

SECURITY IN TRANSITION:
AN INTERDISCIPLINARY
INVESTIGATION INTO THE
SECURITY GAP



EU Policies in the Democratic Republic of Congo: Try and Fail?

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Abstract

This paper argues that even though EU policies in the DRC integrated different components of human security – namely human rights protection, the restoration of law and order, and effective multilateralism – in practice these policies have had mixed success in realizing the objective of human security. This can be explained by three main reasons: (i) EU policies are based on a number of premises about how peace and human security can best be achieved, but these premises are overly simplistic, and in most cases tend to overlook or are disconnected from complexities on the ground; (ii) since the end of the transition in 2006, the EU saw its influence as dominant diplomatic and conflict management actor gradually weakening, and has focused on its role as a development actor, with a specific focus on the implementation of technical projects rather than on the development of a strategic policy on the DRC; and (iii) there is a general lack of political will from Congolese state authorities to engage with donor strategies and to support initiatives that promote a genuine national reform.

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Introduction

It is the aspiration of the European Union to be a global peace and security actor (Manners, 2010). As the European Security Strategy (ESS) in 2003 states, 'Europe should be ready to share in the responsibility for global security and in building a better world' (European Commission, 2003:1). To respond to this ambition, the European Commission and Council have developed a multitude of approaches and instruments. Conflict prevention and crisis management are key objectives in its search for international security, which is based on the assumption that development is conditioned by peace and stability and on the recognition that peace, security and development are inherently connected and compounded by the imperative of good governance (Martinelli, 2006). One of the crises in which the EU has tried to be a dominant peace and security broker is the war in the Democratic Republic of Congo. For some observers, this conflict has become 'a laboratory for EU crisis management' (Knutsen, 2009: 456). It is in the DRC that the EU conducted its first CSDP intervention outside of Europe, setting important precedents for the development of future EU engagements in Africa. Overall five different CSDP interventions have been undertaken since 2003: ARTEMIS, EUFOR DR Congo, EUSEC DR Congo, EUPOL Kinshasa and EUPOL DR Congo. These make the DRC the recipient of the largest number of EU CSDP missions in one single country. In addition, the EU has mobilized a variety of development, democracy promotion, and humanitarian assistance instruments in support of its conflict management and stabilization objectives in the DRC. Between 2002 and 2013, European Development Fund (EDF) budgets increased from €120 million to €726 million (€901 million if thematic budget lines such as the Stability Fund, Food Facility, and environment are also included). In 2013, this made the DRC the primary beneficiary of EU development funding in Sub-Saharan Africa and placed the EU amongst the top three donors in the DRC.¹

While EU policies in the DRC have played a significant role in road testing and developing the EU's crisis management capabilities, its positive contribution to improving conditions on the ground in the DRC is less evident (Piccolino, 2010). This paper argues that although EU policies in the DRC have integrated different components of human security, in practice these policies have had mixed success in achieving the latter. This can be explained by three interrelated factors: (i) EU policies are based on a number of premises about how peace and human security can best be achieved, which tend to overlook or are disconnected from complexities on the ground. While mainly focused on building formal state structures, EU strategies have not been able to reverse existing governance conditions and practices, and have not focused on structurally changing the extractive character of the politico-administrative system of the Congo; (ii) since the end of the transition in 2006, the EU has seen its influence as a diplomatic and conflict management actor gradually weaken and has focused on its role as a development actor, with a specific focus on the

¹ Based on OECD-DAC figures, available at <http://www.oecd.org/dac/stats/data.htm>

implementation of technical projects rather than on the development of a coherent political strategy on the DRC; (iii) there is a general lack of political will from Congolese state authorities to engage with donor strategies and to support initiatives that promote a genuine national reform.

This paper starts with a brief account of the Congolese crises. The second section provides an overview of the different components of the EU policy in the DRC, and then goes on to discuss its connection to a human security agenda. In the fourth part of the paper we present a number of challenges and constraining factors which explain the limited impact of EU policies in producing change in the DRC, and critically reflect on the EU as a peace and security actor in the DRC. Finally, in the concluding section we put forward some lessons that can be drawn from the EU's experience in the DRC, which may help guide the EU's future actions in sub-Saharan Africa.

The Congo Crises

The Congo crises are rooted in a complex interplay of local, national and regional dynamics. Decades of patrimonial rule and economic mismanagement, and international and local pressure for democracy in the early 1990s, caused a deep political crisis and the near collapse of the Mobutu regime. In the eastern parts of the country, unresolved local issues of citizenship and land access added additional layers to the crisis and triggered a first round of armed mobilization. A mass exodus into the DRC (then called Zaire) of Burundian and Rwandan Hutu refugees as a result of the Burundian civil war in 1993 and the Rwandan genocide, intensified instability in eastern Congo. In 1996, the presence of the former Rwandan army (ex-FAR) and militias in these refugee camps and of Ugandan rebel movements in the DRC triggered an armed intervention of neighboring countries Uganda and Rwanda and the creation of a regional coalition. This coalition ousted Mobutu from power in May 1997. After the new Congolese president Kabila expelled his former Ugandan and Rwandan military allies in 1998, a second war broke out which would soon result in a high level of military fragmentation in the east. A first peace deal, concluded in Lusaka in 1999, had little impact and only served to entrench the political and military stalemate.

