Samy Badibanga (19 December 2016-6 April 2017).

<sup>8</sup> "Peace and Security Cooperation Framework for the Democratic Republic of the Congo and the region", at <http://peaceau.org/uploads/scanned-on-24022013-125543.pdf>.

<sup>9</sup> International witnesses signing the PSCF were: the UN, the African Union (AU), the Southern African Development Community (SADC) and the International Conference on the Great Lakes Region (ICGLR).

<sup>10</sup> See Crisis Group Commentaries, "Open Letter to the UN Secretary-General on Peacekeeping in DRC", 27 July 2017; "DR Congo: What Next for the Political Process?", 6 April 2017; "Kamuina



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## II. Boxing in the Shadow of Saint Sylvester

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As the political temperature rose in early 2016, the African Union (AU) Commission launched an initiative in support of a national political dialogue led by a member of the AU Panel of the Wise, former Togolese Prime Minister Edem Kodjo. From the start, it was deeply distrusted by the opposition and civil society.<sup>11</sup> Although boycotted by the Rassemblement, the talks took place under Kodjo's leadership between 1 September and 18 October. The disconnect between these talks and mounting tension on the ground became obvious when security forces violently repressed protests in Kinshasa and the influential Episcopal Conference of the Congolese Catholic Church (CENCO) walked out of the discussions.<sup>12</sup> An agreement eventually was signed on 18 October but it lacked comprehensive opposition and international support.<sup>13</sup> During a 26 October 2016 meeting of the PSCF international follow-up mechanism in Luanda, Kabila came under pressure from several regional leaders, notably Angola's (now former) President José Eduardo dos Santos, to negotiate a more inclusive agreement. On 29 October, the presidency entrusted the CENCO with a good offices mission.<sup>14</sup>

While the bishops brought their moral weight to the table, this eleventh hour attempt was driven mainly by increasing pressure from international actors – including the imposition of sanctions – and from the population, particularly in the form of street protests on 19 and 20 December.<sup>15</sup> All opposition parties participated in the talks, but Etienne Tshisekedi kept a safe distance, as did President Kabila. The Rassemblement insisted on power sharing (in particular allowing the opposition to choose a prime minister), elections in 2017, guarantees that the constitution be respected, more political space (including ending the prosecution of Moïse Katumbi and other political leaders), greater media freedom and reform of the Independent Electoral

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Nsapu Insurgency Adds to Dangers in DR Congo", 21 March 2017; "Kabila's Strengths and Vulnerabilities as DRC Deadline Nears", 11 December 2016.

<sup>11</sup> Crisis Group interviews, UDPS officials, members of civil society and youth organisations, Kinshasa, September 2016. See also "The African Union Supports Inclusive National Political Dialogue in the DRC", press release, African Union, 14 January 2016; "The Chairperson of the Commission appoints Mr. Edem Kodjo as facilitator for the national dialogue in the Democratic Republic of Congo", press release, African Union, 6 April 2016.

<sup>12</sup> "Violences en RDC: les évêques suspendent leur participation au dialogue national", Radio France internationale (RFI), 20 September 2016.

<sup>13</sup> The agreement was signed by the Majority, the so-called "Republican opposition" (parties affiliated to Senate President Kengo Wa Dondo, and close to the Majority), Vital Kamerhe's UNC and several smaller political parties, as well as civil society representatives. Its main points were a new voter register by July 2017 as well as joint presidential, legislative and provincial elections by April 2018.

<sup>14</sup> Crisis Group interviews, diplomats, Kinshasa, November 2017.

<sup>15</sup> 19 December marked the official end of President Kabila's second five-year mandate. The U.S. adopted targeted sanctions in June, September and December 2016, and in June 2017. "Treasury sanctions senior Congolese official for leading Republican Guard in undermining democratic processes", press release, U.S. Department of the Treasury, 6 January 2017; and "Treasury sanctions two Congolese governments officials", press release, U.S. Department of the Treasury, 12 December 2016. The EU adopted sanctions in December 2016 and May 2017. "Democratic Republic of the Congo: EU adopts sanctions against a further 9 people", press release, The Council of the European Union, 29 May 2017; and "Democratic Republic of the Congo (DRC): EU adopts sanctions against 7 individuals responsible for violence", press release, The Council of the European Union, 12 December 2016.

Commission (CENI). On 31 December 2016, nearly two weeks after the legal end of Kabila's second and last term, the parties signed the agreement.<sup>16</sup>

### A. *The Agreement*

The Saint Sylvester "Global and Inclusive" Agreement comprises four main pillars that:

1. Confirm the integrity of the 2006 constitution, which prohibits the incumbent president from seeking a third term, while acknowledging that Kabila would remain in power until his elected successor is installed;
2. Introduce a concrete, albeit adjustable, deadline for elections to be held by the end of 2017;
3. Include the opposition in a power-sharing agreement for the transitional period while remaining vague on how it would be established; and,
4. Introduce an inclusive oversight mechanism and platform for talks among all political actors, dubbed the National Council for Monitoring the Agreement and the Electoral Process (CNSA), to be chaired by the president of the Rassemblement, Etienne Tshisekedi.<sup>17</sup>

The agreement also foresees the "revitalisation" of the electoral commission and the lifting of restrictions on political activity, including ending the judicial prosecution of opposition leaders, particularly Moïse Katumbi. Moreover, it calls for a completely new voter roll and for presidential, legislative and provincial elections to be held simultaneously.<sup>18</sup> Finally, the deal envisages further talks to agree on "special arrangements" for its effective implementation, including questions regarding the composition of the government, the procedure for the appointment of the prime minister and a timetable.

Although power-sharing is not new in DRC, the creation of a domestic mechanism to monitor election preparation alongside an opposition-led government in principle amounted to a fundamental power rebalancing. Implemented in full, it would have meant shared control over, and oversight of, the electoral process by placing Kabila's nemesis, Etienne Tshisekedi, in a powerful position as head of the monitoring council (CNSA), and appointing an opposition prime minister who, among other things, would be responsible for budgetary processes. In other words, it would have forced the president and his political allies into an uneasy cohabitation with their rivals.

Conversely, however, it would also have made the opposition complicit in any eventual extension of the agreements' 31 December 2017 deadline. Importantly, a splintered opposition with low levels of domestic support, many of whose leaders were in exile, was far from ready to confront the Majority. At different stages several

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<sup>16</sup> President Kabila and Etienne Tshisekedi, the only two individuals whose roles were defined in the text, did not sign. The Majority signed with reservations, citing its non-inclusiveness as the MLC in particular had not signed. The reservations were lifted on 27 January 2017. The MLC signed the agreement on 14 January, and at the same time announced it would refuse to join a unity government. It had concerns about the two main actors (Majority and Rassemblement) co-managing the transition without third-party oversight.

<sup>17</sup> "Accord Politique Global et Inclusif du Centre Interdiocesain de Kinshasa", 31 December 2016.

<sup>18</sup> These were already agreed-upon in the AU-led dialogue.

key opposition parties privately acknowledged that they would need two years to prepare politically for elections.<sup>19</sup>

The agreement was widely and rightly welcomed. Still, it contained several inherent deficiencies: it allowed the president to retain full control of the security forces; the Majority, determined to extend its time in power, retained multiple means of generating delays; and the electoral timetable was highly ambitious – to the point of being unrealistic – particularly given the absence of clarity on how to reform the electoral commission, the difficulties in finalising the electoral roll and the question of finance. A generalised institutional inertia – exacerbated by the fact that most potential candidates are complicit in and benefit from the prolonged *glissement* – compounded these problems. Finally, with the signing of the agreement, domestic and international pressure on the regime noticeably diminished.<sup>20</sup> This allowed it to undermine implementation while the opposition, plagued by internal dissent, lost its focus.

### B. *Non-consensual Implementation*

On 1 February 2017, Etienne Tshisekedi, the only opposition leader with the charisma to bring massive crowds onto the streets, passed away. His death fundamentally changed power dynamics in favour of the regime and left the Rassemblement in disarray.<sup>21</sup> Several members joined a dissident group (dissident Rassemblement), led by Joseph Olenghankoy.<sup>22</sup> Tshisekedi's own party, the UDPS, proved particularly ill-prepared for his demise. It split into several factions, some of which rejected the transfer of leadership to Etienne's son Felix. A formal party conference has yet to be held.<sup>23</sup>

Implementation suffered another blow when the Catholic Church – under increasing pressure from the Majority – abruptly stopped its mediation and gave the political initiative back to President Kabila.<sup>24</sup> Exploiting both opposition disarray and interna-

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<sup>19</sup> Crisis Group interviews, opposition leaders, Kinshasa, September 2016; diplomats, Kinshasa, September 2017.

<sup>20</sup> The actively engaged U.S. Special Envoy Tom Perriello has not been replaced. The Kabila government and the opposition also heavily lobbied the incoming Trump administration.

<sup>21</sup> Hans Hoebeker and Richard Moncrieff, "What does opposition leader Etienne Tshisekedi's death mean for DR Congo's road to elections", *African Arguments*, 3 February 2017. After a period of disarray, the Rassemblement settled on Felix Tshisekedi as president and Pierre Lumbi as the president of its "committee of the wise".

<sup>22</sup> Olenghankoy was one of the Rassemblement's founders. The dissident group, also includes Moïse Katumbi's brother, Raphael Katebe Katoto, previously a close ally of Etienne Tshisekedi, and one of the architects of the Rassemblement. The dissidents are also called the Rassemblement Kasa-Vubu (seat of Olenghankoy's party the Innovative forces for Union and Solidarity, FONUS).

<sup>23</sup> "RDC: six mois après la mort d'Etienne Tshisekedi ses disciples se déchirent toujours", *Jeune Afrique*, 3 August 2017. Crisis Group interviews, UDPS official, Kinshasa, June 2017; opposition politician, Kinshasa, September 2017. A Belgium-based diplomat with knowledge of the situation said: "The [regime's] National Intelligence Agency (ANR) has reportedly been used to approach and convince members of the Rassemblement to join the dissidents". Crisis Group email correspondence, October 2017.

