



Home Office

# **Country Policy and Information Note Democratic Republic of Congo (DRC): Opposition to the Government**

**Version 2.**

**September 2018**

# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in [the basis of claim](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis of COI; and (2) COI. These are explained in more detail below.

## Analysis

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general**:

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI’s relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the ‘cut-off’ date in the country information section. Any event taking place or report/article published after this date is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

# Contents

<b>Analysis .....</b>	<b>5</b>
1. Introduction .....	5
1.1 Basis of claim .....	5
2. Consideration of issues .....	5
2.1 Refugee Convention ground.....	5
2.2 Credibility.....	5
2.3 Exclusion .....	5
2.4 Assessment of risk .....	5
2.5 Protection .....	8
2.6 Internal relocation.....	9
2.7 Certification .....	9
<b>Country information.....</b>	<b>10</b>
3. Political system .....	10
3.1 Overview .....	10
3.2 The Constitution .....	10
3.3 Electoral process.....	10
4. Political developments: December 2016 to mid-2018.....	11
4.1 December 2016 political agreement.....	11
4.2 Election law and reform .....	13
4.3 Provincial elections.....	15
4.4 President and the ruling party.....	16
4.5 Participation of women and minority groups.....	16
5. Political groups .....	17
6. Treatment of opposition groups .....	20
6.1 Political space .....	20
6.2 Peaceful assembly and demonstrations.....	23
6.3 Arrest and detention .....	27
6.4 Opposition groups outside the DRC .....	29
6.5 Conditions and treatment in detention .....	29
<b>Terms of Reference.....</b>	<b>32</b>
<b>Bibliography .....</b>	<b>33</b>
Sources cited.....	33
Sources accessed but not used.....	35
<b>Version control.....</b>	<b>36</b>

# Analysis

Updated: 7 September 2018

## 1. Introduction

### 1.1 Basis of claim

- 1.1.1 Fear of persecution or serious harm by the Congolese authorities because of the person's actual or perceived support for a political party in opposition to the government.

[Back to Contents](#)

## 2. Consideration of issues

### 2.1 Refugee Convention ground

- 2.1.1 Actual or perceived political opinion.

[Back to Contents](#)

### 2.2 Credibility

- 2.2.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.2.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.2.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

[Back to Contents](#)

### 2.3 Exclusion

- 2.3.1 Some members of the security forces have been responsible for serious human rights abuses (see: Political groups and Treatment of opposition groups).
- 2.3.2 If there are serious reasons for considering that the person has been involved with such abuses then decision makers must consider whether one of the exclusion clauses is applicable.
- 2.3.3 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection.
- 2.3.4 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and [Restricted Leave](#).

[Back to Contents](#)

### 2.4 Assessment of risk

#### a. Domestic situation

- 2.4.1 There are hundreds of political parties in DRC, most of which are in Kinshasa. Many of the parties are organised along ethnic, communal or

regional lines, with no one party having national reach. While parties are generally able to operate and to recruit members they are subject to restrictions and interference from the state authorities (see [Political groups, Treatment of opposition groups](#)).

- 2.4.2 President Kabila was due to step down as head of state in December 2016 but refused to do so, leading to widespread protests by opposition groups and to a political crisis. Following demonstrations, the government reached an agreement with the opposition to share power; hold elections in 2017; and release political prisoners. However, these elections were postponed. As a result of domestic and international pressure, the government has now committed to hold the elections on 23 December 2018. The government has made progress in establishing a legal framework for the elections and completed the voter registration process. However other elements of the December 2016 agreement remain outstanding, including the continued detention, as of July 2018, of around 118 ‘political prisoners’ (see [Political groups, Treatment of opposition groups](#) ).
- 2.4.3 On occasion, state forces have used excessive force to disperse political gatherings and demonstrations against the government in various parts of the country, including beating demonstrators and using tear gas, rubber and live bullets resulting in the killing and injuring of protesters. The government has also reportedly been undertaking arbitrary arrests and detaining numerous opposition members and ordinary demonstrators, and charged them with various offences (see [Political groups, Treatment of opposition groups](#) ).
- 2.4.4 Those arrested are kept in prison conditions which are harsh, and sometimes life-threatening. Various reports have highlighted the continued use of incommunicado detention, ill-treatment, torture and sexual violence in prisons (see [Political groups, Treatment of opposition groups](#) ).
- 2.4.5 The government continues to restrict the political space for opposition groups, including the Catholic Church and civil society groups, which have criticised the government for failing to hold elections. The UN mission to the DRC has reported that there have been 1,375 alleged violations linked to the ‘democratic space’ in 2017, a 25% increase over 2016. These include allegations of electoral fraud, using untested electronic voting machines, and lack of transparency in procedures ( see [Electoral process](#) ).
- 2.4.6 In the country guidance case of [AB and DM \(Risk Categories Reviewed – Tutsis Added\) DRC CG \[2005\] UKIAT 00118, \(21 July 2005\)](#) (heard 25 February 2005) the Tribunal held that mere membership of an opposition party will not demonstrate that a person is of adverse interest to the authorities on account of their actual or perceived military or political activities or involvement (para 45).
- 2.4.7 The Tribunal in the country guidance case of [MM \(UDPS members, Risk on return\) Democratic Republic of Congo CG \[2007\] UKAIT 00023](#), (13 March 2007, heard 11 March 2007) held that:
- ‘Looking at the objective situation as a whole, and mindful of the past history of the DRC, we have concluded that despite what appears to be a dramatic change in the political landscape, that carries with it the hope that it will result in much needed stability in this vast and previously divided country, it

