



2nd Situation Update from NGOs on DRC

OCTOBER 2009

Too much lost, too little gained: The impact of anti-FDLR operations on the situation of civilians in Eastern DRC and what the EU should do about it

In June 2009, NGOs working in the Democratic Republic of the Congo (DRC) produced a situation update on the European Union's response to urgent protection and assistance needs in the Eastern provinces of the country. The paper noted the **dramatic humanitarian impact of military operations** being conducted by the Congolese army (the FARDC) with support of the UN peacekeeping force (MONUC) to forcibly disarm the FDLR (*Forces Démocratiques de Libération du Rwanda*) militia, and called for, among other things, the EU to press the Congolese government to take concrete steps to minimise the negative impact of military operations on civilians.

Four months later, statistics demonstrate increased threats to civilians, including destruction of homes and property, forced displacement, sexual violence, and killing. NGOs and UN agencies working in Eastern Congo are also experiencing increasing numbers of attacks, representing a threat to the humanitarian space necessary to provide life-saving aid to hundreds of thousands of people.

Consequently, the signatory NGOs to this update believe that **the price that civilians are paying is far too high in comparison with the modest successes of the current military strategy**, and urge the EU to lead efforts towards a new strategy to protect civilians and put an end to the conflict that has plagued the DRC for over a decade.

The humanitarian situation is much worse than before the operations

The two military operations (Umoja Wetu and Kimia II) have had some impact on weakening the FDLR, but the militia continues to operate, and still has the ability to inflict immense suffering on civilians. In spite of the limited successes of the ongoing operation, **civilian protection has not improved; in fact, in many places it has worsened.**

The number of civilians forcibly displaced, subjected to sexual violence, and killed has increased since the last NGO briefing four months ago. Overall, the number of displaced people in the DRC is estimated to be more than 2.2 million people¹. In June, more than 400,000 people were estimated by the UN to have been displaced in North and South Kivu since January 2009² as a result of confrontations or FDLR reprisal attacks. Four months later, **the total number of people estimated to have been displaced as a consequence of the military operations is upwards of 900,000³.** Clearly, not only have the operations failed to slow the pace of displacement, but in many cases, the pace is actually increasing: in South Kivu

¹ OCHA - Ituri 184,432 ; Haut Uélé 232,735 Bas Uélé 31,296; South Kivu 704,130; North Kivu 1.083,518

² UN Security Council, 29th report of the Secretary-General on MONUC, September 18, 2009

³ Statistics from OCHA from January through August 2009

alone, an estimated 167,250⁴ people were displaced in just three months between June and August 2009. **The military operations have so far been associated with the destruction of over 6000 homes.**

Rape continues to be a common occurrence throughout the areas impacted by Kimia II, with the FARDC reported to be the main perpetrators in a number of areas. **All together, the operations have been associated with an estimated 7,000⁵ reported cases of rape.** While women and girls have been the most affected, men and boys as well as infants were also targeted. UNFPA reported 2,584 cases of rape in South Kivu in the first six months of 2009. This represents a 77% increase on the number of rapes in the same period in 2008, before the military operation began.

In addition to destruction of homes and property, displacement, and sexual violence, **fighting in Eastern DRC has also led to the deaths of approximately 1,193 civilians⁶.**

The civilian costs of Kimia II

At the same time, the operations have been credited with resulting in the repatriation of 1,071 FDLR fighters according to UN figures. In light of the statistics above, this amounts to **1 civilian killed, 7 civilians raped, and 900 civilians forcibly displaced for every 1 FDLR combatant successfully disarmed.**

The rapid integration of militia fighters into the FARDC has also been linked to increased humanitarian concerns. Troops that had committed sexual abuses and other human rights violations were not excluded from the integration and now operate under FARDC uniform, and the statistics demonstrate **high instances of sexual violence in locations of deployments of newly integrated FARDC units.** Furthermore, these FARDC units have repeatedly clashed with other FARDC units – particularly in areas where access to mineral resources is at stake – with civilians too often caught in between.

Evidence of pressure on Goma returns

Much has been made of the large-scale movement of IDPs from camps around Goma back to their areas of origin, with this return process being lauded as a sign of increased security and stability. While the voluntary return of displaced people is indeed welcome, there are numerous indications that returns characterised by undue and illegal pressure have also taken place. A number of strong push and pull factors may have contributed to the decision of IDPs to return, such as the reduction or stoppage of food aid in camps, official messages from politicians – both local and national – to IDPs to go home, and suggestions that abandoned land would be redistributed if people did not come back to claim it.

As many in the international community and the Congolese government hail the closure of the Goma camps, it is important to remember that **2.2 million people remain displaced in DRC in host families with insufficient livelihoods, in completely inaccessible areas or in camps with much more restricted access.** Without a durable peace, there are few guarantees that those who have returned will not be displaced again as conflict continues to threaten lives across Eastern DRC.

Insecurity prevents vulnerable people from receiving assistance

Against this backdrop, there are also **increasing threats to humanitarian space.** In the first six months of 2009, 107 security incidents against humanitarian workers have occurred in the Kivus, of which 83% took place in North Kivu Province⁷, increasing 70% over the same period the previous year in this province⁸. Across Eastern DRC, incidents are mainly attributable to the FARDC, the Congolese National

⁴ South Kivu Population Movement Committee, *Presentation of population movement statistics for South Kivu*, 10 September 2009

⁵ 4,658 new cases were recorded by UNFPA in North and South Kivu between January and June 2009. Statistics are not finalized for July through mid-October, but preliminary reports indicate cases are being reported at a comparable rate. In South Kivu, 2,584 new cases were recorded in the first half of 2009, compared to 2,883 cases recorded for all of 2008.