<sup>24</sup> "Discours de clôture des travaux de l'arrangement particulier portant mesures de mise en œuvre de l'accord politique global et inclusif du centre interdiocésain de Kinshasa", CENCO, Kinshasa, 27 March 2017.

tional inattention and passivity, the Majority quickly moved to interpret the agreement in its favour.

On 7 April, following a few days of consultations boycotted by the Rassemblement, President Kabila appointed Bruno Tshibala as prime minister of a new, extended government. Tshibala had been evicted from the UDPS the previous month after joining the dissident Rassemblement. By choosing Tshibala, Kabila avoided flagrantly appointing a supporter while clearly violating the agreement's principles, which required that the Rassemblement itself nominate the prime minister.<sup>25</sup> Three weeks later, in talks overseen by the speakers of both houses of parliament, the Majority and several smaller opposition parties (including the Union for the Congolese Nation (UNC) agreed on the special arrangements for the agreement's implementation.<sup>26</sup> On 22 July, parliament approved the installation of the national monitoring council (CNSA) bureau and the appointment of Joseph Olenghankoy, leader of the dissident Rassemblement, as its chair.<sup>27</sup> By continuing to work with parliament – even though it had reached the end of its legal term on 17 February 2017 – the Majority aimed to give the impression that state institutions continued to function under constitutional authority.<sup>28</sup>

The Rassemblement and the church denounced the Majority's unilateralism.<sup>29</sup> On 9 April, Felix Tshisekedi called for protests, but inexplicably then left for Addis Ababa. Clumsy communication about his absence, contributed to confusion. Security forces were deployed to deter protesters in several cities as a result, the marches failed to mobilise significant crowds.<sup>30</sup>

The inclusion of dissident Rassemblement members in government left others out in the cold. Vital Kamerhe, who had risked his credibility as an opposition leader by participating in the AU dialogue, got only a single post in the new government to the dissatisfaction of many in his party.<sup>31</sup> In July, he declined the post of CNSA vice president but, having made excessive overtures to the Majority, subsequently found

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<sup>25</sup> "Discours de son excellence monsieur le Président de la République sur l'Etat de la Nation", Cabinet du Président de la République, 5 April 2017. The Saint Silvester agreement stated that the prime minister be proposed by the Rassemblement. Bruno Tshibala had been UDPS deputy secretary general and spokesperson of the Rassemblement, as well as a close collaborator with Etienne Tshisekedi. He was imprisoned from 9 October to 29 November 2016 for his role in the September 2016 protest and was expelled from the UDPS for joining the Rassemblement Kasa-Vubu early March 2017.

<sup>26</sup> The special arrangements include the organisation and composition of the government as well as the CNSA.

<sup>27</sup> From its installation on 22 July the CNSA has continued to operate without a proper legal basis.

<sup>28</sup> Because of technical complications and cost, the CENI did not hold provincial assembly elections in 2011. Despite this, the 26 provincial assemblies and the Senate (indirectly elected by provincial members of parliament) have remained fully operational, electing governors, adopting legislation, etc. CENI did hold 2011 elections for the lower house of parliament, but its members' terms formally ended in February 2017.

<sup>29</sup> "L'appel de Marrakech au peuple congolais – Debout Congolais! Résistons", statement, Moïse Katumbi, Marrakech, 9 April 2017; "La CENCO critique la nomination du nouveau Premier ministre", Radio Okapi ([www.radiookapi.net](http://www.radiookapi.net)), 24 April 2017.

<sup>30</sup> "RDC: la marche de l'opposition dispersée dans plusieurs villes", Radio Okapi, 10 April 2017.

<sup>31</sup> Crisis Group interview, opposition politician, Kinshasa, June 2016. He had three members in the Badibanga government. More importantly, Kamerhe was thought to be a prime contender to become prime minister or chair of the CNSA.

other major opposition platforms, including the Rassemblement, initially hesitant to accept him back in their midst.<sup>32</sup> The inclusion of newcomers also affected the Majority. The Union for the Development of Congo (UDCO), one of the few remaining parties in the Majority with a strong position in Katanga, lost its sole senior government position. Consequently, the influential Jean-Claude Masangu resigned as party president.<sup>33</sup>

None of these expressions of protest had much of an impact. The Saint Sylvester agreement had been hollowed out, with no semblance of power-sharing and no platform for continued talks. The signatories have not implemented provisions to revitalise the electoral commission and undertake confidence building measures. Nor have they adopted legislation to formally establish the monitoring council.<sup>34</sup>

The conversation among the government, electoral commission and monitoring council (CNSA) – all of which are dominated by the regime – has come to resemble a monologue. By the end of August 2017, the electoral commission, the government and CNSA launched the evaluation of the electoral process in Kananga.<sup>35</sup> This has allowed the electoral commission to publish its long-awaited electoral calendar, with presidential polls scheduled for 23 December 2018. However, the current trio has little legitimacy.<sup>36</sup>

### C. *The Regime Digs In*

Over the course of 2017, the Majority has outmanoeuvred both the domestic opposition and international actors. It controls the budget and state institutions, including the electoral commission, and dominates both the narrative and the pace of the political process. Despite a clearly one-sided implementation of the agreement, it has managed to project the appearance of reason and constructive engagement. This resonates with some international actors eager for any semblance of progress and seeking entry points for engagement, notwithstanding widespread scepticism that the regime intends to leave power or organise credible elections.<sup>37</sup> Paradoxically, the opposition, which has the most to gain from the agreement's full implementation, has seemingly ditched it in favour of pushing for a transitional government without Kabila by the end of 2017, to be followed by elections.

Despite the DRC's violent instability and fractious politics, the regime appears to be well entrenched. It is far stronger than the divided opposition, has suffered no major defection since 2015 and is more focused. Its internal coherence seemingly is based

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<sup>32</sup> "Une alliance entre le Rassemblement et l'UNC est contre-nature", *Actualité.cd* (actualite.cd), 30 June 2017.

<sup>33</sup> Crisis Group email correspondence, Congolese analyst, Lubumbashi, September 2017. For background on Katanga, see Crisis Group Report, *Katanga: Tensions in DRC's Mineral Heartland*, op. cit. Masangu and the UDCO are well represented in Katanga's Haut-Lomami province.

<sup>34</sup> The CENCO established an ad-hoc commission to look into legal proceedings against several opposition members, including Moïse Katumbi and Jean-Claude Muyambo. Its 29 March 2017 report to President Kabila described both cases as a "masquerade". "Rapport de la Commission ad-hoc sur la décripation politique", CENCO, 29 March 2017.

<sup>35</sup> "Rencontre CNSA–Gouvernement–CENI pour l'évaluation du processus électoral", Communiqué final, Kananga, 31 August 2017.

<sup>36</sup> Crisis Group interviews, youth activists, Kinshasa, September 2017.

<sup>37</sup> Crisis Group interview, regional diplomat, Nairobi, October 2017.

on a mix of fear, money and opportunism.<sup>38</sup> However, occasionally this coherence faces a test. Upheaval in the Peoples' Party for Reconstruction and Democracy (PPRD) and the wider Majority alliance on the draft electoral law, introduced by the government in November 2017, and in particular the electoral thresholds it introduces, demonstrates the regime's unease when confronted with electoral uncertainties. The PPRD leadership sees the thresholds as essential for its electoral strategy – getting rid of the small parties.<sup>39</sup>

The presidential family is central but so are others in the political system and the security forces. Some recently installed officials at both national and provincial levels, lacking legitimacy and sensing their tenure in power might be short-lived, have incentives to exploit their positions for personal gain. In Katanga's mining sector, for example, systematic underreporting of production and opaque management are said to divert millions of dollars in annual revenue from the state treasury.<sup>40</sup>

Self-assured, the regime has proved particularly inflexible regarding the fates of Moïse Katumbi and the G7, refusing to halt legal proceedings against them. Katumbi is a particular irritant; his conflict with the regime is both personal and strategic as he potentially could emerge as a serious threat. Accordingly, the Majority is determined to stop their former ally from building momentum and wants to make an example of him to stop others from decamping. So far, despite announcing several times that he would return to the DRC, Katumbi remains in exile in Europe, where the threat he presents to the regime is much reduced.

Because the Saint Sylvester is a Congolese agreement, international actors have no formal framework allowing them to push for its implementation and have failed to engage politically in a coherent manner since its signing. This is regrettable as there is evidence – notably the very achievement of the agreement – that the regime can give ground when under concerted pressure. Instead, it shows no sign of compromise.

In short, the Majority's advantage derives less from its inherent strength than from its opponents' and the international community's weakness. It has no grand strategy to stay in power, but each additional month in power represents a small gain.<sup>41</sup> When its initial attempt in 2015 to amend the presidential term-limits provision in the

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<sup>38</sup> A number of reports have been published on the links between politics and business in DRC and the lack of transparency around them. For example, see "With his family's fortune at stake, President Kabila digs in", Bloomberg, 15 December 2016; "All the Presidents' Wealth – The Kabila Family Business", Congo Research Group, July 2017; and, for statements issued in response to this report, "Updates to 'All the President's Wealth'", Congo Research Group, 15 September 2017. See also, "A State Affair: Privatizing Congo's Copper Sector", The Carter Center, November 2017.

<sup>39</sup> "Exclusif – Réforme électorale en RDC: un enregistrement sonore révèle la stratégie du parti de Kabila", *Jeune Afrique*, 25 November 2017. The recordings of the meeting at the PPRD also provide a damning insight into the majorities' electoral tactics – including the setting up of "pseudo" political parties "without militants". The proposed law introduces a threshold of 3 per cent of the national vote for a party to get any seats in the national assembly and 5 per cent for the provincial assemblies.

<sup>40</sup> Crisis Group email correspondence, Congolese analyst, October 2017. "Regime Cash Machine", Global Witness, 21 July 2017. For the state-owned mining company's response, see "Gécamines déplore le rapport biaisé de Global Witness et répond aux allégations", communiqué de presse, La Générale des Carrières et des Mines, 27 July 2017.