would be premature to hold that these prospects have yet translated to adequate improvements on the ground, so as to justify a revision at this stage of the Tribunal's view of risk to UDPS members, as held in AB and DM, endorsed in MK and which we thus re-affirm.

'It follows that we continue to believe that low level members/sympathisers of the UDPS [Union for Democracy and Social Progress] for that reason alone, will not be at real risk on return to the DRC in the current climate, but conclude that it is too early in the process of the transition of the DRC to democratic rule, to find that there is no continuing threat on the part of the current Kabila regime to persecute UDPS activists. As the Tribunal in AB and DM rightly observed, the risk category to those having or being perceived to have a military or political profile in opposition to the government is one that "fluctuates in accordance with the political situation." (See paragraph 51(iii)) of their determination).' (Paras 201 - 202).

2.4.8 The Upper Tribunal in [BM and Others \(returnees – criminal and non-criminal\) DRC CG \[2015\] 293 \(IAC\)](#) (2 June 2015) (heard in March and April 2015) held that:

'The DRC authorities have an interest in certain types of convicted or suspected offenders, namely those who have unexecuted prison sentences in DRC or in respect of whom there are unexecuted arrest warrants or who supposedly committed an offence, such as document fraud, when departing DRC. Such persons are at risk of imprisonment for lengthy periods and, hence, treatment proscribed by Article 3 ECHR (Paragraph 88 (iv)).'

2.4.9 Although the country guidance case of [MM \(UDPS members, Risk on return\) Democratic Republic of Congo CG \[2007\] UKAIT 00023](#) was heard over 11 years' ago, the current country information indicates no reason to depart from the findings made. The country information continues to indicate that being a member of a political party is not enough on its own to bring a person to the adverse attention of the authorities and that this fluctuates with the prevailing political climate (see [Treatment of opposition groups](#) ).

2.4.10 Given the political crisis since December 2016 and the uncertainty surrounding the build-up to the scheduled elections in December 2018, the country is in a state of heightened political tension, and political opponents are at increased risk of intimidation and arbitrary arrest. The state authorities are likely to be volatile and unpredictable in the uncertain political climate, and may react with harshness and brutality towards political opponents. Those with a known political profile or position in an opposition party are generally more at risk than ordinary members.

2.4.11 In general, opposition party leaders and/or high-profile activists who have come to the attention of the authorities and who are considered a threat may be at risk of persecution or serious harm, particularly at times of political tension and unrest. Rank and file party members and low-level activists are generally unlikely to be at risk of such treatment. However, whether a person is at risk of persecution depends on:

- the prevailing political climate;



- the nature and profile of their activities and the organisation they represent;
- whether they have come to the attention of the authorities previously; and
- if so, the nature of this interest.

2.4.12 Decision makers need to consider each case on its facts. The onus is on the person to demonstrate why and how they have come to the adverse attention of the authorities' due to their political activities and that it will put them at risk of persecution or serious harm.

[Back to Contents](#)

#### b. Sur place activities

2.4.13 In the country guidance case of [BM and Others \(returnees – criminal and non-criminal\) DRC CG \[2015\] 293 \(IAC\) \(2 June 2015\)](#), (hearing date 28 April 2015) the Upper Tribunal made findings on the treatment of members of the political group, Alliance de Patriotes pour la Refondation du Congo (Alliance of Patriots for the Re-establishment of the Congo) (APARECO) – one of a number of diaspora political groups that operate in the UK and other countries outside of the DRC. Although the findings in BM refer to APARECO, they are likely to apply to other diaspora groups who actively oppose the regime.