Despite international efforts to keep the peace process on track, it was only after Joseph Kabila replaced his father in early 2001 (who was killed by one of his guards) that a political opening emerged. Peace agreements were concluded one year later with Rwanda and Uganda, which paved the way for the progressive withdrawal of their troops from eastern Congo. In December 2002, an all-inclusive peace accord was also concluded between the different Congolese warring factions and political actors, which included a political framework for a transition process that allowed for maximum inclusivity of political and military actors. Following this, a transitional government was installed that was based on a power sharing between the main warring parties. This

government faced the arduous task of unifying the national territory, establishing a new legal and institutional framework, rebuilding state authority, preparing for general elections, and reforming the security sector. Several internationally supported initiatives were set up to support the peace process and promote regional stability. These included the '*Comité international de l'accompagnement de la transition*' (CIAT), which was tasked with assisting and supervising the transition process and the transitional government. The CIAT was composed of various bilateral partners, the European Union, the African Union and the UN Mission in the DRC (MONUC). Other international accompanying initiatives included the World Bank's 'Multi-Country Demobilization and Reintegration Program' (MDRP) and the 'International Conference on the Great Lakes Region' (ICGLR), a regional platform of individual states that had to reestablish regional cooperation.

Despite the peace accord and the installation of the transition government, insecurity in eastern DRC persisted. While a large number of militia combatants were either demobilized or integrated in the newly created Congolese army, their departure from their strongholds in many areas created a security void, with the Congolese army not yet fully deployed in these areas. Other groups resisted reintegration and remained operational in their previous areas of control. The peace process also had little to no effect on the Rwandan Hutu militia (FLDR), which maintained its cooperation with non-integrated militias and continued to pose a major threat to local security in large parts of the Kivu provinces. The slow pace of the integration process; the lack of attention to local unresolved land-access disputes, the citizenship issue, and inter- and intra-community disputes over political, military or economic influence; competition over the control of mineral exploitation and trading networks; the nature of the state and the lack of progress in political reform and decentralization; and regional power politics all explain the continued violence in the Kivu provinces after the start of the transition process.

The precarious security conditions in the east were also highlighted by a number of new crises that revealed the fragility of international peacekeeping and stabilization efforts. A first crisis broke out in the Ituri District, where, since 1999, several militias had been involved in local conflicts over land, political power and economic control. When in May 2003 Ugandan troops left this region, renewed fighting broke out between these groups, causing a major humanitarian crisis in the city of Bunia. This crisis brought 'the small and poorly equipped local UN contingent on the brink of a failure that could seriously compromise the image of the UN and the peace process at large' (Piccolino, 2010:125). In order to allow MONUC to reinforce its capabilities and revise its mandate, the UN Security Council asked for the deployment of an emergency force, which led to the launch of the EU's Artemis operation. But even the increase in MONUC's troop numbers and strengthening of its use of force mandate failed to prevent an attack against the provincial capital Bukavu (South Kivu) in 2004 by former Tutsi rebels who had deserted from the newly formed national army (FARDC). This

caused a major blow to the image of the UN peacekeeping force, as well as its inability to provide protection to civilians in remote areas that continued to be prone to militia attacks.

The first democratic elections in 2006 also did not put an end to insecurity in eastern DRC. These elections received significant international political, financial and logistical support, including a EUFOR mission to provide protection, and could be considered as a milestone of the peace process. In the east, however, these elections sparked instability as they considerably reduced the power of wartime networks and former rebel movements. Fears of further marginalization were most widespread within the Tutsi-community and triggered the reconstitution of the Tutsi-part of the RCD-Goma rebel group, under the command of General Nkunda. His group, called the CNDP, quickly became the most powerful armed actor in the Kivu-provinces and was able to consolidate its political, military and economic control, partly with support from Rwanda. Efforts by the Congolese army to deal with this new security threat all ended in military defeats, leaving no other option to the Kinshasa government than to attempt to integrate the armed group into the FARDC, through different processes of military *brassage* and *mixage*. In addition, in 2008 the Amani peace process was launched with the aim of kick-starting a new inclusive peace process in the east, including the demobilization of Kivu-based militias. However, as a result of mis-incentives created by the Amani peace talks themselves, the overall lack of progress in the DDR process, and difficulties in integrating former rebel commanders into the FARDC command chain, the peace process ended in new rounds of armed mobilization.

There was renewed hope in early 2009 that the conflict could finally be resolved. Negotiations between Rwanda and the DRC in December 2008 led to the announcement of an agreement on a joint military offensive against the FDLR. Several military operations against the FDLR followed but failed to eliminate the group. In January 2009, the CNDP reached an agreement with Kinshasa on the immediate cessation of hostilities and on a rapid integration of its forces in the Congolese army. Prior to the 2011 presidential and parliamentary elections though, the Kinshasa government tried to reduce the power of the ex-CNDP and its networks. A ban on the export of natural resources limiting the income flows of the group was imposed, and attempts were made to deploy ex-CNDP troops outside of the Kivus. Furthermore, Kinshasa tried to cut the parallel chains of command through a reform of the FARDC and the transformation of brigades into regiments. In response, part of the former CNDP troops deserted the army and created the M-23 rebel movement, which in November 2012 managed to temporarily seize control of the city of Goma. This new escalation of violence set in motion renewed international efforts to restore peace and stability, with peace talks initiated by the ICGLR and SADC. In 2013 this led to the creation of the International Brigade to dismantle a multitude of armed groups in eastern DRC. The 'Peace, Security and Cooperation Framework Agreement' was also

signed in Addis Ababa by members of the international community, including the ICGLR, African Union, SADC and United Nations. This Framework was meant to bring an end to the foreign backing of Congolese armed groups and to foster a comprehensive reform of Congolese state institutions, including the national army, police and judicial sector. A newly appointed United Nations Special Envoy for the Great Lakes was appointed to oversee the implementation of the framework agreements.