<sup>41</sup> Crisis Group interview, diplomat, New York, September 2017. One analyst likened the Majority's approach to a race where it has several horses on the track. When one fails, another steps in. Crisis Group interview, Congolese academic, Brussels, March 2015.

constitution was blocked by popular protest and dissent within its ranks, it turned to a *glissement*. Delaying tactics such as calls in September for a new political dialogue,<sup>42</sup> were immediately dismissed as pointless by the church and the opposition.<sup>43</sup>

The issue of the electoral timeline has proved vexing for international actors and the opposition alike. Genuine technical, budgetary and security reasons for delay are compounded by regime manoeuvres to further postpone a vote. The electoral commission, led by Corneille Nangaa, has steadily continued its activities, some constructive, others designed to delay and distract. In 2016 and 2017, it worked on the necessary update to the voter roll but took far longer than in previous elections; by September 2017, it had registered some 42 million voters.<sup>44</sup> On 5 November 2017, after months of dithering, the electoral commission announced that elections would be held on 23 December 2018 and the newly elected president inaugurated on 12 January 2019. The CENI immediately warned that respecting the calendar would require meeting several budgetary and legal conditions and also depends on the external support to the process.<sup>45</sup>

Since 2015, the DRC has slipped into a deep economic and budgetary crisis, which is likely to become the next pretext for delays. President Kabila and the government repeatedly and cynically express “concern” about the elections’ cost as compared to other necessary investments. The election budget comes to \$1.3 billion, of which the first major step, voter registration, represents \$400 million. To organise the three combined polls in 2018, the electoral commission would need approximately \$550 million. Despite promising in 2016 that it would fund the entire process, the government has yet to clarify what it has actually disbursed. In the 2018 national budget, adopted on 14 November, 912.5 million Congolese franc, or 8.8 per cent of the total budget of 10.333 billion, is allocated to the polls.<sup>46</sup> It is not yet clear whether it will effectively disburse this in time.<sup>47</sup> Should it fail to do so, this will increase pressure on unenthusiastic donors, none of whom wants to be associated with what could turn out to be an unfair and non-credible process.<sup>48</sup>

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<sup>42</sup> “Allocution de son excellence Monsieur Joseph Kabila Kabange, Président de la République Démocratique du Congo à la 72ème session de l’Assemblée Générale des Nations Unies”, speech, New York, 23 September 2017.

<sup>43</sup> Crisis Group interview, CENCO official, Kinshasa, September 2017; “Mise au point”, Le Rassemblement, Kinshasa, 14 September 2017.

<sup>44</sup> The government chiefly has justified delay by pointing to the conflict in the Kasai provinces. Voter registration in these remaining provinces started early September 2017 and is to last at least until 31 January 2018. Voter registration began on 31 July 2016 – before the start of the AU dialogue – and proceeded in different phases covering the entire country. The expected total number of voters is 45 million. At a later stage, diaspora voters will also be registered. In comparison, registering 25.7 million in the 2006 voter roll took eight months, and the 32 million in the 2011 roll took fifteen (with some interruptions). Crisis Group interview, CENI official, Kinshasa, September 2017.

<sup>45</sup> “RDC: la CENI rappelle les conditions pour le respect du calendrier électoral”, RFI, 10 November 2017.

<sup>46</sup> Depending on the exchange rate this is between \$471 and \$570 million USD.

<sup>47</sup> Presentation by CENI President Corneille Nangaa, The Atlantic Council, Washington, DC, 5 October 2017. “La RDC financera seule le processus électoral, affirme Thambwe Mwamba”, Radio Okapi, 15 September 2016.

<sup>48</sup> The new UNDP-managed basket-fund in support of the elections (PACEC 2017-2018) foresees a total support package of \$35 million. This amount is rather low, compared to the general cost of the election and seems more oriented toward the support of the CENI. Thus far international support

The longer the delay, the more space the regime will have to exhaust a disorganised opposition. Besides, were a successor to Kabila acceptable to the regime to emerge, he or she inevitably would assume, ahead of the election campaign, a position of considerable financial strength in relation to an opposition with dwindling resources. Delaying the vote also gradually undermines the credibility and relevance of the current institutional and constitutional framework, which could lead regime supporters to declare it void as a pretext for holding a referendum to change it and allow Kabila to extend his tenure in office. For the immediate future such a scenario remains unlikely and could provoke a split between Majority hardliners and a smaller faction that hopes to nominate a successor to Joseph Kabila.<sup>49</sup> But Kabila allies, occasionally float it as an option.<sup>50</sup>

#### D. *Opposition Calls for Transition and Popular Mobilisation*

Faced with regime intransigence, the Rassemblement is trying to regain the initiative. In July, it announced that it would renew efforts at popular mobilisation starting in October. Following its conclave in Kinshasa on 21 and 22 July,<sup>51</sup> it organised a modestly successful two-day national strike on 8 and 9 August as poverty levels make it difficult for people to forgo two days of wages.<sup>52</sup> The conclave included a call for citizens to stop recognising Kabila as president. It also announced sit-ins at the electoral commission's offices and other acts of civil disobedience.

Civil society organisations have taken their own initiatives since mid-2017. The most visible is "les Congolais Debout", initiated by Sindika Dokolo, son-in-law of former Angolan President dos Santos.<sup>53</sup> Sindika's family ties to the Angolan political and economic elite contribute to his aura and to the impression that the Angolan leadership at least acquiesces to his increasingly vocal opposition to Kabila.<sup>54</sup> Sindika also has a close personal relationship with Moïse Katumbi. In August, Dokolo and older civil society networks, including Lucha and Filimbi, the two most established social movements, issued a "Manifeste du Citoyen Congolais", which Rassemblement leaders subsequently signed. Drawing on Article 64 of the constitution, which calls on

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has mostly benefited civil society rather than the electoral process. "Mission d'évaluation et d'assistance électorale en RDC, 30 Avril – 14 Mai 2017", Organisation Internationale de la Francophonie (OIF), 30 May 2017.

<sup>49</sup> Crisis Group interview, international analyst, Kinshasa, June 2017.

<sup>50</sup> "There is no point in seeking to establish democracy with the present constitution. We must move on to the Fourth Republic. It's the way". Tweet by @JPKambila (Kabila's Deputy Chief of Staff), 14 October 2017 (Crisis Group translation). Previously this need was voiced by PPRD politicians Evariste Boshab and Richard Muyej – both former interior ministers.

<sup>51</sup> "Rapport final des travaux du deuxième conclave du rassemblement des forces politiques et sociales acquises au changement tenu à Kinshasa les 21 et 22 juillet 2017", Rassemblement, 22 July 2017.

<sup>52</sup> Crisis Group interviews, youth activists and civil society representatives, Kinshasa, September 2017.

<sup>53</sup> The manifesto was adopted on 18 August in a civil society meeting in Chantilly near Paris. "RDC: adoption d'un manifeste de la société civile pour une 'transition citoyenne'", *La Libre Belgique*, 18 August 2017. On 18 September, Felix Tshisekedi and Moïse Katumbi also signed the manifesto.

<sup>54</sup> Since the inauguration of President João Laurenço, the interests of the dos Santos family have come under pressure. The impact on Angola's DRC policy remains unclear. "En Angola, la chute de la 'princesse' Isabel", *Le Monde*, 16 November 2017.



the people to oppose those who seek to violate it,<sup>55</sup> its declared aim is to force out the regime and establish a transitional government without Kabila for at least six months, with the objective of quickly organising elections.<sup>56</sup> Several civil society activists have proposed Dr Denis Mukwege, a respected campaigner against sexual violence, as a potential president for this period.<sup>57</sup>

At this stage, focus has shifted anew to forging greater opposition unity. On 23 October, Vital Kamerhe and the UNC decided to pull out of the Tshibala government (although the minister concerned, Pierre Kangudia Mbayi refused to obey his party and remains as minister for the budget). From his cell in The Hague, Jean-Pierre Bemba, leader of another opposition party, the Movement for the Liberation of the Congo (MLC), also called for opposition unity.<sup>58</sup> The Rassemblement, UNC and MLC all met together with Nikki Haley, the U.S. ambassador to the UN, during her October 2017 visit to DRC. Finally, the main opposition parties all reject the new electoral calendar, but failed to adopt a joint communiqué.<sup>59</sup>

Civil society and youth movements have been increasingly frustrated by the opposition's failure to mobilise the population, including for street protests.<sup>60</sup> In October, the opposition's lone attempt was Felix Tshisekedi's visit to Lubumbashi, which security forces heavily repressed. In the same month, youth activist platforms, including Lucha, organised protests in a number of cities; several activists were arrested and, during 30 October protests in Goma, five people were killed, including a policeman.<sup>61</sup> Dynamics between the opposition and civil society platforms changed somewhat when on 15 November the Rassemblement joined a call initiated by social movements for countrywide protests against the electoral calendar. As was the case with previous attempts, the initiative failed to gather momentum.<sup>62</sup> Authorities prohibit protests almost systematically, often accompanied by stark warnings by police officials. In response, on 16 November, the EU delegation joined by the U.S., the Swiss and the Canadian embassies published a statement calling for the respect of public freedoms.<sup>63</sup>

Although the church has stepped away from direct mediation and is unlikely to reengage soon, it remains important. As mediator, it gave the agreement credibility, but being so closely involved sullied its reputation. In June, it published a strong

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<sup>55</sup> "All Congolese have the duty to oppose any individual or group of individuals who seize power by force or who exercise it in violation of the provisions of this Constitution. Any attempt to overthrow the constitutional regime imprescriptibly constitutes an infraction against the Nation and the State. It is punished in accordance with the law". Article 64 of the 2006 constitution (translation by Constituteproject.org).

<sup>56</sup> A transition could realistically require two years to complete necessary administrative preparations. Crisis Group interviews, diplomats, Brussels, July 2017.

<sup>57</sup> "Transition en RDC: l'option Mukwege se met en place", *Afrikarabia.com*, 15 September 2017.

<sup>58</sup> Letter by Jean-Pierre Bemba, national president of the MLC, The Hague, 30 October 2017.

<sup>59</sup> "RDC: Kabila reste au pouvoir jusqu'au début 2019, l'opposition exige son départ fin 2017", *Agence France-Presse (AFP)*, 6 November 2017.