2.4.14 APARECO, on the available evidence does not appear active in the DRC. Additionally, there is limited information available on how APARECO and similar diaspora political groups are currently viewed by the authorities (see [Opposition groups outside the DRC](#)). The Upper Tribunal in [BM](#) found that: 'Persons who have a significant and visible profile within APARECO (UK) are at real risk of persecution for a Convention reason or serious harm or treatment proscribed by Article 3 ECHR by virtue of falling within one of the risk categories identified by the Upper Tribunal in MM. Those belonging to this category include persons who are, or are perceived to be, leaders, office bearers and spokespersons. As a general rule, mere rank and file members are unlikely to fall within this category. However, each case will be fact sensitive, with particular attention directed to the likely knowledge and perceptions of DRC state agents.' (Paragraph 88 (iii)).

2.4.15 There is no significant and cogent evidence to depart from the UT's general finding's in BM. Decision makers need to consider each case on its facts. The onus is on the person to demonstrate why and how they have come to the adverse attention of the authorities because of their profile and political activities and that it will put them risk of persecution or serious harm.

2.4.16 For further guidance on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

## 2.5 Protection

2.5.1 As the person's fear is of persecution or serious harm by the state, they will not be able to avail themselves of the protection of the authorities.



- 2.5.2 For further guidance on assessing the availability of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

## 2.6 Internal relocation

- 2.6.1 As the person's fear is of persecution or serious harm by the state, they will not be able to relocate to escape that risk.

- 2.6.2 For further guidance on internal relocation and factors to be consider, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

## 2.7 Certification

- 2.7.1 Where a claim is refused it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

- 2.7.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

[Back to Contents](#)

# Country information

Updated: 7 September 2018

## 3. Political system

### 3.1 Overview

- 3.1.1 Freedom House reported that ‘The DRC political system is constitutionally democratic. In practice, however, civilians and opposition politicians are unable to influence government policy via elections and the democratic process. Civil liberties such as freedom of expression and association are repressed, and corruption is rife throughout the government’<sup>1</sup>.

[Back to Contents](#)

### 3.2 The Constitution

- 3.2.1 The World FactBook of the Central Intelligence Agency noted that the latest version of the state Constitution was adopted on 13 May 2005, approved by referendum on 18-19 December 2005, and promulgated on 18 February 2006. Potential amendments must be proposed by the president of the republic, by the government, by either house of parliament, or by public petition. Constitutional articles such as the form of government, universal suffrage, judicial independence, political pluralism, and personal freedoms cannot be amended.<sup>2</sup>
- 3.2.2 The USSD report noted that the DRC is nominally a centralised constitutional republic. The president and the lower house of parliament are elected by the people. President Kabila’s final term of office expired in December 2016; however, he remains in office. The DRC government have failed to organise elections in 2016, and in 2017, in accordance with its own constitution.<sup>3</sup>

[Back to Contents](#)

### 3.3 Electoral process

- 3.3.1 According to the USSD Report, the Constitution provides for citizens to choose their government via free and fair periodic elections held by secret ballot. The electoral system is based on universal and equal suffrage. In practice, in 2016, citizens were unable to exercise their rights due to the failure of the government, and of the Independent National Electoral Commission (Commission Électorale Nationale Indépendante) (CENI) to organise elections in accordance with the constitution.<sup>4</sup>
- 3.3.2 According to the USSD report, CENI announced [French language] that elections would be held in December 2018 following the last elections, for the President and for the National Assembly, which were held in 2011.

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<sup>1</sup> Freedom House (FH), World Report 2018, (section A1) 28 March 2018, [url](#).

<sup>2</sup> CIA: WFB: DRC, updated 3 May 2018 [url](#).

<sup>3</sup> USSD, DRC Human Rights (HR) Report 2017 (Executive summary), 20 April 2018, [url](#).

<sup>4</sup> USSD, DRC HR Report (section 3), 20 April 2018, [url](#).

These were assessed by local and international observers as lacking credibility, and being seriously flawed.<sup>5</sup>

3.3.3 Freedom House reported on the electoral laws and framework in the DRC, and stated:

‘The country’s electoral framework does not ensure transparent conduct of elections, and opposition parties and civil society groups frequently criticize the CENI for lacking independence.

‘Progress toward elections will require the CENI to make amendments to the electoral framework, including laws regarding election financing and the distribution of seats. In February 2017, the CENI announced that it had started registering voters. However, the electoral commission faces numerous logistical challenges in this process. Opposition politicians claim the CENI is tampering with the voter registry.’<sup>6</sup>

3.3.4 Human Rights Watch noted in June 2018 that:

‘Confidence in the electoral process has been further damaged by the insistence of the national electoral commission (CENI) on using electronic voting machines, which have never been tested during an election in Congo and which political opposition and civil society leaders see as a tool to facilitate fraud. The numerous irregularities highlighted in the audit of the voter roll by the Organisation internationale de la Francophonie (OIF), including 16.6% of voters who registered without fingerprints, have raised further concerns. This is compounded by the perceived lack of independence of the CENI, the Constitutional Court, and the judicial system more broadly, and the lack of transparency regarding the financing of the electoral process.’