Once again though, these peace efforts only had a limited success on the ground. A recent mapping exercise estimates that more than 70 armed groups remain active today in eastern DRC, with more than 1.6 million people still displaced (Stearns and Vogel, 2015). Vast rural areas continue to be prone to armed group activities, including acts of violence, taxation and extortion. Different approaches to stabilization and peace of the Congolese government and the international community, including demobilization, security sector and institutional reform, have had meagre results (Stearns and Vogel, 2015). Even more, peace efforts have generally been an additional opportunity to revive or reinforce existing armed structures, and have set in motion new claims to political, military, and economic power. Badly designed strategies to deal with armed groups have even added new layers of conflict, as ‘the strategy of power sharing and institution building in the DRC has slowly but steadily become constitutive of a dialectic of structural violence and privatized governance that forms an essential impediment to genuine change’ (Vlassenroot & Raeymaekers, 2009: 484). The prospect of new elections (scheduled for 2016) is a clear illustration of these dynamics. While in the east there is a further democratization of militarized politics, with a mobilization of violence as a crucial part of power strategies and struggles, in the capital the ruling regime is trying to manipulate the electoral process to stay in power.

The EU in the DRC: Pursuing a comprehensive approach

The DRC is a historical partner of the EU, with relations between the European Commission and the DRC dating back to the first European Development Fund in 1958/59. While direct development cooperation was suspended between 1992 and 2002 as a result of a growing democratic deficit and the outbreak of war, since 2002 the EU’s financial and political engagement in the DRC has grown exponentially. The EU’s significant engagement in the DRC can be explained by the scale and human costs of the recurring crises that have affected the country, and by the proactive role played by certain EU member states, in particular Belgium and France, in placing and keeping the DRC on the EU’s agenda. But EU engagement in the DRC also reflects the EU’s growing emphasis on mobilizing its aid and external relations policies to support conflict prevention and management in vulnerable countries, and in particular in Africa (Olsen, 2012). Within this context, the EU has strived to pursue a comprehensive

approach to the crisis in the DRC. Firstly, by mobilizing both its civilian and military instruments, and secondly, by focusing on the interlocking political, economic and security dimensions of the political and security crises in the DRC. The strategic objective pursued by the EU in the DRC has been to promote peace and democracy by supporting the stabilization and reconstruction of the country. To this end, it has drawn on a broad set of instruments: humanitarian assistance, development aid, democracy and human rights support, and its Common Foreign and Security Policy (including the Common Security and Defense Policy).

As a first line of response to the protracted emergency situation in the DRC, the EU has disbursed extensive humanitarian assistance. The EU institutions have consistently ranked amongst the top three donors of humanitarian assistance in the DRC, alongside the UK and the US. This assistance has been primarily geared towards support for IDPs and refugees (including refugees from neighboring countries), and responding to acute malnutrition crises and epidemics throughout the country. The EU also operates a humanitarian air service, ECHO Flight, to facilitate the delivery of humanitarian assistance to remote areas where road infrastructures are either unavailable or unsafe.

From 2002 onwards, the EU has pursued a parallel track of mobilizing its development aid to support the reconstruction of the country. Its areas of concentration have been the reconstruction of the health sector, infrastructure rehabilitation (in particular transport), and improved governance or 'politico-institutional reconstruction' (through support for the transition process, the reinforcement of state institutions, the justice and security sectors, public finances, and the decentralization process). In complement to this, the EU has mobilized its resources to support election processes in the DRC, through funding support for the organization and securitization of the elections and the deployment of electoral observation missions. This was particularly the case for the 2006 electoral process, with over half of the \$430 million budget funded by the EU and its member states. Levels of EU funding for the 2011 elections and upcoming elections in 2016 has however been lower. Through its European Instrument for Democracy and Human Rights, the EU has furthermore supported projects, implemented by civil society partners, to promote the rule of law, human rights protections, and political participation. Projects have included support for torture victims, independent local media, civic education, citizen participation in local governance, and the fight against impunity (EIDHR, 2011).

Lastly, the EU undertook five CSDP missions in the DRC, two military missions (Artemis and EUFOR DR Congo) and three civilian missions (EUPOL Kinshasa, EUPOL DR Congo, and EUSEC DR Congo). Both military missions were temporally and geographically circumscribed deployments undertaken at the request of the UN to respond to an immediate crisis situation. Following a dramatic deterioration of violence in the eastern Ituri district, the 2,000-strong French-led Operation Artemis, the EU's first ever CSDP mission outside of its immediate neighborhood, was deployed from 12 June to 1 September 2013 in Bunia. Its mandate was to contribute to the stabilization of security

conditions and the improvement of the humanitarian situation in Bunia, as well as to protect Bunia airport, IDP camps and, if necessary, civilian populations and UN and humanitarian personnel (UN resolution 1484). After 1 September, Artemis was relieved by the newly reinforced UN Ituri brigade. In 2006, the EU deployed a second military mission, EUFOR DR Congo, from 12 June to 30 November. Its mandate was to assist the Congolese police and army and the UN mission (MONUC) in securing the elections. Its role was to support the UN 'in case MONUC faces serious difficulties in fulfilling its mandate', secure Kinshasa airport, contribute to the protection of civilians under imminent threat of physical violence, and to carry out evacuation operations (UN resolution 1671). In contrast to Artemis, which was fully deployed in theatre, EUFOR DR Congo only had a small advance force deployed on the ground in Kinshasa. The majority of the EUFOR force was made up of reserve troops based in Gabon and Germany (which was the framework nation of the mission).