<sup>60</sup> "RDC: Quel bilan pour le collectif d'action de la société civile", *RFI*, 2 November 2017; "RDC: l'opposition appelée à des 'actions fortes' contre Kabila", *AFP*, 6 November 2017.

<sup>61</sup> "RDC: des dizaines de militants de la Lucha arrêtés", *RFI*, 1 October 2017; "RDC: Violences à Goma: au moins 5 morts dont un policier", *La Libre Belgique* (online), 30 October 2017.

<sup>62</sup> "RDC: timide mobilisation contre le calendrier électoral", *Afrikarabia.com*, 15 November 2017.

<sup>63</sup> "Respect des libertés d'expression et de réunion", Statement by the EU delegation to the DR Congo, Kinshasa, 16 November 2017.

declaration highly critical of the government, “Congolese rise”.<sup>64</sup> The document, which the opposition often refers to, assesses the political impasse and faults the political class. It warns of, but does not directly call for, massive street protests.<sup>65</sup> CENCO representatives were present on the margins of the Paris meeting that adopted the Manifeste du Citoyen Congolais. In November, the church published partial results of its observation of voter registration, citing several irregularities, in particular during the registration of minors. The Church also denounced the security forces’ repression of protests, stating that at least 56 persons have been killed since April 2017.<sup>66</sup>

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<sup>64</sup> “Le Pays va très mal. Debout Congolais! Décembre 2017 approche”, Message de l’Assemblée Plénière ordinaire des évêques membre de la CENCO, Kinshasa, 23 June 2017. Crisis Group interview, senior cleric, Kinshasa, September 2017.

<sup>65</sup> “RD Congo: le plaidoyer des évêques congolais”, Cathobel.be, 29 September 2017. From early 2016, the Church, targeted by violence in Kasai but also in Kinshasa, has stopped short of calling for popular mobilisation. It was the only organisation involved in a serious assessment of the voter registration process and has a large-scale civic education project.

<sup>66</sup> “RDC: la CENCO déplore l’usage disproportionné de la force par la police”, RFI, 21 November 2017. The government disputed the information about police repression.

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### III. The Smouldering Republic

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Since 2016, the deepening political impasse in Kinshasa has been accompanied by rising tensions throughout the country. Insurgents in North and South Kivu, Kongo Central and the Kasai region all have exploited the national deadlock to justify their actions. For now, these dynamics appear isolated, but they are increasing in frequency and point to the risks of prolonged unrest.<sup>67</sup> Humanitarian consequences have been considerable, as reflected in the large number of new internally displaced persons and refugees. In October, the UN Inter-Agency Standing Committee activated a level 3 (L3) system-wide emergency response – reserved for the most complex and challenging humanitarian emergencies – for the DRC.<sup>68</sup>

This situation presents a significant threat to stability in countries to the east, south and west of DRC. The depth and breadth of the political crisis makes the current situation far more perilous than the M23 crisis from 2012 to 2013. The emergence of multiple insurgencies also further strains an already dangerously stretched army (FARDC) and police (PNC). Security forces also are a major source of violence and remain the most frequent perpetrators of human rights violations. Their response often is vastly disproportionate.<sup>69</sup> When combined with the ongoing political crisis, this could precipitate a breakdown – whether gradual or abrupt – presenting a major challenge for the UN mission (the UN Organization Stabilization Mission in the Democratic Republic of the Congo, or MONUSCO).

#### A. *Catastrophe in the Kasais*

The violent conflict in Kasai region, which began early 2016 with an apparent local dispute pitting a traditional chief, Jean-Pierre Pandi – known by his tribal name, the Kamuina Nsapu – against state authorities.<sup>70</sup> Pandi's reported refusal to pledge support for the regime led the state to deny him official status as a traditional chief. His vocal criticism of the security forces' predatory practices resonated with the impoverished local population.<sup>71</sup> Tensions escalated and Pandi was killed in an incident with the security forces. As a result, militia groups started to operate under his banner, setting-up roadblocks and attacking state buildings and officials, including the electoral commission.<sup>72</sup>

As violence escalated, it became clear that complex and poorly understood local dynamics were becoming intertwined with the national crisis. Indeed, the incident

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<sup>67</sup> "Mayhem among the militias", *Africa Confidential*, 6 October 2017.

<sup>68</sup> Crisis Group email correspondence, UN humanitarian official, Brussels, October 2017. The L3 response focuses on the Kasai region, Tanganyika and South Kivu provinces. The other countries for which such a response is currently activated are Iraq, Syria and Yemen.

<sup>69</sup> In September 2017 for example, they killed 36 Burundian protesting refugees in Kamanyola, South Kivu. Christoph Vogel, "Putting the Kamanyola killings into perspective", Congo Research Group, 3 October 2017. See also reports by the UN Joint Human Rights Office (UNJHRO) for the DRC.

<sup>70</sup> Crisis Group Commentary, "Kamuina Nsapu Insurgency Adds to Dangers in DR Congo", 21 March 2017. In 2015, the government split the two Kasai provinces into five: Kasai, Kasai Central, Kasai Oriental, Sankuru and Lomami.

<sup>71</sup> Crisis Group interviews, local researchers, humanitarian workers, Kananga, January 2017.

<sup>72</sup> Crisis Group interviews, local humanitarian workers and CENI officials, Kananga, January 2017.

came in the context of regime efforts to pressure traditional chiefs for support and thus broaden its reach. This politicisation of chieftainships proved particularly contentious in opposition-dominated Kasai region, where many resent the state's attempts to control local chiefs.

By mid-2017, there appeared to be over 60 militia groups operating in the Kasai, some related to the Kamuina Nsapu, others allied with the government and still others who have emerged from the chaos.<sup>73</sup> The government responded by reinforcing its military and police presence. Both government forces and militia have used extreme violence, including against civilians.<sup>74</sup> The UN documented 87 mass graves;<sup>75</sup> and in June, a hard-hitting report by the Catholic Church estimated that 3,383 people had been killed.<sup>76</sup> As of April, another militia, the Bana Mura became particularly active south of Tshikapa. Several sources claim the Bana Mura are closely linked to local security officials.<sup>77</sup>

Intense violence spread rapidly; at its height (March to July), the conflict covered parts of five provinces and affected wider areas.<sup>78</sup> To date, the crisis has displaced roughly 1.4 million people (out of a total of 4.1 million displaced in the DRC).<sup>79</sup> Approximately 35,000 Congolese fled to Angola as a result of the Kasai violence; in response, Luanda bolstered its military presence at the border.<sup>80</sup> The government has come under considerable regional and international pressure due to this violence and associated human rights abuses. The regime scrambled to regain control, dispatching Foreign Minister Léonard She Okitundu to Angola in May.<sup>81</sup> Kabila personally visited the Kasai region three times between May and September, in the latest instance to launch a government-organised Kasai peace conference.<sup>82</sup> While reports of violence diminished in the second half of 2017, the humanitarian situation in the area remains dire.

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<sup>73</sup> Crisis Group interviews, diplomats, Kinshasa, September 2017.

<sup>74</sup> "RDC Violences au Kasai", webdoc on RFI, [webdoc.rfi.fr/rdc-kasai-violences-crimes-kamuina-nsapu/](http://webdoc.rfi.fr/rdc-kasai-violences-crimes-kamuina-nsapu/), no date.

<sup>75</sup> "Mass graves, missing bodies, and mysticism: Inside Congo's spiralling Kasai conflict", [irinnews.org](http://irinnews.org), 12 September 2017.

<sup>76</sup> "Violence dans le Grand Kasai", Note Technique, Nonciature Apostolique, Kinshasa, 19 June 2017.

<sup>77</sup> Crisis Group correspondence, Kananga and Lubumbashi based analysts, August–September 2017. "Rapport d'une mission du Bureau du Haut-Commissariat des Nations Unies aux droits de l'homme – témoignages des réfugiés qui ont fui la crise de la région du Kasai, en République démocratique du Congo", UN High-Commissioner for Human Rights, August 2017. Bana Mura also often refers to the Congolese Republican Guard, many of whom are trained at the Mura military camp near Likasi, Haut-Katanga.

<sup>78</sup> "Congo's Cinderella crisis: horrific suffering overlooked in largest displacement crisis of 2017", press release, Oxfam, 1 September 2017.

<sup>79</sup> There also are approximately 620,000 Congolese refugees, mostly in neighbouring countries. The largest population is in Uganda (225,000), followed by Rwanda, Tanzania and Burundi. The DRC also hosts nearly 500,000 refugees, mostly from Burundi, Central African Republic and South Sudan. "DRC Regional Refugee Response", [data.unhcr.org](http://data.unhcr.org); and "Great Lakes: Displacement Crises Affecting the Region", U.S. State Department Humanitarian Information Unit, 11 September 2017.

<sup>80</sup> Crisis Group interviews, diplomats, Kinshasa, June 2017; "RDC: L'Angola déploie son armée sur la frontière congolaise", *La Libre Belgique*, 21 May 2017.

<sup>81</sup> "Léonard She Okitundu en visite en Angola", *Congo Actuel* ([www.congoactuel.com](http://www.congoactuel.com)), 21 May 2017.

<sup>82</sup> Kabila visited the region from 30 May to 2 June, 18 to 19 June and 18 to 19 September 2017.

## B. *Sparks in Other Provinces*

Instability has spread to other provinces, severely stretching the security services. Provincial conflicts have been a permanent feature of DRC since the end of the civil war in 2002, as armed groups fight over territory and resources and use local and national grievances to draw support from individuals and communities.

The regime has largely adapted to the situation, and several regional states have profited from it. The current conflicts are driven by historical grievances, but also by the current national political impasse, which allows some armed groups to claim legitimacy and weakens the state's capacity to mediate. In addition, regime figures have fanned the flames of violence, possibly as part of a deliberate strategy, but also to opportunistically reinforce their local base.<sup>83</sup> Today, there are signs (including their own declarations) that some of the currently disparate insurgencies intend to join up.<sup>84</sup> There is no concrete evidence of this occurring at a meaningful scale, but it cannot be ruled out in the future. This could seriously escalate the crisis, potentially triggering ever more brutal government crackdowns.