‘These concerns were highlighted in a joint statement from 177 Congolese human rights groups and citizens’ movements on June 4. Rights groups and United Nations experts also fear that draft legislation on the agenda in the ongoing extraordinary session of parliament would place severe new restrictions on the ability of Congolese and international nongovernmental organizations to operate freely and independently in Congo.’<sup>7</sup>

[Back to Contents](#)

## 4. Political developments: December 2016 to mid-2018

### 4.1 December 2016 political agreement

4.1.1 The USSD HR for 2017 noted: ‘In December 2016 the government and opposition parties agreed to a power-sharing arrangement that paved the way for elections in 2017, the release of political prisoners, and an end to politically motivated prosecutions. The government failed to implement the agreement as written, however, and elections had not occurred by year’s end [2017].’<sup>8</sup>

4.1.2 Freedom House, in their World Report 2018, stated:

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<sup>5</sup> USSD, DRC HR report (section 3), 20 April 2018, [url](#)

<sup>6</sup> Freedom House (FH), World Report 2018, section A1, 28 March 2018, [url](#).

<sup>7</sup> Human Rights Watch (HRW): ‘Repression Persists as Election Deadline Nears’, 29 June 2018, [url](#)

<sup>8</sup> USSD, DRC HR report 2017 (Executive summary), 20 April 2018, [url](#)

'A new transitional government, headed by Prime Minister Samy Badibanga and intended to serve through the remainder of Kabila's presidency, was announced in late December 2016. Badibanga resigned in April 2017 and was replaced by Bruno Tshibala, a former member of the Union for Democracy and Social Progress (UDPS) who had recently been expelled from the party; his appointment caused additional friction between Kabila and the largest opposition party.'<sup>9</sup>

4.1.3 In a February 2018 briefing, the Economist observed:

'In December 2016, on the streets of Kinshasa, Mr Kabila met his biggest test as his term as president drew to a close. He faced Étienne Tshisekedi, a veteran of the anti-Mobutu struggle in the early 1990s, who is revered in much of the city. On the final day of the year, with riots brewing, Mr Kabila agreed that elections would be held by the end of 2017 and that, in the meantime, a national unity government would bring in parts of the opposition.

'In February 2017, however, Tshisekedi died and the deal began to implode. Without its charismatic leader, the opposition alliance, Le Rassemblement, is weak. Martin Fayulu, the co-ordinator of the group, says Mr Kabila "wants to stay in power eternally". An election is scheduled for December 23<sup>rd</sup> [2018]. Voter registration has progressed but few expect it to happen on time. On January 31<sup>st</sup> [2018] Mr Kabila's spokesman said his boss would not run for another term and would name a preferred successor by July [2018]. The opposition do not believe him.'<sup>10</sup>

4.1.4 Freedom House stated: 'Kabila's constitutional mandate expired in December 2016 amid significant pressure from the opposition for him to step down. Under the mediation of the Roman Catholic Church, representatives of the government agreed to a new round of negotiations with the Rassemblement des Forces Sociales et Politiques Acquises au Changement, a joint opposition bloc, and the two sides reached an agreement in December 2016 that moved the expected date for elections to December 2017. However, little progress was made to organize elections during 2017. In November 2017, the CENI announced that elections would take place in December 2018, following a statement from Kabila in June that he had not "promised anything" regarding elections. Kabila and his allies have cited funding concerns, the lack of a comprehensive voter registry, and insecurity as reasons for the delay, but critics view these as stalling tactics.'<sup>11</sup>

4.1.5 The UN Secretary General noted on 1 June 2018:

'Following the expiration of the 30 April 2018 deadline for the full implementation of the confidence-building measures set out in the 31 December 2016 political agreement, the Comité Laïc de Coordination [Lay coordination Committee, associated with the Catholic Church, which organised demonstrations on 31 December 2017, 21 January and 25 February 2018] issued a communiqué on 1 May [2018] in which it noted that

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<sup>9</sup> Freedom House, DRC World Report 2018 (section A1), 28 March 2018, [url](#)

<sup>10</sup> The Economist, DRC Briefing, 15 February 2018, [url](#)

<sup>11</sup> Freedom House (FH), Freedom in the World 2018 (section A1), 28 March 2018 [url](#).