In contrast to the EU's military missions, which represented short-term emergency responses, the three civilian missions were deployed with longer-term institutional reform purposes in mind. The two EUPOL missions were aimed at strengthening the Congolese police forces. EUPOL Kinshasa, in operation from April 2005 to December 2006, was established to provide support to the newly created Integrated Police Unit that was tasked with securing the transition institutions and the elections. In addition, the mission provided assistance for the organization of a census of the national police (*Police Nationale Congolaise*, PNC) and for training provisions. It was followed by the EUPOL DR Congo mission, in operation from July 2007 to December 2014, which was given a broader mandate to support the police reform process through the delivery of training and assistance in the conceptualization of the police reform process. EUSEC DR Congo, in turn, was set up in June 2005 to provide advice and assistance to the Congolese authorities responsible for security sector reform. While its initial mandate was to support the army integration process (the 2003 peace agreement provided for the constitution of a new national army through the integration of combatants from the rebel groups into the Kabila loyalist army), EUSEC's key contributions have been the creation of a new chain of payment to reduce embezzlement of soldier's salaries, the modernization of military administration and human resource management, and the rehabilitation of armories.

A flawed EU human security approach in the DRC

The EU's policies in the DRC have integrated components of human security, as conceptualized in the 2004 Barcelona Report setting out a *Human Security Doctrine for Europe*. Although EU official discourse did not frame its interventions in the DRC in the language of human security, the approach it has adopted broadly aligns with the idea of human security. This is, for instance, reflected in the EU's combined use of civil and military approaches to security, the fact that its interventions were geared towards

improving the physical and material security of individuals, and that it prioritized conflict prevention over the conduct of war. That is, of course, not to say that human security has been the sole or even primary motivation for EU policies in the DRC. In particular, the EU's desire to deploy CSDP missions in the DRC were very much driven by political and institutional considerations, namely projecting the role of the EU as a global actor, asserting its military autonomy from NATO, and 'testing out' the EU's new conflict management capabilities (Gegout, 2005; Koops, 2011; Piccolino, 2010). Notwithstanding, EU policies in the DRC have also been oriented towards the realization of certain human security objectives such as human rights protection and the restoration of law and order. But, as will be shown in this section, while on paper EU policies in the DRC were geared towards these human security objectives, its ability in practice to effectively achieve improved physical and material security for individuals has been mixed. Even where EU actions directly contributed to human security (ex: Artemis), they have mostly had a short-term rather than a sustainable effect.

Human rights protection

The promotion and protection of human rights has formed part of the EU's declared policy objectives in the DRC, and was formally included in the mandate of its CSDP missions. Artemis and EUFOR were expressly tasked with the protection of civilians under threat of attack. Artemis, in particular, effectively contributed to strengthening civilian protection on the ground, in no small part due to the Force commander's resolve to use deadly force to make Bunia and a 10-km zone around the town a no-arms area. A human rights agenda was, in turn, integrated in the EUFOR mission through the appointment of a specific human rights adviser, the creation of a human rights monitoring system, and the provision of human rights training to its own soldiers (Martin, 2007: 72). Furthermore, EUPOL and EUSEC, as part of their role in advising the Congolese authorities on police and army reform, were mandated to 'promote policies compatible with human rights and international humanitarian law' (Council Joint Action 2005/355/CFSP; Council Joint Action 2007/405/CFSP). In 2009, the mandate of EUPOL was expanded to also include the fight against sexual violence and impunity (Council Joint Action 2009/769/CFSP). EUPOL also strongly advocated for the concept of proximity policing within the PNC as a means to improve police-citizen relations (Justaert 2012: 224), and through this contribute to strengthening human rights protection. In addition, the EU's humanitarian assistance has focused not only on the provision of relief but also expressly included the pursuit of protection activities, such as assistance to victims of sexual based gender-violence, child protection, and encouraging the establishment of assistance projects in isolated areas ('protection by presence'). Lastly, in its Country Strategy Papers and Council Conclusions on the DRC, the EU has on repeated occasions expressed its commitment to combatting impunity for human rights abuses and its support for the International Criminal Court's

investigations in the DRC (Council Conclusion 10573/04, 14 June 2004; Council Conclusion 9375/06, 15 May 2006).

This formal commitment though to human rights protection has not sufficiently translated into an improved human rights situation on the ground. While the reason for this cannot solely be blamed on the EU – persistent insecurity in eastern Congo, the nature of rebel-military integration processes, and a lack of domestic political will to combat impunity are all key explanatory factors – it is possible to point at two important shortcomings of EU policies in the DRC. Firstly, the restricted and short-term mandates of Artemis and EUFOR have significantly limited their impact on the ground and ability to deliver human rights protection, especially over the longer term. For instance, Artemis' geographically limited deployment to Bunia meant it failed to impact violence in the rest of Ituri. Even the improved security situation in Bunia was mostly cosmetic and did not prevent the resumption of violence after the mission's withdrawal, which is hardly surprising considering the mission was only on the ground for three months. As Morsut (2009: 264) observes: 'the time limitation left Bunia as a 'weapons-invisible' zone, rather than a 'weapons-free zone''. The EU has thus demonstrated a weak commitment to mobilizing credible military force to enforce human rights protection. Secondly, the EU has tended to adopt a 'soft', mostly declaratory approach to the human rights and impunity problem in the DRC. It has been reluctant to consistently pressure the Congolese authorities on rampant human rights abuses, particularly during the transition years when concerns with stabilization dominated. While the EU has been a strong advocate on ending SGBV in the DRC, it has been much less vocal and active on other pressing human rights concerns, such as arbitrary detentions and the protection of human rights defenders. Moreover, the EU has struggled to integrate the fights against impunity within its broader reform policies in the DRC, particularly with regards to SSR and DDR. While resistance by Congolese actors to such efforts constituted an important impediment, the EU's decision to focus on a technical, capacity-building approach and eschew a more political engagement on security and human rights issues also limited its impact in terms of human rights protection.