⁶ Human Rights Watch with additional information from internal MONUC reporting and reliable local sources had calculated 1,143 deaths between January and early October 2009. Human Rights Watch has reports of an additional 476 deaths still unconfirmed. In addition to the killings reported by HRW, UN Special Rapporteur on Extrajudicial Killing Philip Alston has reported that 50 civilians were killed by the FARDC in April.

⁷ OCHA, *Accès humanitaire dans les provinces du Nord et Sud Kivu, incidents sécuritaires contre les humanitaires de janvier à août 2009*

⁸ OCHA, *Security incidents against aid workers, North-Kivu, August 2009*

Police and armed groups. UN sources note that FARDC soldiers were responsible for nearly one-third of the 41 attacks reported on humanitarian targets in the second quarter of the year (April – June 2009).

More than 900,000 displaced people, or 80% of the IDPs in North Kivu, reside in **areas for which the UN requires a military escort**.⁹ NGOs, which maintain a larger field presence than the UN, have been the victims of 86% of the attacks on humanitarian workers in North Kivu from January 2008 to June 2009.¹⁰

NGO recommendations to the European Union

The rapprochement between DRC and Rwanda was hailed across the international community, and indeed regional rapprochement is a necessary component of a lasting peace in the Great Lakes. The military offensives have often been described as necessary to consolidate this rapprochement, but the benefits to civilians are few and far between. To the contrary, the military operations have had disastrous humanitarian consequences, making the lives of thousands of innocent civilians markedly worse than before the operations began. Not only have civilians been caught in the crossfire of these operations, but in many cases they have been directly targeted; in both cases, **the price that civilians are paying is far too high in comparison with the modest successes of the current military strategy**.

The EU is well-placed to lead efforts towards a new strategy to protect civilians and, in the longer-term, to put an end to the conflict that has plagued the DRC for over a decade.

Ensure civilians are protected as part of a revised strategy to combat the FDLR

1. The EU and its Member States should **publicly acknowledge that the present joint military operations against the FDLR have caused unacceptable harm to civilians**. They should press the governments of DRC and of Rwanda, in addition to MONUC, to invest in a comprehensive, multi-pronged approach towards disarming the FDLR with a **greater focus on non-military strategies** and that **emphasises protecting civilians**. This would include taking into custody and opening judicial proceedings against those wanted for genocide and other more recent serious crimes, including the FDLR leadership based in Europe, and reforming the disarmament and demobilisation programme.
2. The EU and its Member States should **ensure that MONUC prioritises non-military DDRRR¹¹ strategies** and work with the Congolese and Rwandan governments to agree and implement a concerted set of non-military DDRRR measures to secure the disarmament of a maximum number of militia fighters. Efforts by the DRC government and MONUC to **encourage voluntary repatriation of FDLR combatants** and their dependants should be strengthened and properly resourced. More information regarding DDRRR offers should be made available, and DDRRR bases should be situated in locations where civilians will not be put at risk. The FARDC should give strong guarantees regarding safety for FDLR who want to surrender, and immediately cease attacks on DDRRR rebel combatant extraction operations. Recent increases in support to the DDRRR process – notably from the UK – are welcome and such increased resources should continue as long as necessary.
3. Those EU **Member States hosting FDLR leadership** – including the United Kingdom, France, Germany, Italy, the Netherlands, and Sweden – should take action within the scope of national laws to **limit the ability of the FDLR political leadership to incite violence**, including, where such a possibility exists under their domestic law, investigation and prosecution of leadership members for complicity in war crimes and crimes against humanity committed in Eastern Congo.

Support a comprehensive security sector reform addressing human rights violations

4. The EU and its Member States should ensure that **training and institutional development** within a coordinated army reform package – undertaken by MONUC as well as through bilateral EU Member

⁹ OCHA, *Security incidents against aid workers, North-Kivu*, August 2009

¹⁰ OCHA, *Security incidents against aid workers, North-Kivu*, August 2009

¹¹ Disarmament, Demobilisation, Repatriation, Reintegration and Resettlement

States' initiatives – is **conditioned on respect for international humanitarian and human rights law by the FARDC**, and supports the FARDC to protect civilians from militia groups in a manner consistent with international law. The EU and its Member States should support the DRC government in the implementation of the training by making any bilateral support to individual units conditional on human rights performance and effective military justice in dealing with violations.

5. The EU and its Member States should ensure the implementation of **UN Security Council Resolution 1888 on sexual violence** and welcome and urge strict adherence to the **zero tolerance policy** regarding violations of humanitarian or human rights law committed by military personnel announced by the Congolese government in July 2009. The EU should urge the DRC government to ensure that any reported case of rape is addressed and any individual responsible is taken accountable and brought to justice. Moreover, the EU should explore with the Congolese government the role that the European mission to assist security sector reform in DRC (EUSEC) could play in initiating **transparent vetting mechanisms for all violations of international humanitarian law** and ensuring that military action should not be led by officers with a documented record of human rights violations.
6. The EU should increase the **coordination and consistency of its actions** and ensure that bilateral actors' activities do not undermine each other, including through the **establishment of a common set of training standards and transparency on bilateral agreements in the area of security sector reform**. The EU must remain engaged in the long-term process of ensuring accountability and respect for human rights in the country, and to this end should mandate and resource its EUSEC mission appropriately to achieve meaningful reform of the security sector.
7. The EU and its Member States should **ensure EUPOL has sufficient financial and human resources** to enable the mission to expand its engagement in the East of the country. In particular, EUPOL must have sufficient civilian staff – especially in the areas of human rights and gender equality – to enable it to support the Congolese National Police in instituting human rights- and gender-related policies.