

## **Informal Summary of the Final Report of the United Nations Group of Experts of the Democratic Republic of the Congo, dated 15 November 2012, S/2012/843**

On 21 November 2012, the United Nations Group of Experts on the Democratic Republic of the Congo (GoE) released its final report for 2012. Established pursuant to Security Council resolution 1533 in 2004,<sup>1</sup> the GoE's mandate was originally to monitor violations of the sanctions and arms embargo imposed by the Security Council in July 2003.<sup>2</sup> The group's current mandate has been expanded by five subsequent Security Council resolutions,<sup>3</sup> and now includes the investigation of 'activities in areas affected by the presence of illegal armed groups, including North and South Kivu and Orientale Province', as well as 'regional and international networks providing support to illegal armed groups' and 'criminal networks and perpetrators of serious violations of international humanitarian law and human rights abuses, including those within the national armed forces' or *Forces armées de la République démocratique du Congo* (FARDC).<sup>4</sup>

The GoE published an interim report in June 2012,<sup>5</sup> which controversially linked the Government of Rwanda to M23 and which led several donors, including the United States, the UK, the Netherlands, and Germany, to cut aid to Rwanda.<sup>6</sup> In its final report, which includes 204 pages of evidence and analysis, the GoE reiterates its conclusion that the Rwandan Government is involved in recruiting, training, and arming M23, but also implicates the Government of Uganda in this project. According to the final report, while Rwandan officials have coordinated the rebel movement and its major military operations, the Government of Uganda has played a more 'subtle' role, including by permitting the political branch of M23 to operate from Kampala.<sup>7</sup> The Uganda People's Defence Force has also provided some assistance to the group, bolstering its ability to seize key towns in the Eastern Kivus.

The GoE's final report also concludes that M23 is responsible for ongoing violations of international humanitarian and human rights law, including sexual violence, mass rapes, the indiscriminate killing of civilians, and the recruitment of child soldiers.

### **Support provided by the Government of Rwanda to M23**

According to evidence collected and analyzed by the GoE, the Government of Rwanda continues to provide direct military support to M23 rebels, facilitating recruitment, encouraging and facilitating desertions from the FARDC, as well as providing arms, ammunition, intelligence, and political advice.

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<sup>1</sup> S/Res/1533 (2004).

<sup>2</sup> S/Res/1493 (2003).

<sup>3</sup> S/Res/1807 (2008); S/Res/1857 (2008); S/Res/1896 (2009); S/Res/1952 (2010); S/Res/2021 (2011).

<sup>4</sup> S/Res/1952 (2010), para 6; see also 'Final Report of the Group of Experts on the Democratic Republic of the Congo', S/2012/843, Annex 1: Complete overview of the Security Council mandate of the Group of Experts, p 57-58.

<sup>5</sup> Interim Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/348.

<sup>6</sup> *Gender Report Card 2012*, p 175-176.

<sup>7</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 6.

Rwandan armed forces have both been deployed as special units to reinforce major attacks and as a permanent presence to consolidate gains made by M23, have harmonized their communication equipment with M23 to better coordinate operations, and have continued to furnish the rebels with weapons, delivering ammunition to M23 headquarters in Runyoni every two weeks. Additionally, there is evidence that Rwandan armed forces have facilitated the evacuation of casualties to Rwanda and the transfer of injured soldiers to the Kanombe military hospital in Kigali.<sup>8</sup>

Recruitment for M23 occurs within Rwanda by members of the Rwandan armed forces and has increased in recent months. The GoE estimates that M23 has trained at least 800 new soldiers since its inception. The main targets for recruitment are demobilized Rwandan soldiers and civilians, as well as Congolese refugees. Rwandan armed forces are also continuing to forcefully recruit ex-FDLR combatants from the Mutobo demobilization camp in Rwanda.<sup>9</sup>