Restoration of law and order

EU policies in the DRC have strongly prioritized the reform of the security forces (police and army) and the rehabilitation of the justice sector. These were seen as important preconditions for the restoration of state authority and law and order, and therefore the promotion of peace and democracy. Effective security and justice systems were seen as central to improving the physical security of civilians and reducing state predation against the population. Alongside the EUSEC and EUPOL missions, the EU also engaged in justice sector reform. It undertook an audit of the justice sector in 2004 and was a driving force behind the creation of a *Comité Mixte de Justice*, a donor-government coordination mechanism to support domestic judicial reform. It further set up justice reconstruction projects, first in Bunia in 2004, and which was later

expanded to the €15 million Rejusco (*Restauration de la justice à l'est du Congo*) project. The EU also invested €20 million in court rehabilitation projects in the western provinces of Bandundu, Bas-Congo, and Kinshasa, and provided funding for the mobile court project aimed at improving access to justice in remote and conflict-affected areas in eastern Congo.

EU policies in the security and justice sectors have made important achievements in specific areas – such as the rehabilitation of courts and armouries, reforming the chain of payment in the army, and capacity-building of judicial officials. Particularly in the justice sector, it is clear that EU engagement (alongside that of other donors) has been a key in pushing forwards judicial reforms, resulting in the adoption of new legislation and the provision of increased resources to the justice sector (Vircoulon 2009). This has contributed to a progressive increase and improvement of trials in domestic courts, particularly with regards to gender violence (Lake, 2014). However, on a broader scale, improvements in law and order are, at best, very modest throughout the DRC. Important systemic weaknesses persist, such as poor human rights practices by the security forces, and limited access to justice. Furthermore, ‘the reform of the legal system did little or nothing to stem corruption, to mitigate the delays in cases coming to trial, to address the low number of judgments executed or to make the functioning of the legal system more transparent to the people’ (Rubbers & Gallez 2012: 84). Users still have to deal with a justice system that is experienced as driven by corruption, predation and coercion, with outcomes of court cases being unpredictable, unfair and very expensive. Because EU reform policies have tended to be compartmentalized and fragmented – for instance, police reform efforts have only focused on a few PNC units while Rejusco was heavily oriented towards infrastructure projects – their effects have mostly been localized. Also, these policies have struggled to give impulse to broader and deeper reforms. In practice, the EU has furthermore struggled to build effective bridges between the justice and security components of its interventions, further constraining the impact of its policies (Davis 2015). In light of the recent drawdown of its security and justice reform missions, it further remains to be seen if EU reforms will manage to have a sustainable impact. The heavy-handed police response to protests in Kinshasa and Goma in early 2015, and during the crime control Likofi Operation in 2014, as well as reports that some courts rehabilitated under the Rejusco project have already been abandoned as they were poorly constructed and did not respond to operational needs, raises significant concerns.

Try and Fail? Constraints of the EU security and peace policies in the DRC

Different reasons explain the limited impact of EU policies on human security in DRC. First, EU policies rely on a number of premises about how peace and human security should be achieved. These premises fail to recognize the complexity of the larger context of intervention and are largely disconnected from realities on the ground. EU

policies so far have prioritized state-building, which was founded on the understanding that state failure is the cause of conflict in DRC. This explains the EU focus on the reconstruction of state capacity (to deliver services and security), on improving management and accountability of state institutions, and on the organization of free and fair elections. However, in the case of the DRC, EU and other donor resources seem to have supported the consolidation of a neo-patrimonial system: 'the EU is focused on state-building in a context where there is no state to build' but where instead there exists a 'highly dysfunctional and kleptocratic Congolese quasi-state' ruled by an elite driven by personal interests (Froitzheim et al, 2011: 65). EU strategies have not been able to reverse existing governance conditions and practices, and have not focused on structurally changing the extractive character of the politico-administrative system of the Congo. Because of structural and sociocultural constraints on the ground, such as the dominance of practices of extortion and predation, competing structures and sources of authority, and the existence of different networks of patronage and political and economic control, EU reform policies have struggled to improve not only the formal but also the *informal* legitimacy, or broader societal acceptance, of state institutions. Even more, EU policies risk having an opposite effect and reinforce the capture of state structures by domestic political elites.

A clear example is the reform of the security sector, which did not reverse the extractive character of security services even if several programmes tried to limit the direct control of commanders over resources and cut patronage links between commanders and recruits, both in the police and the army. International interventions for the purpose of providing security cannot be justified *à priori*. Instead these require legitimacy among its supposed beneficiaries. Yet, despite EU and other donor strategies, security services continue to exploit their authority to levy unofficial fines, taxes, and fees in part due to the embezzlements of resources by their superiors. In many cases, these services *de facto* constitute a security risk themselves rather than providing protection and security. Because of this complicity of the security forces in the persistence of insecurity, people mistrust and feel increasingly abandoned by the state. The omnipresent popular reflex of self-protection echoes a long tradition of 'fending-for-yourself' in the DRC, which is reinforced in the current context. Some of these popular responses today are being institutionalised or supported by donor strategies and state policies, thus reinforcing a context of multi-layered security arrangements (Baker, 2010). The risk of such a 'multi-layered approach' is that it may contribute to a further fragmentation of the landscape of security provision, with a negative longer-term effect on security conditions (Vlassenroot, Hoffmann and Büscher: 2015).