the Government had not addressed the emblematic cases mentioned in the agreement. In addition, the Comité Laïc de Coordination warned that it would renew its public demonstrations unless conditions conducive to the holding of elections on 23 December 2018 were established.<sup>12</sup>

#### 4.1.6 International Crisis Group observed in April 2018:

‘... the implementation of Saint Sylvester [December 2016 agreement] remains slow and incomplete. While the agreement calls for release of political prisoners, 90 remain in detention, including the highest-profile figures, such as Jean-Claude Muyambo, an ally of the prominent opposition leader and former governor of Katanga province Moïse Katumbi. Of the recent releases, only Huit Mulongo, Katumbi’s former head of cabinet, is an active politician – the others are militia members. Katumbi himself, who was sentenced in absentia on charges of illegal sale of a property and is still facing an investigation for alleged recruitment of mercenaries, remains in exile in Belgium. He has said the accusations are politically motivated. It is unclear whether he will be allowed to contest the election.

‘In short, the balance sheet remains mixed. Congolese authorities have overcome important hurdles in election preparations. But key technical questions – notably concerning funding for the polls and how the voting machines will work in practice – remain unanswered. More importantly, the playing field is still skewed and space for the opposition limited. These problems raise the prospect of a vote that might be reasonably well organised but would be neither fair nor credible.’<sup>13</sup>

#### 4.1.7 According to the July 2018 UN Secretary-General report on the United Nations (MONUSCO) covering the period from 27 March 2018 to 29 June 2018 and published 2 July 2018, ‘By mid-June, some 118 political prisoners remained in detention. The ban on demonstrations and political gatherings has not been formally lifted.’<sup>14</sup>

[Back to Contents](#)

## 4.2 Election law and reform

### 4.2.1 Freedom House noted ‘In December 2017, the National Assembly approved a law that requires political parties to earn 1 percent of the national vote in order to win a seat in that body. The law would likely reduce the number of political parties in the National Assembly. Currently, there are 148 parties and 14 independent members; more than 50 parties hold just one seat. The law holds the potential to consolidate the strength of more established parties.’<sup>15</sup>

### 4.2.2 However, the UN Secretary General noted on 1 June 2018 that: ‘After a delay of several months, the final list of registered political parties and platforms eligible to stand in the presidential election and in national and provincial

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<sup>12</sup> UN Security Council, Letter (para 5), 1 June 2018, [url](#)

<sup>13</sup> ICG, Africa report no 259 (section II, E), 4 April 2018, [url](#)

<sup>14</sup> UN Security Council, ‘UN ... Mission in the DRC: Report of the Sec-Gen’ 2 July 2018, [url](#)

<sup>15</sup> Freedom House, World Report 2018 (section A3), 28 March 2018 [url](#).

legislative elections was published in the official gazette on 11 May [2018]. The list included 599 political parties and 77 political groups.’<sup>16</sup>

4.2.3 The UN Secretary General, in his letter of 1 June 2018 observed:

‘The National Assembly and the Senate adopted, on 30 April [2018] and 6 May [2018], respectively, a bill on the distribution of seats for national and provincial legislative elections and for local elections. On 8 May [2018], President Joseph Kabila promulgated the bill in line with the electoral calendar. After a delay of several months, the final list of registered political parties and platforms eligible to stand in the presidential election and in national and provincial legislative elections was published in the official gazette on 11 May [2018]. The list included 599 political parties and 77 political groups. Although the electoral law contains provisions against the duplication of political parties, four distinct parties carrying the name of the Union pour la démocratie et le progrès social... representing competing wings of the Union pour la démocratie et le progrès social, were listed nonetheless. Notable absences from the list include the Ensemble pour le changement platform, which supports the presidential candidacy of Moïse Katumbi. The parties that comprise that platform, however, were included in the list.’<sup>17</sup>

4.2.4 The UN Secretary General also noted in the same letter:

‘Important progress towards establishing a legal framework for elections notwithstanding, Parliament has yet to examine the draft amendment to the 2015 law on public demonstrations tabled by the Government during the ongoing ordinary session. The issue of the replacement of the rapporteur of the Independent National Electoral Commission, who had been nominated by the Union pour la démocratie et le progrès social [UDPS, opposition party], has yet to be resolved despite repeated requests by the Union pour la démocratie et le progrès social. On 5 May 2018, during discussions with the Speaker of the National Assembly, Aubin Minaku, the President of the Independent National Electoral Commission, Corneille Nangaa, stated that the voter registration of members of the diaspora, scheduled to take place between 1 July and 28 September, would be “technically possible, but difficult”.