Prior to being transported to the DRC, many recruits are transited through a hotel owned by General Bosco Ntaganda in Kinigi, Rwanda. From Kinigi, recruits are escorted by Rwandan troops through Virunga National Park to Runyoni. According to statements obtained by former M23 soldiers, Rwandan armed forces told them that they would be fighting for Ntaganda to take control of North Kivu, confiscated their telephones, burned their identity cards, and instructed them to claim to be Congolese if they were captured. Recruits who flee Rwanda are returned to M23 by Rwandan soldiers to be executed, detained, or tortured. Newly trained soldiers are immediately sent into battle to provide cover to M23 units where, due to lack of experience, many are killed. In July 2012, for example, nearly half of the new recruits died during combat operations in Bunagana, Rutshuru, and Rumangabo.<sup>10</sup>

Former M23 officers and soldiers provided evidence that Ntaganda continues to serve as the highest commander of the rebels on the ground, that Colonel Sultani Makenga is responsible for operations and coordination with allied armed groups, and that General Laurent Nkunda provides advice to M23 commanders and recruits for M23 in Rwanda. However, Rwandan officials exercise overall command and strategic planning for M23. Sources indicate that Ntaganda and Makenga receive direct military orders from the Chief of Staff of the Rwandan armed forces, General Kayonga, who in turn receives instructions from the Minister of Defence of Rwanda, General Kabarebe. The Permanent Secretary of the Ministry of Defence, General Jacques Nzizia, provides strategic advice and oversees the provision of logistical support to M23.<sup>11</sup>

The GoE has evidence that Ntaganda continues to be based near Runyoni and that he regularly travels to Rwanda, which is only several kilometers away.<sup>12</sup>

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<sup>8</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 7-9.

<sup>9</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 11.

<sup>10</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 11.

<sup>11</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p. 11-13.

<sup>12</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 13.

## Support provided by the Government of Uganda to M23

According to the GoE, the Government of Uganda is less involved in providing support to M23 than the Government of Rwanda, but nevertheless provides significant assistance. Networks within the Government of Uganda have supported M23 by facilitating the political and military activities of M23 members and by providing technical assistance, political advice, arms, and military support. Ugandan armed forces commanders, for example, provided troops and ammunition to M23 during attacks in July 2012 that enabled the capture of Bunagana, Rutshuru, Kiwanja, and Rumangabo.<sup>13</sup>

Members of M23 have engaged in recruitment activities in Uganda with the support of Ugandan authorities. Sources also indicate that when new recruits attempt to flee to Uganda, Ugandan armed forces return them to M23.<sup>14</sup>

M23 has developed a political branch that is based in Kampala. Members of M23 frequently travel to Kampala, have maintained a permanent residence in the capital, and, as of September 2012, had also rented two houses in Kampala. While in the city, members of M23 have met regularly with senior Ugandan military and civil authorities.<sup>15</sup>

Sources indicate that Ntaganda has maintained strong connections with senior members of the Ugandan armed forces and has directly coordinated the Ugandan military support provided to M23. Senior Ugandan commanders continue to cooperate with Ntaganda, and have allowed him to purchase a house in Kampala for his family, violating the UN assets freeze.<sup>16</sup>

## Armed groups allied with M23

M23 has actively attempted to forge alliances with armed groups operating in Eastern DRC, exacerbating instabilities in the region and leading to the widespread violation of international humanitarian law. Armed groups allied with M23 and have conducted several attacks against Congolese armed forces in the areas of Masisi, Walikali, and Uvira.<sup>17</sup>

Early in 2012, prior to his defection from the Congolese armed forces, Makenga began supporting Raïa Mutomboki, supplying the group with weapons and ammunition. Since the onset of the rebellion, Raïa Mutomboki, along with the *Forces de défense congolaise* (FDC-Luanda) and *Nduma Defence of Congo* (NDC), has formed a common front in Masisi and Walikale territories, operating under the orders of M23 commanders Ntaganda and Makenga, with the objective of facilitating further M23 expansion.<sup>18</sup>

M23 has also attempted to expand its rebellion to South Kivu by supporting allied armed groups in that region. In Uvira territory, for example, M23 has established a strong alliance with former Mai Mai commander and ex-CNDP officer Colonel Bede Rusagara. Rusagara is currently the commander of the

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<sup>13</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 10, 13-15.