The reasons for the persistence of such practices are diverse and complex and it has to be recognised that the EU's ability to produce a transformation at this level is inherently limited, due to a combination of political and resource constraints. Notwithstanding, the EU's focus on state- and capacity-building has contributed to

limiting its ability to produce change because it underestimates the complex nature of political and institutional change in the DRC. The focus on capacity-building relies on the assumption that formal institutional and legislative changes equate with changes in institutional practices and individual behaviour, thereby discounting the role of political factors or institutional culture in maintaining poor governance and abusive behaviour. For instance, corruption is not merely driven by basic economic needs but also serves broader political and strategic interests geared towards maintaining the ruling regime in power. Corruption is thus not a 'dysfunction' but rather serves a clear political function within the Congolese state. Reform policies that only focus on changes in capabilities and material conditions are unlikely to produce wider systemic change. There is also a risk that policies focused on capacity-building rather than genuine reform will be misappropriated by domestic elites to reinforce their own positions. Particularly in the security sector this runs the risk of consolidating certain power configurations and increasing the ability of security forces to commit abuses (Davis 2015: 111, Rayroux and Willen 2014: 38). The EU's focus on stabilization (as reflected by its prioritization of elections and political accommodation) has further heightened this problem.

A second factor which has constrained the effect of EU policies on the ground is the ambivalent and progressively waning role of the EU as a diplomatic actor in the DRC. Immediately following the conclusion of the 2003 comprehensive peace agreement and throughout the political transition process, the EU enjoyed a certain degree of political influence. This was in part linked to the credibility it enjoyed in Kinshasa as a result of the resumption of its development cooperation, its large financial contribution to the electoral process, its membership in the CIAT, and the initially very active role played by the EU Special Representative. However, since 2006 the EU has seen its role and influence as a diplomatic and conflict management actor in the DRC progressively decline, while joint donor-strategies on strategic priorities have little by little disappeared. Despite the variety of instruments available to the EU, allowing it to play a significant role throughout the life cycle of a crisis - before the crisis with conflict-prevention, during a crisis through its crisis-management tools, such as military deployments, diplomatic pressure and humanitarian intervention, and after the crisis with long-term development and peace-building policies (Hoebeke et al, 2006; Martinelli, 2006) – today the EU is no longer 'perceived as a credible actor in African conflict management' (Gegout, 2009: 403).

An important factor here has been the absence of a comprehensive political strategy on the part of the EU towards the DRC (Piccolino 2010: 136). As highlighted earlier in the report, the EU's approach has been fragmented across an array of technical issue areas. This has made it difficult for the EU to profile itself as a credible diplomatic actor, especially as it has on occasion also had to contend with disagreements between EU member states about which policy to pursue in the DRC. This has most clearly come to the fore in discussions about the deployment of CSDP missions in the DRC. While

strongly supported by France and Belgium, such missions have faced reluctance on the part of countries such as Germany and the UK, and even indifference on the part of other states. This resulted in a curtailment of the scope and capabilities of certain missions (this was particularly the case of EUFOR Congo) or the outright failure to set up a mission following the outbreak of a new major security crisis in the North Kivu province in 2008. Such disagreements have thus hampered the ability of the EU to deploy strong and credible missions.

At the same time, the EU's visibility as a diplomatic actor has strongly depended on the activism of countries such as France or Belgium, and of high-profile individuals such as the EUSRs Aldo Ajello and Roeland van de Geer or EU Commissioner Louis Michel. The abolition of the position of EUSR for the Great Lakes in 2011 is therefore particularly problematic. Although this function has been taken over by the Senior Coordinator for the Great Lakes region within the EEAS, the Coordinator has so far not been able to mobilize the same level of leverage as the EUSRs did (which has not been helped by the fact that he has had to cumulate the role of Senior Coordinator with his role as Director for the Horn of Africa, East & Southern Africa, and the Indian Ocean), thereby further reducing political access and the EU capacity to mediate and manage conflict. While the EU did involve itself in the Goma process (2008) and the EUPOL and EUSEC missions were given a mandate to support the implementation of the agreement, its role was mostly secondary and it has not been involved in further processes aimed at addressing the conflict in eastern DRC (Davis 2015). While this partly results from increasing attempts on the part of the Congolese authorities to sidestep external involvement (whether it be by the EU, the UN, or Western bilateral donors) in political and security crises in the country, there is also a growing political disengagement on the EU's part from the DRC (though its development assistance to the DRC remains high) as a result of growing disillusion with the lack of progress achieved in the DRC and the emergence of newer security crises that are of greater strategic importance to the EU.