In addition to the Kasai region, the provinces affected by these dynamics are mostly concentrated in the east: Ituri, North and South Kivu and Tanganyika provinces, with spillover in Haut-Katanga, Haut-Lomami and Maniema provinces. Some armed groups active in North and South Kivu have links to Uganda, Rwanda and Burundi. At the Northern borders, the provinces of Nord-Ubangui, Bas-Uele and Haut-Uele are all affected by conflicts in neighbouring Central African Republic and South Sudan.<sup>85</sup> Lastly, the strategic Kongo Central province, west of Kinshasa, has also seen tensions rise throughout 2017. Kinshasa has also been affected and an incursion in August 2017, linked to the tension in Kongo Central province, caused at least 23 casualties in August.<sup>86</sup>

Ethnic identity is an important underlying factor in local and provincial conflict dynamics and is the main way armed group leaders mobilise members. From the part-political party, part-religious sect Bundu dia Kongo (BDK) / Bundu dia Mayala (BDM)<sup>87</sup> in Kongo Central, to the Perci and Elements militia in Tanganyika and Nyatura as well as the Mai Mai Mazembe armed groups in North Kivu, ethnic mobilisation forms the main common thread.<sup>88</sup> A recurring refrain in the discourse of

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<sup>83</sup> Crisis Group interviews, citizens and civil society members, Kinshasa, Goma, Lubumbashi, Kananga, 2016 and 2017.

<sup>84</sup> Tellingly, the National People's Coalition for the Sovereignty of Congo (CNPSC) has taken aim at the national political impasse, reaching out to other insurgent groups, by using the name "Alliance for Article 64" (AA64) – a reference to the article on protecting the constitution. It asserts that armed struggle is the only way to remove President Kabila and organise elections.

<sup>85</sup> "Rencontre tripartite entre la RDC, la RCA et le Soudan du Sud à Kinshasa", RFI, 5 September 2017.

<sup>86</sup> "RDC: Ne Muanda Nsemi, le chef de la secte Bundu Dia Congo, s'évade de la prison de Makala", *Jeune Afrique*, 17 May 2017. His whereabouts are unknown since.

<sup>87</sup> Created in 1969, the BDK refers to the reunification of the people of the Kongo kingdom, which includes areas of Angola and the Republic of Congo. The group finds fertile ground in an identity discourse that traces its roots to the historic Kongo kingdom, as well as in widespread socio-economic frustrations. Crisis Group interview, politician from Kongo Central, Kinshasa, June 2017.

<sup>88</sup> The Perci militia is composed of Twa (or Pygmy), the Elements of Bantu (or Luba), the Nyatura are a Hutu militia, while the Mai Mai Mazembe are composed of Nande. Crisis Group email correspondence, Congolese analysts, Lubumbashi, Goma, September 2017.

several militia and radical opposition groups is to denounce Rwanda's alleged influence over the Kabila regime.<sup>89</sup>

The most prominent coalition of armed groups, whose discourse refers to the illegitimacy of national institutions, is the National People's Coalition for the Sovereignty of Congo (CNPSC) a heterogeneous coalition that includes the Mai Mai Yakutumba and the Mai Mai Malaika militia. Its area of operations covers South Kivu, Maniema and Tanganyika, affecting several mining areas, including the gold-mining operations of the Banro corporation in Maniema province. In late September 2017, the alliance advanced on Uvira, the second largest city in South Kivu. Without the intervention of UN Organization Stabilization Mission (MONUSCO) troops, Uvira might well have fallen.<sup>90</sup> This would have been the first time a major town had fallen to rebels since 2012 and would have given the coalition added aura. A special case is Beni territory (North Kivu), which since October 2014, has suffered a string of particularly vicious attacks – generally attributed to the Allied Democratic Forces (ADF).<sup>91</sup>

This recurrent violence – particularly the Beni massacres – illustrates the impunity and general disregard for human suffering that has taken hold of the country's political class. The humanitarian situation has deteriorated dramatically over the past year. The UN estimates the number of displaced at 4.1 million; the provinces most affected are Tanganyika, South Kivu and the Kasai. Fighting has forced refugees into neighbouring Zambia and Angola.<sup>92</sup>

### C. *Overstretched Security Services*

The proliferation of security crises has stretched the capacity of the army and police, a challenge compounded by the drop in real salaries. In a whack-a-mole-like dynamic, when the army sent reinforcements to the Kasai region from the Kivus, armed group activity increased in the Kivus.<sup>93</sup> Pressure from various armed groups has compelled the army to focus on protecting major cities, leaving much of the countryside – including lucrative mining areas – to militias.

Urban insecurity also increased considerably following several major prison breaks in 2017. The biggest occurred in Kinshasa's Makala prison from which approximately 4,600 prisoners escaped on 17 May. Then on 11 June, 930 prisoners escaped in Beni, North Kivu. In both cases the prisons were attacked by armed groups presumably attempting to free their comrades.<sup>94</sup> The generalised frustration of the pauperised population could result in further urban violence and even insurgency.

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<sup>89</sup> Crisis Group interview, Congolese analyst, Kinshasa, September 2017.

<sup>90</sup> The CNPSC has called upon the people to protest peacefully against MONUSCO, which it claims is supporting an illegitimate government. "Mise en garde de la CNPSC à la MONUSCO", video, YouTube, 29 September 2017, [www.youtube.com/watch?v=k\\_wSjXLYJ5o](http://www.youtube.com/watch?v=k_wSjXLYJ5o). Judith Verweijen, "Taking Uvira? The remarkable tenacity of the CNPSC coalition", [suluhu.org](http://suluhu.org), 28 September 2017.

<sup>91</sup> A recent report by the Congo Research Group analyses the complex interaction between local, national and regional dynamics. "Mass Killings in Beni Territory", Congo Research Group, September 2017.

<sup>92</sup> "DRC conflict rises as refugees flock to Zambia", *The Southern Times*, 6 October 2017; "Displaced Congolese find unlikely refuge in Angola", *Mail & Guardian*, 4 May 2017.

<sup>93</sup> Crisis Group interviews, humanitarian workers, Goma, June 2017.

<sup>94</sup> "RDC: évasion spectaculaire de la prison de Beni", RFI, 11 June 2017; Crisis Group interviews, provincial politicians, Goma, June 2017.

Thus far, however, police and army have maintained their internal cohesion.<sup>95</sup> Troops and policemen have been rotated successfully to different theatres and lines of command have held. Although nearly all international training of security forces has been halted, new recruits for both the army and police have been trained and deployed.<sup>96</sup> Another important factor is the further militarisation of the police force, which is now headed by General Amuli Bahigwa, previously in charge of army operations and intelligence.

#### D. *Toward a State of Emergency?*

To a large degree, DRC is already in a de facto state of emergency. Rule of law has been deeply eroded through the political use of the justice system. Legal permission to stage political protests is nearly impossible to obtain. International journalists and researchers find it increasingly difficult to operate in the country and many have been expelled or had their visa requests denied. In the evening, Republican Guard troops man roadblocks in Gombe, the capital's political and business centre, while the police and military patrol other parts of the city.<sup>97</sup> Officials, including the president, have labelled groups such as the Kamuina Nsapu militia in the Kasai "terrorists", thereby excluding them from political negotiations and justifying ever harsher crackdowns.<sup>98</sup>

If violence continues to spread or if elements of the security forces mutiny or join the opposition, Kabila might decide to declare a formal state of emergency, further postponing the elections.<sup>99</sup> This would be a risky gambit, however. Security forces are already stretched thin. Banking on them to maintain control while excluding a political track could deprive the regime of options to deal with spreading insurgencies.<sup>100</sup> Such a scenario would also make it increasingly difficult for peacekeepers to operate.

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<sup>95</sup> Crisis Group interviews, police officials, Kinshasa diplomats and defence attaché staff, Kinshasa, June and September 2017.

<sup>96</sup> The latest foreign-trained unit was the 32 Brigade, which benefited from Chinese support in Kamina. Angola ended its training in late 2016 while South African trainers have not been replaced and Belgian support to the FARDC was ended by the DRC in April 2017. "RDC-Belgique: rupture de la coopération militaire", *La Tempête des Tropiques*, 15 April 2017. "Coopération militaire: la RDC se tourne vers la Chine", *Politico.cd*, 15 August 2017. Crisis Group interview, regional diplomat, Kinshasa, September 2017. In 2017, the police recruited approximately 500 new policemen for each of the 26 provinces. Crisis Group telephone interview, Congolese police officer, Nairobi, October 2016.

<sup>97</sup> Crisis Group interview, Congolese police official, Kinshasa, June 2017.

<sup>98</sup> "Allocution de son excellence Monsieur Joseph Kabila Kabange, Président de la République démocratique du Congo à la 72ème session de l'Assemblée Générale des Nations Unies", speech, New York, 23 September 2017.

<sup>99</sup> "RDC: Pour lutter contre les violences, la Ligue des jeunes du PPRD préconise notamment l'instauration de l'Etat d'urgence", *actualite.cd*, 15 July 2017.

<sup>100</sup> "RDC: Joseph Kabila et ses faucons militaires", *Jeune Afrique*, 16 October 2017.