<sup>14</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 16-17.

<sup>15</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 17-18.

<sup>16</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 18.

<sup>17</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 19.

<sup>18</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 19-21.

*Mouvement congolais pour le changement* (MCC), an alliance composed of 250 fighters from several armed groups.<sup>19</sup>

## **The FDLR**

The *Force Démocratique de Libération du Rwanda* (FDLR) continues to commit abuses against civilians, however, according to information provided to the GoE, support for the FDLR is in decline and the group's membership is currently at a historical low. In April 2012, due to significant troop shortages, the FDLR consolidated its units into two sectors. Colonel Pacific Ntawungua remains the commander of North Kivu and Lieutenant Colonel Hamada Habimana has assumed the command of South Kivu. Each of the six FDLR sub-sectors contains between 250 – 400 soldiers, and the GoE estimates that the FDLR now numbers between 1,500 to 2,000 rebels.<sup>20</sup>

Repatriation rates have diminished significantly since February 2012, when 141 combatants left the FDLR to return home, compared to only 47 in September. Ex-combatants have reported that FDLR officers are fearful that if they return to Rwanda, the Government will force them to join the reserve force of the Rwandan armed forces and redeploy them to the DRC. Former combatants also confirmed that the Rwandan armed force had redeployed small units of ex-FDLR combatants to the DRC for intelligence-gathering missions and to reinforce M23.<sup>21</sup>

The Government of Rwanda has alleged that the Congolese army is cooperating with the FDLR, but the GoE has been unable to independently confirm these claims and the Government of Rwanda has refused to provide further details. Senior members of the Congolese armed forces have indicated that mid-level FDLR commanders attempted to establish operational alliances, but that instead of cooperating with the rebels, the FARDC mounted operations against them on several occasions.<sup>22</sup>

## **Other rebel groups**

The *Forces nationales de libération* (FNL) remains divided and relies on reinforcements from other Congolese armed groups. The *Front national pour la révolution au Burundi* has been renamed and reconstituted as the *Front du peuple Murundi* and allied itself with M23 in South Kivu.<sup>23</sup>

The Ugandan-led Allied Democratic Forces (ADF) have expanded their military capacity and cooperated with Al-Shabaab networks in East Africa. Ugandan officials acknowledged to the GoE that members of the Ugandan armed forces regularly enter Congolese territory to conduct reconnaissance operations on ADF positions. These deployments have never been authorised by the Congolese army.<sup>24</sup>

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<sup>19</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 21.

<sup>20</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 28.

<sup>21</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 28.

<sup>22</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 29.

<sup>23</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 31-32.

<sup>24</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 30-31.

## Integration challenges facing armed groups

Since the outbreak of the M23 rebellion, the Congolese army has made efforts to integrate Congolese armed groups into the army. For example, in the Ituri district, the Congolese armed forces have used significant financial incentives to encourage General Banaloki of the Front for Patriotic Resistance in Ituri (FRPI) to consider integrating, and in other areas the *Alliance des patriotes pour un Congo libre et souverain* (APCLS) has received increased support from the Congolese army in the form of uniforms and weapons. Likewise, north of M23 territory, the Congolese armed forces have attempted to establish an operational alliance with the *Front populaire pour le démocratie*.<sup>25</sup>

The Congolese army has also made efforts to integrate the Nyatura, local Hutu militias in southern Masisi and northern Kalehe territories, into the army. During the attacks carried out in late August and early September 2012 by the Raïa Mutomboki, senior Congolese armed forces officers, including Commander General Gabriel Amisi instructed the Congolese armed forces in Masisi to work with the Nyatura. In July 2012, Amisi instructed Congolese armed forces to deliver around 300 AK-47 rifles to Nyatura military members. Amisi held several meetings with Nyatura representatives regarding their integration in September 2012.<sup>26</sup>