Lastly, domestic political constraints have also played an important role in curtailing the effects and sustainable impacts of EU policies. The absence of political will for reform, weak capacities within the Congolese administration, and frequent changes in government ministers have made it difficult for the EU to give an impulse to broader and sustainable reforms. The limited political will on the part of the Congolese state authorities to engage in donor-driven/supported interventions and to implement genuine national reform policies have been particularly problematic. It has limited national appropriation of EU-initiated reform processes and created significant blockages in the implementation of reforms, particularly in the security sector. As the former head of EUPOL Jean-Paul Rikir observed, 'the political context in the DRC exerts a significant influence on the degree of uneven appropriation *[of reforms]* by the Congolese authorities' (cited in Plauchut 2015: 10). In such a context, there is only so much EU policies can achieve in terms of improving governance and human security

conditions. Moreover, the case of the DRC exemplifies the challenges in promoting governance change and reforms, particularly in the security sector, in an unstable political environment and while armed conflict is ongoing. Because domestic elites and armed groups are still vying for power and control over the state, the political stakes involved in security sector reform are incredibly high, and risk creating dynamics of resistance or misappropriation of externally driven reform efforts.

Drawing Lessons from EU interventions in the DRC

While EU policies in the DRC have achieved some important successes, such as the short-term shoring up of security provisions through its CSDP missions at critical times of (potential) instability, or providing key stimulus and resources for judicial reforms, it should also be acknowledged that it has struggled to produce structural and sustainable changes, particularly in the security sector. Realism impels us to recognize that outside actors such as the EU cannot produce or create changes in deeply entrenched governance structures *ex nihilo*, but can merely encourage and provide resources to accompany domestically-driven processes of reform, and that such processes of change will be slow to unfold and take root. We should therefore set reasonable expectations for what the EU can achieve. Nevertheless, where EU policies contribute to creating conditions of ‘negative hybrid peace’ (Richmond 2015) or are captured and misappropriated by local actors in order to sustain predatory systems, there is a need to reflect on the appropriateness of these policies. We here draw a few lessons from the DRC experience, but which are also more broadly relevant for EU policies in sub-Saharan Africa, to address these challenges.

1. A context focused approach

From the outset, the EU should define its policy strategies and instruments on the basis of a thorough recognition and understanding of local complexities, through a critical and comprehensive assessment of the conditions and realities on the ground. That is, context should orient the identification of policy instruments, alongside more practical considerations such as EU goals and interests, EU capabilities, and national reform strategies. Such an assessment should be mainstreamed into all aspects and throughout the life-time of an EU intervention in a given country. On a regular basis, performance of EU policies should be assessed against such context analysis in order to be able to identify in a timely manner if EU actions are producing unintended negative effects. Such context analysis should not be limited to a broad-brush analysis of conflict drivers, key actors, and the political, socioeconomic, and geopolitical country environment. Rather, it should also include network analysis; the identification of local and informal governance practices that may have emerged alongside the state (which, dependent on context, may undermine EU reform efforts or may instead point towards sources for local resilience on which the EU can build); the identification of

'peace constituencies' or 'reform constituencies', both within and outside existing state structures; and an understanding of the nature of governance, political interactions, and state-society relations in a given country. Compared to the period when EU policies in the DRC were first put in place, capacities within the EU to carry out such assessments have been developed, but the creation of the EASS and the Directorate for Conflict Prevention and Security provides further opportunities to consolidate such expertise over the long term.

2. Clarifying goals

In order for the EU to have a strategic vision guiding its policies in a given country, it needs to clearly define its interest and goals. These are formulated on the basis of how the EU sees itself as a global actor but also on what it wants to achieve in a particular country. This means not only identifying thematic areas in which the EU wants to become involved (such as health, agriculture, or the justice sector) but also a reflection on what the EU wants to achieve and what role it is willing and able to play. For instance, does the EU envisage the role of its military conflict management missions more as short-term rapid response missions, bridging operations, training missions, stabilization missions, or full-fledged peace enforcement missions? In the DRC, the capabilities and length of deployment of CSDP missions were not always aligned with the broader mission aims, which not only limited their impact but also their local legitimacy.

But clarifying goals also means identifying clear goalposts for assessing EU policies in a given country. Importantly, these should not be based merely on the internally oriented fulfillment of institutional benchmarks but rather on broader change objectives. From a human security perspective this means assessing EU policies in terms of the impact they have on the security of individuals in the country concerned (the implication of this is that political stabilization or security sector reform should not be treated as end goals but as a possible means to achieve the security of individuals). From a state-building perspective, this means, amongst others, evaluating the contribution that EU reform policies make not only to building state capacity but also to strengthening the local legitimacy of the state and its institutions.² Shifting goalposts for the assessment of EU policies might contribute to better lessons being learned from past missions.

3. Confronting domestic political blockages

International donor organisations have had little impact on the conduct of Congo's political regime, particularly since the end of the transition period. This can partly be attributed to limited donor coordination, but is also the result of limited coherence in the different policies developed by the same donor institutions, and of the absence of

² On the importance of focusing on state legitimacy in state- and peacebuilding processes, see Roberts (2008) and Call (2012).

the necessary benchmarks of political conditionality. The doctrine of supporting civil society as an alternative to cooperation with the state (Piccolino, 2010), has produced a number of positive outcomes, yet has had little effect on the behavior and performance of the regime. While the EU has developed a broad set of political conditionality instruments and is considered a key player in the promotion of democracy and human rights (leading to the image of the EU as a normative actor in world politics), since the end of the transition process, the political space and human rights record of Congo has steadily worsened. In response to a lack of domestic political will to implement reforms, promote democratization, protect human rights and respect the constitution, the EU needs to develop stronger benchmarks and consequent sanction regimes that directly affect the different support networks and mechanisms of Congo's ruling elite. It should be recognized, however, that the EU should be realistic in its objectives. Given the reduced role of the EU in the DRC, sanctions will produce limited effect if not supported by other donor institutions. In the absence of a political will or ability to impose sanctions, the EU should at a minimum reconsider how it engages with state actors that systematically oppose reform efforts, or when it appears that its interventions are producing unintended negative consequences. In some instance, it may be more judicious for the EU to withdraw or reorient its engagement in a particular country than to persist in funding reform efforts that are unlikely to produce desirable outcomes.