‘The Government’s planned use of voting machines remains a divisive issue. The main opposition parties continued to voice opposition to the use of voting machines, to cast doubts on the integrity of the voter registry, and to question the likelihood of holding timely elections... There were persistent media reports suggesting the possible candidature of President Kabila in the upcoming elections. Those reports were fuelled by, inter alia, recent statements by the Permanent Secretary of the Parti du peuple pour la reconstruction et la démocratie, Emmanuel Ramazani Shadary, and the Acting Governor of Maniema province, Jérôme Bikenge, to that effect.’<sup>18</sup>

[Back to Contents](#)

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<sup>16</sup> UN Security Council, Letter (paras 4-6), 1 June 2018, [url](#)

<sup>17</sup> UN Security Council, Letter (para 3), 1 June 2018, [url](#)

<sup>18</sup> UN Security Council, Letter (paras 4-6), 1 June 2018, [url](#)



### 4.3 Provincial elections

4.3.1 The USSD Report for 2017 reported that CENI held elections for state governors in eight provinces on 26 August 2017. As only provincial assembly members were allowed to vote, the total number of voters in these contests ranged from 17 provincial assembly members in Lower Uele Province to 34 in South Kivu. The ruling party coalition and independent candidates each won four seats. Critics accused the ruling party coalition of manipulating the rules to disqualify independent candidates who were critical of the government.<sup>19</sup>

4.3.2 The USSD report continued:

‘...NGOs reported security forces killed or arbitrarily detained dozens of citizens prior to the voting. The United Nations confirmed at least 41 persons had died at the hands of the [state security forces] SSF throughout the electoral period and that security forces physically harmed hundreds. Losing candidates contested the election results for approximately 340 of the 500 parliamentary seats at the Supreme Court. Many of the cases reportedly had little merit. In 2012 the Supreme Court certified the results of 482 parliamentary electoral contests. Denis Engunda of the Christian Democratic Party won election to the National Assembly from Equateur Province in 2012, marking the resolution of the last contested result from the 2011 parliamentary elections.’<sup>20</sup>

4.3.3 Drawing attention to the disintegrating security situation in the DRC, Leila Zerrougui, head of the UN Stabilisation mission in the country, reported in March 2018 to the UN Security Council, while presenting the latest report of the Secretary-General on the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO):

“While national political attention remains centred on the confidence-building measures and progress in the electoral process, the security situation in the Democratic Republic of the Congo has continued to deteriorate,” she told the Council – presenting the latest report of the Secretary-General on the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)<sup>21</sup>.

“Noting that this brought increased risks for renewed instability in many parts of the country, and posed serious threats to the civilian population, she stated that the DRC continues to face one of the world's most serious humanitarian crises...”

‘She encouraged the Council to consider how the security situation could be stabilized and the political and electoral process best supported – in line with the 31 December 2016 agreement for a peaceful political transition. “A failure to generate confidence in the full and faithful implementation of the 31 December agreement will only serve to heighten political tensions, and to fuel the risks of inciting violence for political ends,” she underscored...’

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<sup>19</sup> USSD Report: DRC – Section 3 Political Process, 20 April 2018, [url](#)

<sup>20</sup> USSD Report: DRC – Section 3 Political Process, 20 April 2018, [url](#)

<sup>21</sup> UN News: ‘Despite unrest, DR Congo must press ahead ...’ 8 March 2018 [url](#)



'Ms. Zerrougui also expressed her concern over the disproportionate use of force by security services during recent demonstrations, saying that the Government should investigate and take appropriate measures. During those protests, which began at the end of last year, nearly two dozen people were reportedly killed, more than a hundred were wounded and some 200 were arrested.'<sup>22</sup>

[Back to Contents](#)

#### 4.4 President and the ruling party

4.4.1 The BBC noted key biographical data on Joseph Kabila, on their DRC country profile (last updated 6 December 2017): 'Joseph Kabila became president when his father Laurent was assassinated in 2001. He was elected in 2006, and secured another term in controversial elections in 2011. His second and final term officially ended in December 2016 but elections failed to be held.'<sup>23</sup>

4.4.2 The USSD Report for 2017 noted that President Kabila, though nominally independent, is the head of a coalition of political groups:

'... the president's Presidential Majority political alliance--which included his former party (the PPRD), the Alliance of Democratic Forces for Congo, and other parties--enjoyed majority representation in government, the parliament, and judicial bodies, including on the Constitutional Court and CENI. State-run media, including television and radio stations, remained the largest source of information for the public and government.