The GoE attributes efforts undertaken by the Congolese armed forces to integrate armed groups as being motivated by three objectives: (1) to reinforce the ranks of the army following desertions to M23; (2) to undermine M23 efforts to establish alliances; and (3) to complement reform plans that include recruitment drives to replace injured and elderly soldiers.<sup>27</sup>

## Criminal networks within the Congolese armed forces

Senior members of the Congolese armed forces continue to participate in criminal networks. Commander General Jean Claude Kifwa, for example, leads a criminal network that provides military supplies, arms, ammunition, uniforms and communication equipment to armed groups, including the Mai Mai Morgan, in exchange for ivory, as well as a criminal network that collaborates with Mai Mai Luc with regard to poaching and mining. Likewise, in Opienge, commander Major Sammy Biakya Baguma controls the tin mine of Ndonga and a number of gold mines, imposing a tax of 2 g of gold per week from the teams of miners. He also trades in 12-calibre hunting ammunition, which is often used for poaching, sells 'travel authorisations', and runs a prison where he incarcerates civilians. Similarly, Amisi oversees a network that distributes hunting ammunition for poaches and armed groups, including Raïa Mutomboki.<sup>28</sup>

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<sup>25</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 32-34.

<sup>26</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 32-34.

<sup>27</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 32-34.

<sup>28</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 34-36.

## **The proliferation of arms**

The emergence of M23 has exacerbated the demand for arms and ammunition. According to local sources in Nyiragongo and Rutshuru territories in North Kivu, the price of an AK-47 rifle has increased from between \$20 - \$50 to between \$200 and \$250 since early in May 2012. An organization working to disarm civilians in the eastern DRC has reported that the number of civilians turning in weapons and ammunition has dramatically decreased since the outbreak of the M23 rebellion. According to the organization, this could either indicate that civilians are selling weapons to armed groups at prices higher than those paid by the organization, or that individuals are retaining the arms for self-defence, or a combination of both.<sup>29</sup>

Commanders of Congolese armed forces confirmed that one of its largest ongoing challenges was the defection of soldiers with arms and ammunition. Corrupt individual soldiers and criminal networks within the Congolese armed forces also sell ammunition to armed groups. In August 2012, for example, the North Kivu military prosecutor indicated two soldiers for selling rifles for \$200 each to M23 rebels near Rumangabo. Former combatants from Nyatura and Raia Mutomboki also told the GoE that they had purchased ammunition, AK-47 rifles and military uniforms from Congolese soldiers.<sup>30</sup>

## **Sexual violence and other violations of international law**

Since the emergence of M23, local communities in the eastern DRC have suffered widespread human rights violations. Violence in North Kivu against civilians by all armed groups, including the Congolese armed forces, has increased, resulting in the displacement of more than 500,000 people since April 2012.<sup>31</sup>

Sexual violence remains prevalent in the eastern DRC. During the first six months of 2012, the UN Population Fund recorded 742 cases of sexual violence perpetrated by armed groups in North Kivu, where Rutshuru was the region most affected, and 955 similar cases in South Kivu, almost half of which occurred in Fizi territory. According to information obtained by the GoE, 'mass rapes' had been committed by M23, Raia Mutomboki, Mai Mai Morgan, and the FDLR. By the end of September, the UN and other international human rights non-governmental organizations had documented 46 rapes committed by M23.<sup>32</sup>

There have been several major incidents that resulted in the indiscriminate killing of civilians, including women and children, by armed groups. Since May 2012, Raia Mutomboki, under the command of M23, has killed hundreds of civilians in North Kivu and burned at least 800 homes. Under the orders of M23's Colonel Makenga, a series of coordinated attacks in August 2012 were carried out jointly with FDC and

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<sup>29</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 36-37.

<sup>30</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 36-37.

<sup>31</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 37.

<sup>32</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 38.