Bibliography

Baker B. (2010), Linking State and Non-State Security and Justice, *Development Policy* 28:5, pp. 597-616.

Call, C. (2012), *Why Peace Fails. The Causes and Prevention of Civil War Recurrence*, Georgetown University Press.

Davis, L. (2015), Make do, or mend? EU security provision in complex conflicts: the Democratic Republic of Congo, *European Security*, 24:1, pp. 101-119.

EIDHR (2011), *Compendium 2007-2010*, Brussels: European Commission.

EuropeAid (2014), *Evalutation de la cooperation de l'Union européenne avec la République Démocratique du Congo 2008-2013*, Brussels: European Commission.

Froitzheim, M., Söderbaum, F. & I. Taylor (2011), The Limits of the EU as a Peace and Security Actor in the Democratic Republic of the Congo, *Africa Spectrum*, 46:3, pp. 45-70.

Gegout, C. (2005), Causes and Consequences of the EU's Military Intervention in the Democratic Republic of Congo: A Realist Explanation, *European Foreign Affairs Review*, 10, pp. 427-443.

Gegout, C. (2009), The West, Realism and Intervention in the Democratic Republic of Congo (1996–2006), *International Peacekeeping*, 16:2, pp. 231-244.

Hoebeke, H., S. Carette and K. Vlassenroot (2007), *EU Support to the Democratic Republic of Congo*, Paris: Centre d'Analyse Stratégique.

Justaert, A. (2012), The implementation of the EU security sector reform policies in the Democratic Republic of Congo?, *European Security*, 21:2, pp. 219-235.

Knutsen, B. O. (2009), The EU's Security and Defense Policy (ESDP) and the Challenges of Civil-Military Coordination (CMCO): The Case of the Democratic Republic of Congo (DRC), *European Security*, 18:3, pp. 441-459.

Koops J.A. (2011), *The European Union as an Integrative Power: Assessing the EU's 'Effective Multilateralism' with NATO and the United Nations*, Brussels: Brussels University Press.

Lake, M. (2014), Organizing Hypocrisy: Providing Legal Accountability for Human Rights Violations in Areas of Limited Statehood, *International Studies Quarterly* 58, pp. 515-526.

Manners, I. (2010), Global Europa: Mythology of the European Union in World Politics, *Journal of Common Market Studies* 48:1, pp. 67-87.

Martin, M. (2007), A force for good? The European Union and human security in the Democratic Republic of Congo, *African Security Review*, 16:2, pp. 63-77.

Martinelli, M. (2006), Helping Transition: The EU Police Mission in the Democratic Republic of Congo (EUPOL Kinshasa) in the Framework of EU Policies in the Great Lakes, *European Foreign Affairs Review*, 11, pp. 379–399.

Morsut C. (2009), Effective Multilateralism? EU-UN Cooperation in the DRC, 2003-2006, *International Peacekeeping* 16:2, pp.261-272.

Olsen G.R. (2012), Sub-Saharan Africa. A Priority Region for EU Conflict Management, in Richard G. Whitman and Stefan Wolff, eds., *The European Union as a Global Conflict Manager*, Abingdon: Routledge.

Piccolino, G. (2010), A Litmus Test for the European Union? The EU's Response to the Crisis in the Democratic Republic of Congo from 1996 to the 2006 Elections, *European Foreign Affairs Review*, 15, pp. 115-136.

Plauchut A. (2015), *Fin de la mission EUPOL RD Congo: Quelles Perspective sécuritaires à l'approche des élections?*, Note d'Analyse du GRIP.

Rayroux, A. & N. Wilén (2014), Resisting Ownership: The Paralysis of EU Peacebuilding in the Congo, *African Security*, 7:1, pp. 24-44.

Reyntjens, F. (2009), *The Great African War: Congo and Regional Geopolitics, 1996-2006*, Cambridge: Cambridge University Press.

Richmond, O. (2015), The Dilemmas of Hybrid Peace: Negative or Positive?, *Cooperation and Conflict* 50:1, pp. 50-68.

Roberts, D. (2008), Post-Conflict Statebuilding and State Legitimacy: From Negative to Positive Peace?, *Development and Change* 39:4, pp. 537-555.

Rubbers, B. and E. Gallez (2012), Why do Congolese People go to Court? A Qualitative Study of Litigants' Experience in Two Justice of the Peace Courts in Lubumbashi, *Journal of Legal Pluralism* 66, pp. 79-108.

Stearns, J. & C. Vögel (2015), *The Landscape of Armed Groups in the Eastern Congo*, Center on International Cooperation & Congo Research Group, November.

Vircoulon, T. (2009), Réforme de la justice: réalisations, limites et questionnements, In: Theodore Trefon (ed.) *Réforme au Congo. Attentes et désillusions*, Paris: L'Harmattan.

Vlassenroot, K. and T. Raeymaekers (2009), Kivu's intractable security conundrum, *African Affairs* 108 (432), pp. 475–484.

Vlassenroot, K., K. Hoffmann and K. Büscher (2015), *Multi-Layered Security Arrangements in Ituri*, JSRP working paper (to be published).