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## IV. International Actors: Hesitant and Divided

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With the stalemate deepening, both opposition and regime have turned to outside actors for support. The former pins its hopes essentially on the UN and traditional Western donors. The government has chiefly reached out to African leaders while maintaining good relations with Russia and China. International apprehension over deepening authoritarianism dates back to the 2011 election and was reflected in the 2013 Peace, Security and Cooperation Framework (PSCF) and successive UN mandates granting the special representative of the Secretary-General (SRSG) a political mandate, though these have yet to prompt concerted action. The government also has successfully limited the UN's political role. Likewise, African governments and regional organisations have been concerned during periods of violence and engaged in mediation, but the government has been effective at playing the nationalist card to oppose foreign interference. Although neither “the West” nor “Africa” are monolithic blocs, disagreements between the two have been real and opportunities for coordination are almost non-existent.<sup>101</sup>

### A. Western Frustrations

Opposition leaders have devoted considerable time lobbying Western powers.<sup>102</sup> These in turn – including major donors such as the European Union (EU) – generally have adopted a critical stance toward the DRC. In 2016 and 2017, both the EU and the U.S. imposed targeted sanctions on security officials and politicians. The 2016 sanctions arguably helped pressure the Majority to make political concessions during the CENCO-led talks. In 2017, both the EU and the U.S. have been rumoured to be considering additional sanctions focused on regime financial and economic networks; these are strongly supported by the opposition and a number of Western non-governmental organisations.<sup>103</sup>

As regime confidence has grown in 2017, Western powers have taken a more reserved approach, leading to much reduced pressure. In May, the EU sanctioned several more individuals, most for their involvement in the violence in the Kasai. The timing of this initiative was not helpful, however, because it coincided with a regional diplomatic mission, and African diplomats felt it detracted from their message.<sup>104</sup> Feeling exposed by a lack of leadership from Washington, the EU and its member states have since become more discreet.<sup>105</sup> This has also provided new space for differences among EU member states, some of whom are inclined to be highly critical of the DRC government, others less so. A June 2017 meeting in Lubumbashi between emissaries of the French President Emmanuel Macron and Joseph Kabila spurred

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<sup>101</sup> For example, the International Contact Group on the Great Lakes remains a largely Western body, despite some attempts to include African representatives.

<sup>102</sup> The two largest recent opposition and civil society gatherings, including the creation of the Rassemblement and the adoption of the “Manifeste du Citoyen Congolais”, occurred in Europe.

<sup>103</sup> “Strategic Pressure – A blueprint for Addressing New Threats and Supporting Democratic Change in the DRC”, The Enough Project, September 2017.

<sup>104</sup> Crisis Group interviews, diplomat, Kinshasa, June 2017; AU official, Addis Ababa, June 2017. “Répression en RDC: neuf hauts responsables officiellement sanctionnés par l’UE”, RFI, May 2017.

<sup>105</sup> Crisis Group interviews, diplomats, Kinshasa, September 2017.



concerns that France was preparing a less critical stance. Belgium, a vocal critic over the last year, toned down its public rhetoric to some extent following regime pressure, but remains critical of the DRC government in the EU and other fora.<sup>106</sup>

In any case, the DRC government does not seem overly concerned by Western criticism. For example, it promoted the former Kinshasa police chief, General Kanyama, who had been sanctioned by both the EU and the U.S., appointing him head of the police academies, a position whose holder traditionally meets regularly with international donors.<sup>107</sup>

The political transition in the U.S. administration likely gave the regime hope that Washington's posture had changed. Throughout most of 2017, the Trump administration principally has focused on MONUSCO and on making the force more efficient and cost-effective. While there are clear signs that the new administration is no fan of the Kabila regime,<sup>108</sup> it has neither replaced President Obama's Special Envoy for the Great Lakes nor appointed an ambassador to Kinshasa, providing the regime with further manoeuvring room. On a late October 2017 visit to Kinshasa, Nikki Haley, the U.S. ambassador to the UN, pressed for elections to be held in 2018. While her tone was forthright, this was presented by the Majority as a victory because it provided diplomatic cover for a further twelve months electoral delay.<sup>109</sup>

The publication ten days after the visit of a calendar with elections scheduled for December 2018 has been disingenuously presented by the CENI as a concession to domestic and international pressure, because shortly before it had informally suggested pushing the timeframe back to mid-2019. The CENI and the government are already preparing to blame further delays on donors' unwillingness to support the process.

Should the political stalemate persist, Western fatigue could increase to the point where Kabila's calculations could prove successful. Under those circumstances, despite recognising that the status quo represents a longer-term threat to regional security, Western capitals might well begin to put less energy into coordinating their diplomatic positions and concentrate on advancing more parochial (including commercial) interests. Continued tension between the regime and international actors could push the latter to react quickly to events – including future obstacles affecting implementation of the electoral calendar – with little or no coordinated strategy. More broadly, Western policy could suffer from a lack of knowledge about events on the ground due to restrictions on international researchers and correspondents. This

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<sup>106</sup> The Congolese government has increased pressure in numerous ways, slowing down the inauguration of a new embassy building, abruptly ending military cooperation and complicating the return of related equipment. "Coopération militaire RDC – Belgique: les raisons de la rupture", *Jeune Afrique*, 14 April 2017; "Crise politique en RDC: Kinshasa s'en prend à Didier Reynders", *Belga*, 11 April 2017.

<sup>107</sup> Crisis Group interviews, diplomats and police officials, Kinshasa, September 2017. "RDC: le dialogue se poursuit entre Macron et Kabila", *Jeune Afrique*, 27 June 2017. Crisis Group interviews, diplomats, Kinshasa, September 2017.

<sup>108</sup> The administration for example protested strongly at the DRC's election to the UN Human Rights Council in October. No DRC representative was in Washington at the Ministerial on Trade Security and Governance in Africa, while the DRC situation was reportedly discussed during this meeting. "Réunion Etats-Unis-Afrique à Washington... sans la RDC", *Jeune Afrique*, 18 November 2017.

<sup>109</sup> "RDC: la visite décevante de Nikki Haley à Kinshasa", *Afrikarabia.com*, 28 October 2017.

knowledge gap could encourage disconnected “Heart of Darkness” type narratives in the Western media that portray DRC as a place of inchoate and barbaric violence.

### B. *Congolese and Regional Diplomacy*

African powers have been engaged in managing the DRC crisis for several years, most prominently through the AU dialogue led by Edem Kodjo in 2016. Despite this engagement, they remain hesitant and to some degree divided in their approach. Western powers have usually been more critical of the DRC government, opening a strategic disconnect that has become a key impediment to concerted international action. Both sides have engaged in competing rhetoric on issues such as the adoption of sanctions by the EU and the U.S. An exception occurred at the October 2016 Luanda regional summit, where presidents of both Angola and Republic of Congo exerted strong pressure on Kabila, paving the way for the Saint Sylvester agreement.<sup>110</sup> This represented a rare moment of convergence among international, regional and domestic dynamics that contributed to meaningful progress. During 2016 and 2017, the Francophonie, the African Union (AU), EU and UN also adopted a number of joint statements on DRC.<sup>111</sup>

The regime has sought to exploit this division and drive a wedge between Western and African positions. In 2017, the new DRC foreign minister, Leonard She Okitundu, and Kabila’s diplomatic advisor Kikaya Bin Karubi, have been remarkably active on the continent.<sup>112</sup> Even the usually more sedentary president visited several African capitals and attended the July AU Summit and September UN General Assembly. These efforts have symbolic value, demonstrating institutional legitimacy at a time of domestic challenge by showcasing the president and ministers meeting foreign leaders; they also generate diplomatic gains.<sup>113</sup> Opposition leaders sought legitimacy as well by meeting African leaders but were less successful in 2017 than in previous years. They are struggling to engage with African leaders or even participate on the margins of regional summits.<sup>114</sup>

The government’s diplomatic achievements have been made manifest as of late. African organisations supported Kabila’s implementation of the Saint Sylvester agreement, as illustrated by the June 2017 communiqué of the DRC-South Africa

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<sup>110</sup> “L’Angola retire ses troupes militaires de RDC”, RFI, 24 December 2016.

<sup>111</sup> This includes: a joint statement on 24 September 2016 on the repression during protests in Kinshasa; 16 February 2017 on the impasse in the implementation of the Saint Sylvester agreement and 28 March 2017 on the escalating violence in the Kasai region.

<sup>112</sup> Leonard She Okitundu was President Kabila’s chief of staff from 2005 to 2007.

<sup>113</sup> Crisis Group interviews, diplomats, Kinshasa, September 2017. Many African diplomats warn their political leadership that meeting with only one side can create an impression of bias, but that concern often is overtaken by political considerations. Crisis Group interviews, regional diplomat, Kinshasa, September 2017; diplomats, Pretoria, September 2017.

<sup>114</sup> The government seeks to discourage such contacts and was angered by meetings that took place on the margins of the 2017 UN General Assembly between the AU chair and opposition leaders. Crisis Group interview, senior official, New York, September 2017. Already in 2016, the opposition rejected the AU initiative that introduced Edem Kodjo as facilitator, on the grounds that the AU was swayed by solidarity among fellow undemocratic African regimes.

Bi-National Commission.<sup>115</sup> One month later, Prime Minister Tshibala, whose appointment was highly controversial, attended the SADC summit in Pretoria. The resulting communiqué commended Kabila for progress in implementing the agreement.

Not surprisingly, the 23 August meeting of the AU Peace and Security Council (PSC) on the DRC took a similar line, stating that the appointments of Tshibala and Olenghankoy “complete the establishment of the institutional framework for the political transition as provided for in the Agreement of 31 December 2016”. Both the AU and SADC echoed the international stance that the electoral commission should publish a new electoral calendar promptly, but SADC went further by stating that “a number of challenges ... have made it unrealistic for the DRC to hold elections in December 2017”.<sup>116</sup> These three statements took similarly strong positions against sanctions adopted by “non-African organisations and countries”, clearly illustrating the gulf separating Western and regional actors.<sup>117</sup>

The three above-mentioned communiqués also announced continued engagement in the Congolese electoral process: for South Africa, that means collaboration between each country’s electoral commission; for SADC, nomination of a special envoy (Hifikepunye Pohamba, former president of Namibia) and dispatch of several missions to the DRC in 2017;<sup>118</sup> and for the AU PSC, a reminder of “the need to strengthen the political role of the AU in the search for a solution of the crisis in the DRC”.<sup>119</sup>

From 28 September to 1 October, Moussa Faki, chairperson of the AU Commission, visited Kinshasa for consultations with all stakeholders, including the opposition.<sup>120</sup> He was followed on 14 October by South African President and SADC chair Jacob Zuma. On 19 October, regional summits of the guarantors of the PSCF and the ICGLR were held in Brazzaville. The summit conclusions were in line with previous African positions. From 22 to 26 October, the AU PSC visited Kinshasa and on 1 November

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<sup>115</sup> The communiqué “expressed their satisfaction with the successful conclusion of the political dialogue initiated by HE Joseph Kabila Kabange, having resulted in the appointment of a Prime Minister, the establishment of a Government of National Unity and the strengthening of democracy, which would pave the way for the holding of elections in the DRC”. See “Joint Communiqué on the 10th Bi-National Commission between South Africa and Democratic Republic of Congo, 21-25 June 2017”, press release, Pretoria, 25 June 2017.