'In a number of districts, known as "chefferies," traditional chiefs perform the role of a local government administrator. Unelected, they are selected based on local tribal customs (generally based on family inheritance) and then are approved and paid by the government.'<sup>24</sup>

[Back to Contents](#)

#### 4.5 Participation of women and minority groups

4.5.1 Freedom House reported that discrimination and lack of access to institutions in rural areas hinder political participation in general. Some sections of the population are particularly marginalised, and underrepresented in government. Women comprise only 9 per cent of the National Assembly and 6 per cent of the Senate.'<sup>25</sup>

4.5.2 The USSD Report stated:

'Women held 10 percent of seats in the National Assembly (50 of 500) and 6 percent in the provincial assemblies (43 of 690). Four of 108 senators were women. Among the 59 government vice-prime ministers, ministers, ministers of state, and vice ministers, six were women, a decrease in the total number from that of the government formed earlier in 2016 (from 11 percent of 68 such positions to 10 percent of 59 such positions). Some observers believed

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<sup>22</sup> UN News: 'Despite unrest, DR Congo must press ahead ...' 8 March 2018 [url](#).

<sup>23</sup> BBC Country Profile 6 December 2017 [url](#)

<sup>24</sup> USSD Report: DRC – Section 3 Political Process, 20 April 2018, [url](#)

<sup>25</sup> FH: 'Freedom in the World 2018 – Congo, Democratic Republic of' 28 March 2018 [url](#).

cultural and traditional factors prevented women from participating in political life to the same extent as men.’<sup>26</sup>

- 4.5.3 The report continued: ‘Some groups, including indigenous persons, claimed they had no representation in the Senate, the National Assembly, or provincial assemblies. Discrimination against indigenous groups continued in some areas, such as Equateur, East Kasai, and Upper Katanga provinces, and contributed to their lack of political participation.’<sup>27</sup>

[Back to Contents](#)

## 5. Political groups

- 5.1.1 There are hundreds of different political parties within the DRC<sup>28</sup>. A correspondent for Brookings, writing about the DRC political situation, and the position of the opposition, stated: ‘The Congolese political situation is quite complex. There are over 400 political parties in the DRC, most of them located in the capital city of Kinshasa. Historically, the Congolese opposition has been fractured and unable to unite under a single candidate who can mount a serious and effective campaign against the incumbent...’<sup>29</sup>
- 5.1.2 International Crisis Group considered that the new elections law of December 2017, which introduced electoral thresholds for parties to qualify for parliamentary seats, and quadruples non-reimbursable deposit for national assembly candidates to US\$1,000 and almost doubles the deposit for presidential candidates to US\$100,000, is likely to reduce the number of candidates running for office<sup>30</sup>.
- 5.1.3 Freedom House noted that:
- ‘People have the right to organize political parties. Hundreds of parties exist, with many organized along ethnic, communal, or regional lines; most lack national reach. Key parties include Kabila’s PPRD and the largest opposition party, the UDPS. Many opposition parties are gathered under the Rassemblement platform, headed by UDPS leader Félix Tshisekedi, the son of Étienne Tshisekedi, who died in February 2017. In August 2017, a group of civil society actors and other leaders authored a joint “Manifesto of the Congolese Citizen,” which includes calls for Kabila to step down<sup>31</sup>.
- 5.1.4 A correspondent for Brookings, writing about the DRC political situation, and the position of the opposition, stated:
- ‘...Some of the parties belong to alliances or coalitions that are part of the umbrella opposition alliance called Le Rassemblement—founded at Lake Genval (Belgium) on June 10, 2016. Important members of the Rassemblement include the UDPS (l’Union pour la Démocratie et le Progrès Social; (2) the G7, which comprises seven leading Congolese political leaders who were summarily expelled from the government after they penned an open letter to Kabila and asked him to respect the constitution

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<sup>26</sup> USSD Report: DRC – Section 3 Political Process, 20 April 2018, [url](#)

<sup>27</sup> USSD Report: DRC – Section 3 Political Process, 20 April 2018, [url](#)

<sup>28</sup> FH: ‘Freedom in the World 2018 – Congo, Democratic Republic of’ 28 March 2018 [url](#).

<sup>29</sup> Brookings ‘The postponed DRC elections’ 2 December 2016 [url](#).