NDC which enabled armed groups affiliated with M23 to destabilize a considerable portion of southern and western Masisi territory.<sup>33</sup>

Some M23 commanders have ordered the extrajudicial executions of recruits. According to ex-soldiers, Ntaganda and Makenga have ordered the execution of at least 20 prisoners of war. Rwandan troops have also executed M23 escapees.<sup>34</sup>

### **Recruitment of children**

Since the beginning of the M23 rebellion, there has been a dramatic increase in the recruitment of children by armed groups operating in the Kivus. The GoE estimates that, since its inception in May 2012, M23 has recruited more than 250 children in the DRC and Rwanda. Between April and September 2012, MONUSCO received 38 children who had escaped from M23, 22 of whom were Congolese and 14 Rwandan.<sup>35</sup>

M23 uses boys on the front lines as cover for advancing units, often after a week of training. Others act as porters, intelligence operatives, and bodyguards. The rebels also use young girls as cooks and as commanders' wives.<sup>36</sup>

M23 combatants have been ordered to kill child soldiers who have attempted to escape. Former child soldiers recount that they have witnessed other children being shot or buried alive after failed escape attempts. Ex-M23 members have reported that Makenga and Ngaruye summarily executed dozens of children who attempted to escape.<sup>37</sup>

### **Natural resources**

The official export of all tin, tantalum, and tungsten from the DRC has nearly ceased. The GoE attributes this to several initiatives engaged in by the Government of the DRC to regulate the export of these minerals, including the suspension of two export houses who had failed to exercise due diligence in accordance with the United Nations and Organization for Economic Cooperation and Development guidelines, and the prohibition of the transport of tin, tantalum, and tungsten by air from Maniema to the border towns of Goma and Bukavu, which put exporters in Maniema out of business.<sup>38</sup>

Tin, tantalum and tungsten ore production continues in most areas. Most minerals are either smuggled out or stockpiled, and cross-border smuggling into Burundi and Rwanda has increased. There is evidence that smugglers pay bribes to Congolese border officials to transport their materials at the main border crossing in Goma. Individuals who participate in smuggling operations told the GoE that minerals from the DRC are inserted into the Rwandan certification system through the illegal purchase of tags

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<sup>33</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 38.

<sup>34</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 38.

<sup>35</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 38-39.

<sup>36</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p. 38-39.

<sup>37</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 38-39.

<sup>38</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 40-41, 46-47.

issued by mining cooperatives with concessions in Western Rwanda. Although it is impossible to estimate the scale of this type of smuggling, the GoE estimates that volumes of laundered material are significant. Smuggling is particularly prevalent in mining areas that are easily accessible and close to the border, and consequently the production of tantalum and tungsten ore in areas located near the border with Rwanda have increased. There has been a corresponding increase in Rwandan exports of these minerals. Similarly, tin ore production has decreased, the decline most evident in remote locations where minerals have to be transported from the centre of the country by air, with corresponding decreases in the export of tin ore from Rwanda.<sup>39</sup>

There is also evidence of alternate routes to remove minerals from the DRC through Bunagana into Uganda and through the Ruzizi plains into Burundi, where the export of tin, tantalum, and tungsten have dramatically increased since 2012.<sup>40</sup>

Price and production decreases, particularly in ore, have had negative socioeconomic consequences in some mining zones, leading to reduced family income and negatively affecting working conditions, as there is no money to invest in basic equipment such as boots, torches, and gas. Secondary social effects also include the decreased availability of food and medicine in remote mining areas that used to be serviced by airplanes that brought in consumer goods and took out tin ore.<sup>41</sup>

Although the Ministry of Mines in the DRC has attempted to promote official gold trade by reducing the export tax to 1 percent and requiring export houses to obtain licenses, this has largely been ineffectual. Intermediary traders continue to trade without a licence, and criminal networks within the Congolese armed forces, and miners rely on gold mines as a source of revenue. Most of the gold in the eastern DRC is smuggled out of the country and channeled through traders in Kampala and Bujumbura. In the United Arab Emirates, most Congolese gold is smelted and sold to jewelers.<sup>42</sup>

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<sup>39</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 42-43, 50-51.

<sup>40</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 43-44.

<sup>41</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 51-54.

<sup>42</sup> Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2012/843, p 44-46.