<sup>116</sup> The SADC declaration likely was based on the assessment made by its Electoral Advisory Council (SEAC) mission to Kinshasa on 4-12 March 2017. In its report, the SEAC mentioned the possibility of an April 2018 vote. It stressed the need for rapid publication of the electoral calendar, the importance of early communication to sensitise the population, and the need for the government to properly fund the electoral commission.

<sup>117</sup> “Joint Communiqué on the 10th Bi-National Commission between South Africa and Democratic Republic of Congo, 21-25 June 2017”, press release, Pretoria, 25 June 2017. “Communiqué of the 37th Summit SADC Heads of State and Government”, Pretoria, 19-20 August 2017. “AU PSC Communiqué”, Addis, 23 August 2017.

<sup>118</sup> During 2017, SADC sent several technical missions, including the SADC secretariat in February, SEAC in March and the SADC Organ Ministerial Troika in April 2017.

<sup>119</sup> South Africa and Swaziland are managing this process for SADC and already have made some suggestions to Kinshasa but as yet have been unable to forge an acceptable compromise solution. Crisis Group interview, diplomats, Pretoria, September 2017.

<sup>120</sup> “Working visit of the AU Commission Chairperson to DR Congo”, press release, African Union, 28 September 2017; “Communiqué du Rassemblement”, communiqué, Kinshasa, 30 September 2017.

Moussa Faki received the CENI president in Addis. The AU and sub-region are thus active, but this has not yet been translated into effective political engagement.

When on 5 November the electoral commission published its calendar, the AU reacted positively, with a balanced statement that called for Congolese parties to scrupulously adhere to the calendar, for political actors to refrain from statements or acts that could heighten tensions and for the restoration of confidence between the actors “within the spirit of the political agreement of 31 December 2016”.<sup>121</sup> This potentially could form a new basis for the organisation’s sustained engagement, but more than good intentions are required. For instance, it remains unclear how the AU might contribute to the opening of the DRC’s domestic politics – a key condition for a meaningful electoral process. A first and encouraging step is the reinforcement of the AU liaison office to the DRC.<sup>122</sup>

So far African powers have consistently supported the electoral process in their statements, and are under no illusion that further electoral delays risk more unrest.<sup>123</sup> However, they remain reluctant to take stronger action or condemn the regime’s delaying tactics for several reasons: they do not wish to encourage a popular uprising that could unseat an incumbent; they share an ideological framework that promotes national sovereignty in the face of real or supposed external interference; and they all fear that a badly managed transition could generate more unrest than would further delays.<sup>124</sup> Angola and the Republic of Congo in particular have reason to fear any unrest: Brazzaville sits across the Congo river from Kinshasa while Angola, facing its own economic difficulties and delicate political transition, shares a porous 2,500km border with Congo. The Kasai conflict already has spilled over into Angolan territory.<sup>125</sup>

Furthermore, African leaders do not feel empowered to shift the dynamics of the crisis, partly because their own coordination tools (summits, diplomatic services) are weak and poorly coordinated.<sup>126</sup> None of the regional organisations to which DRC belongs – SADC, the Economic Community of Central African States (ECCAS), International Conference on the Great Lakes Region (ICGLR) – possesses established intervention mechanisms or a strong political consensus against incumbents prolonging their tenure in office. This stands in contrast to West Africa’s ECOWAS, for example.

Finally, while they fear instability, the country’s nine neighbours and other regional powers such as South Africa have also developed a delicate balance of interests. Many have learned to navigate and even profit from the DRC’s ambient chaos during

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<sup>121</sup> “Statement of the Chairperson of the Commission of the African Union on the publication of the Electoral Calendar in the Democratic Republic of Congo”, press release, African Union, 7 November 2017.

<sup>122</sup> The reinforced AU office is also set to provide support, together with the UN, to the SADC Secretariat and the SADC special envoy, former President Pohamba, who is also a member of the AU Panel of the Wise. Crisis Group interview, AU official, Addis Ababa, November 2017.

<sup>123</sup> Crisis Group interviews, diplomats of SADC and other regional states, Kinshasa and Pretoria, September 2017.

<sup>124</sup> Crisis Group interview, senior African official, New York, September 2017. For an illustration of these considerations, see “Report of the workshop of secretaries general of governing former liberation movements of Southern Africa on the current common political, economic and security challenges they face”, Victoria Falls, Zimbabwe, 4-8 May 2016.

<sup>125</sup> Paula Cristina Roque, “Angola’s Africa Policy”, Egmont Paper 98, October 2017.

<sup>126</sup> Crisis Group interview, senior African official, New York, September 2017.

and since the wars of 1996-2003. A strong DRC could run counter to some of those interests. And competition among these countries over economic opportunities and access can further stymie joint political action. Areas of competition include major projects such as the Grand Inga dam, the exploration of hydrocarbons in eastern DRC and regional logistical corridors toward South Africa, Tanzania, Angola and Kenya. And there are also the well-documented cases of Congolese resources transiting through neighbouring countries such as Uganda, Rwanda and Burundi.<sup>127</sup>

African powers therefore have reasons, some justifiable some less so, to refrain from stronger and more coordinated action. Along with differences of approach between them and the Europeans, and in the absence of major regional conflagration, this favours the status quo and a passive approach. But as many working level African diplomats, and even ministers, acknowledge in private, there is a great risk of instability in further electoral delays and in the erosion of constitutional rule in the DRC.

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<sup>127</sup> Crisis Group Africa Briefing N°107, *Congo: Ending the Status Quo*, 17 December 2014.

## V. Dealing with the Blockage Through Revitalised Engagement

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The situation in DRC is fundamentally blocked, with a regime determined to stay in power holding a stronger hand than its opposition and with outside actors appearing both discouraged and divided. The most likely scenario is a prolonged *glissement* with instability rising although not necessarily threatening the regime elite. Still, government control is weak and weakening. It eventually could face a more coherent challenge, expressed through political mechanisms, street protests, insurgency or a combination of the three. As the UN's September Strategic Review put it: "the DRC is likely to remain in the current scenario for the foreseeable future, although the possibility of a rapid deterioration of the situation cannot be ruled out".<sup>128</sup>

International frustration and reluctance to engage more fully is comprehensible. No foreign actor wishes to take the lead given the parties' intransigence. Such international engagement would be vital to signal that help is available to those seeking progress. Support should be directed at the Congolese people – not just at the humanitarian level, but also on behalf of their political aspirations. The 5 November electoral calendar presents a new, concrete opportunity for international actors to engage on this basis.

Efforts should be based on the key principles of the Saint Sylvester agreement. All relevant international and regional actors, as well as the DRC government, have signed up to it; it remains the governing roadmap; and all conceivable alternatives, including the opposition's idea of a transitional government without Kabila, are either unfeasible or could play into the regime's hands. Moreover, its core principle – respect for the integrity of the constitution and thus also the need to organise elections for an orderly transfer of power – represents a sound outcome and an answer to regime attempts to pursue its own dilatory tactics and interests.

What has been lacking since the signing of the agreement is international political engagement and an effective strategy, leaving the initiative totally with the regime. Reversing this dynamic requires focusing on several building blocks:

**Active international engagement and overcoming divisions.** This is the starting point; effective international pressure on President Kabila to genuinely move toward elections and relinquish power will necessitate both sustained high-level engagement and greater unity among outside actors; otherwise, Kinshasa will continue to engage in forum shopping to find the most sympathetic interlocutor. To achieve this goal, Western powers and African leaders, should attempt to iron out differences in their assessment of the situation and their political strategy to achieve change and avoid further disintegration of the country. Disagreement essentially has revolved around how best to push Kinshasa toward elections in a reasonably expeditious timeframe.

The question of sanctions is among the most divisive. In 2016, they likely helped forge the December agreement. But their value has diminished over time as the regime exploited them to portray foreign pressure as a form of Western imperialism;

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<sup>128</sup> "Special report of the Secretary-General on the strategic review of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo", UNSC, S/2017/826, 29 September 2017.

meanwhile, targeted individuals learned how to circumvent punitive measures. New sanctions should not be imposed while efforts are made to align international views and forge a more united front. However, they remain a potential tool to be used to either discourage human rights abuses or as part of a strategy to help shift political calculations at critical moments. Ideally, they should not be imposed unless coordinated with African partners. If it becomes obvious that the regime is not acting in line with its commitments, the AU and regional organisations should consider bringing more pressure to bear. This could include preparing an honourable exit for President Kabila. The AU, including its Peace and Security Council, and the SADC are already seized and both organisations have the influence and legitimacy to press the Kabila-regime.

**Setting up an international envoy group** to help forge consensus and advance the DRC's political process. This group should bring together Western and African nations in the form of a small group of key international envoys. Without the need for unwieldy new structures, this would aim to revitalise coordinated international engagement. The current International Contact Group, which includes Western powers and donors, paradoxically is both overly crowded and unrepresentative. It benefits from only occasional participation from low level African representatives and as such does not serve to bridge international divides, nor does it have the agility to respond to events. The Contact Group, which also covers Burundi and wider regional issues, can be revitalised, expanded with African representatives, and act in support of the envoy group – providing regular buy-in from committed donors and partner countries.

The envoy group should strike the right balance, including a variety of views, especially Western and African. It could comprise representatives of institutions (or countries) that initiated the team of experts in support of the electoral commission that was created at September's high-level meeting in New York – namely the UN, AU, EU, Francophonie and SADC, ideally with the addition of the U.S.<sup>129</sup>

This envoy group should meet regularly and work closely with the SRSG and the UN special envoy to the Great Lakes, whose office could serve as its permanent secretariat. Among its goals would be to prepare and follow-up benchmarks for the electoral process, connect initiatives at the national, regional and international levels, exchange analysis and channel support for elections.

**Sticking to the electoral timetable.** The electoral commission has now published its long-awaited calendar. Its main merit is to provide a new opportunity for national and international convergence and engagement, while its main flaw is that it has not been agreed to by the major opposition and civil society platforms. The new timetable is technically feasible and provides a realistic political timeframe for the opposition to organise itself and fully participate in the polls. The main risk is that the regime will see this calendar as just one more opportunity to start the process of delays all over again. The budget, security, legal or technical impediments all potentially offer

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<sup>129</sup> The team of experts that is still preparing its terms of reference, and is thus not yet in place, may also include the UK and the U.S. Crisis Group interviews, MONUSCO officials, Addis Ababa, November 2017; email correspondence, diplomat, New York, November 2017. Secretary of State Tillerson's efforts to winnow special envoys from the State Department's ranks should not inhibit the appointment of a senior diplomat at the ambassadorial level to manage the day-to-day work that is required for purposes of this process.

an opportunity for the CENI, CNSA and government to block further progress. The new electoral law, that was to be adopted by parliament by 30 November, is a potentially time-consuming issue that could also seriously affect the political dynamics.<sup>130</sup> Both the opposition and international actors should focus on closely supervising the processes within the CENI and other developments to avoid such a dynamic taking hold.

As a matter of urgency, international actors involved in the electoral process should supervise adherence to the calendar actively, warning against unjustified slippage. They also should guard against any government call for snap elections which would catch the opposition unprepared and unable to compete – an unlikely albeit not implausible scenario. The recently proposed team of electoral experts – comprising representatives from the UN, AU, EU, SADC and Francophonie – should quickly be operationalised. There is a possibility that the U.S. and UK will join the experts to support the preparation of the elections. Its working relationship with and independence from the electoral commission has to be clear in its terms of reference. It should work in concert with a dedicated senior UN advisor (as suggested in paragraph 49 of the UN strategic review).

This technical group should continuously assess and review the process and develop benchmarks for the provision of international support. Essential areas are: the voter list and its planned audit, adequate national funding, clarity on CENI intentions regarding the voting system (traditional ballots or a semi-electronic vote) and the logistics support provided by MONUSCO. As to the latter, any such support should be targeted at strategic choking points that, if left unaddressed, are liable to cause further delays. Parliament should promptly adopt the electoral law and the legislation on seat distribution.

Outside parties should press the government to clarify its plans for funding the electoral process; in turn, the level of ambition (notably, for example, the extent to which the voting process will be digitalised) should reflect available funds. The government should refrain from initiatives that distract from this priority, such as new policy proposals that ought not to be in its purview insofar as it lacks legitimacy. The entire process ought to be as transparent as possible.

### **Pressing for confidence-building measures enshrined in the agreement.**

Opposition and civil society actors have no confidence in either the government or current actors responsible for the election's management and oversight (CNSA, CENI). The regime has effectively hijacked implementation of the Saint Sylvester agreement. To effectively operationalise the electoral calendar, and consistent with the principles of the Saint Sylvester agreement, international actors, including those in the region, ought to press the regime to rapidly enact the legislation required for the CNSA to operate and allow it to be opened up to civil society observation. They should press for the opening up of political space to allow the opposition to operate freely. Steps should include setting up a credible process to assess the legality and validity of the current

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<sup>130</sup> "RDC: Que prévoit la nouvelle loi électorale déposée à l'Assemblée nationale?", RFI, 18 November 2017.



prosecution of several opposition politicians.<sup>131</sup> The CENCO report on the cases of Moïse Katumbi and Jean-Claude Muyambo, presented to the government in March 2017, should be taken into account. Creating a more level electoral playing field also will require the government to allow peaceful political protest, political party activity and free media reporting. MONUSCO police and human rights observers should play a part in this, by continuing to actively monitor police operations, in particular during protests. Recent legislation on civil society activities goes counter to this and should be reversed.

**An engaged opposition.** International action also has been hampered by the tactics of the DRC opposition, which too often has boycotted talks, out of understandable distrust of either the regime or of one another. The better course would be for opposition figures to intensify their engagement in the process, including by seeking an active role in the electoral process, pressuring the government to open political space, beginning work on their electoral platforms and proving their relevance to a restive citizenry. Foreign governments with sway over the opposition should encourage such a course.

**Preparing for the future.** With the balance of forces currently pointing at best toward stagnation, both regional and international actors should take steps to prepare for what might come next. This means being ready to respond to a further deterioration, including the spread and intensification of insurgencies. If the impasse continues, armed groups that are as yet poorly coordinated could conceivably merge efforts or at least synchronise them. This would fundamentally alter the situation. MONUSCO will be at the front line and needs to shift rapidly toward a more flexible and mobile posture, notably by being able to deploy resources more quickly around the country as signalled in its September strategic review.<sup>132</sup>

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<sup>131</sup> One approach would be to task the African Commission on Human and Peoples' Rights with a fact-finding mission concerning these prosecutions.

<sup>132</sup> "Special report of the Secretary-General on the strategic review of the United Nations Organization Stabilization Mission", op. cit.; and "Open Letter to the UN Secretary-General on Peacekeeping in DRC", Crisis Group, 27 July 2017.

## **VI. Conclusion**

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At its December 2016 signing, the Saint Sylvester agreement seemed to offer a credible way out of the DRC's spiralling crisis. A considerable weakening of the opposition, lack of international political engagement, a focus on the conflict and humanitarian crisis in the Kasai and an effective diplomatic offensive by the Congolese government all contributed to stalling its implementation. Yet this setback aside, the fundamental principles of the agreement remain a solid foundation for international reengagement aimed at avoiding any further degeneration.

The likelihood that the DRC will witness a rise in violent conflict remains high; the Kasai experience suggest how quickly and intensely it can spread. Should that occur, a regime that lacks both popular legitimacy and resources will find it highly challenging to manage. In the short term, this likely would reinforce the regime's belief in its strategy of *glissement*, but at a huge human cost. A sudden, major deterioration of security, with large scale displacement and major implications for the region, cannot be ruled out.

The immediate priority is for Western and regional powers to forge consensus, as best they can, on a coherent approach. This requires that both revisit existing policies: for now, the West should pause any further sanctions and African powers should step up pressure, even if behind closed doors, on President Kabila. A new electoral calendar for the DRC is on the table. It is far from ideal, as it allows Kabila to extend his stay in power, with all the attendant consequences for the country. But now is not the moment to sit on the sidelines and reinforce those in the regime who are eagerly awaiting the opportunity to blame further delays on foreign powers or the opposition. This latest development provides a new opening for the region and donor community to step up their efforts and work in concert toward this common goal.

**Nairobi/Brussels, 4 December 2017**

## Appendix A: Map of DR Congo



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## Appendix B: Glossary

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ANR	National Intelligence Agency
BDK	Bundu dia Kongo
BDM	Bundu dia Mayala
CENCO	National Episcopal Conference of Congo
CENI	Independent National Electoral Commission
CNSA	National Council for Monitoring the Agreement and the Electoral Process
CNPSC	National People's Coalition for the Sovereignty of Congo
FONUS	Innovative Forces for Union and Solidarity
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
FARDC	Armed Forces of the Democratic Republic of Congo
FIB	Force Integration Brigade
ICGLR	International Conference on the Great Lakes Region
LUCHA	Lutte pour le changement, a social movement
M23	Mouvement du 23 mars
MLC	Movement for the Liberation of Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of Congo
MNR	National Movement for the Revolution
OIF	Organisation Internationale de la Francophonie
PNC	Congolese National Police
PPRD	Peoples' Party for Reconstruction and Democracy
PSCF	Peace, Security and Cooperation Framework
RASSOP	Rassemblement de l'Opposition
SADC	Southern African Development Community
SRSG	Special representative of the Secretary-General
UDPS	Union for Democracy and Social Progress
UDCO	Union for the Development of Congo
UNC	Union for the Congolese Nation
UNDP	United Nations Development Programme

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## Appendix C: About the International Crisis Group

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

Crisis Group's reports are distributed widely by email and made available simultaneously on its website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord Mark Malloch-Brown. Its Vice Chair is Ayo Obe, a Legal Practitioner, Columnist and TV Presenter in Nigeria.

Crisis Group's President & CEO, Jean-Marie Guéhenno, served as the UN Under-Secretary-General for Peacekeeping Operations from 2000-2008, and in 2012, as Deputy Joint Special Envoy of the United Nations and the League of Arab States on Syria. He left his post as Deputy Joint Special Envoy to chair the commission that prepared the white paper on French defence and national security in 2013.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in ten other locations: Bishkek, Bogota, Dakar, Kabul, Islamabad, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Algiers, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Hong Kong, Jerusalem, Johannesburg, Juba, Mexico City, New Delhi, Rabat, Sanaa, Tblisi, Toronto, Tripoli, Tunis, and Yangon.

Crisis Group receives financial support from a wide range of governments, foundations, and private sources. Currently Crisis Group holds relationships with the following governmental departments and agencies: Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, European Union Instrument contributing to Stability and Peace (IcSP), Finnish Ministry for Foreign Affairs, French Development Agency, French Ministry of Defence, French Ministry of Foreign Affairs, German Federal Foreign Office, Global Affairs Canada, Irish Aid, Principality of Liechtenstein, Luxembourg Ministry of Foreign Affairs, New Zealand Ministry of Foreign Affairs and Trade, Norwegian Ministry of Foreign Affairs, Swedish Ministry of Foreign Affairs, Swiss Federal Department of Foreign Affairs.

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**December 2017**

## Appendix D: Reports and Briefings on Africa since 2014

### Special Reports

*Exploiting Disorder: al-Qaeda and the Islamic State*, Special Report N°1, 14 March 2016 (also available in Arabic and French).

*Seizing the Moment: From Early Warning to Early Action*, Special Report N°2, 22 June 2016.

*Counter-terrorism Pitfalls: What the U.S. Fight against ISIS and al-Qaeda Should Avoid*, Special Report N°3, 22 March 2017.

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*Kenya: Al-Shabaab – Closer to Home*, Africa Briefing N°102, 25 September 2014.

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