<sup>30</sup> ICG, Electoral Poker in DR Congo (A New Electoral Law), April 2018, [url](#)

<sup>31</sup> FH: ‘Freedom in the World 2018 – Congo, Democratic Republic of’ 28 March 2018 [url](#).

and step aside when his term expires; (3) and l'Alternance pour la République (AR), which is a regrouping of 16 opposition political parties and civil society organizations, who have targeted Moïse Katumbi as a candidate for the highest office in Congo (both the G7 and AR have thrown their support to Katumbi in an effort to defend and uphold the Congolese constitution); and (4) La Dynamique de l'Opposition, which is a platform of several opposition parties.'<sup>32</sup>

5.1.5 The previous leader of the UDPS, Etienne Tshisekedi, died on 1 February 2017, aged 84, while in Brussels for medical treatment. His body has remained in a Brussels mortuary, apparently due to financial disagreements over the repatriation of his body. However, the opposition, including Tshisekedi's son, Felix Tshisekedi, believe that the government of President Kabila still regard the deceased activist as a threat to the current regime. One opposition spokesperson, speaking for an opposition group that broke away from the UDPS, stated that the government feared street protests if the body of Tshisekedi was returned to DRC<sup>33</sup>.

5.1.6 International Crisis Group (ICG) noted in a briefing paper about the electoral process dated 4 April 2018 that 'Opposition parties are starting to prepare for the [election] campaign, but are divided and face an uphill battle. Some of their leaders, facing legal charges, remain in exile; others struggle to gain traction among a population frustrated with the entire political class. At this point, domestic pressure for reform comes essentially from civil society organisations affiliated with the Catholic Church.'<sup>34</sup>

5.1.7 The same ICG report, referencing other sources, observed:

'The possibility of elections this year [2018] has shaken opposition parties. Since mid-2017, the main opposition coalition, the Rassemblement, had promoted the ill-defined idea of a transition without Kabila. But the opposition now appears to be preparing to campaign despite the deficiencies in implementing the Saint Sylvester agreement. Since late February [2018] there has been a flurry of activity, with smaller parties rushing to form larger groups to ensure they can garner sufficient votes to meet new electoral thresholds and qualify for seats in the future national and provincial assemblies.

'This repositioning is fragmenting the Rassemblement. The Group of Seven (G7), the Alternative for the Republic (Alternance pour la République), and several other small parties are backing Moïse Katumbi, while the UDPS/Tshisekedi is going its own way. Katumbi's supporters met in South Africa from 9 to 12 March 2018 and formed a new coalition, Together for Change (Ensemble pour le Changement).

'Other major parties such as the Union for the Congolese Nation (Union pour la nation congolaise, UNC) of Vital Kamerhe and the Movement for the Liberation of the Congo (Mouvement de Libération du Congo, MLC) led by Ève Bazaiba have announced that they will work together during the campaign, though details of what that entails are not yet clear. More broadly,

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<sup>32</sup> Brookings, Africa in Focus, 2 December 2016, [url](#).

<sup>33</sup> SA News: 'DRC opposition leader's body 'trapped' in Belgian mortuary' – 5 February 2018 [url](#).

<sup>34</sup> International Crisis Group (ICG), Africa report no 259 (Executive summary), 4 April 2018, [url](#)

at the time of writing it is uncertain where opposition consultations and reconfiguration will lead. That said, the creation of coalitions of around ten parties is likely to be the norm. Some new alliances could even transcend the divide between the opposition and the Majority.<sup>35</sup>

5.1.8 The Economist stated:

‘According to polling by the Congo Research Group, of New York University, Mr Kabila is unpopular. If he changed or ignored the constitution and ran again, just 10% of the population would vote for him. However, his rivals are weak, too. Moïse Katumbi, a wealthy former governor of Katanga, came first in that poll, with 38%. But he is in Brussels, having been exiled and then convicted of (almost certainly) trumped-up charges of illegally selling property. Tshisekedi’s son Félix lacks his father’s charisma. No Congolese politician has a truly national following.’<sup>36</sup>

5.1.9 Al-Jazeera reported in August 2018 that Vice President Jean-Pierre Bemba has arrived in the capital Kinshasa for the first time in a decade to take part in the upcoming presidential elections. The report stated:

‘Bemba returned weeks after the International Criminal Court (ICC) overturned his war crimes convictions to submit his credentials to the electoral commission.

‘He had been in custody in The Hague for 10 years and was convicted in 2016 for having failed to prevent the armed group that he led from committing crimes in the Central African Republic (CAR) that included murder, rape, and pillaging. He had been sentenced to 18 years in prison.

‘A week in advance of the deadline to file applications for the much-delayed presidential election, scheduled to be held in December, another prominent opposition leader also announced his return to participate in the political process - a development seen as altering the political calculations in this African nation.

‘Lambert Mende, the Congolese minister of information and communication, told Al Jazeera that the government is not concerned about Bemba’s return.

"Congo is his home and it is his right to come back home," Mende said.

‘The Congolese electoral commission has set an August 8 deadline for all political parties to submit applications for their candidates.

‘The opposition Movement for the Liberation of Congo party has already declared Bemba as their candidate. Bemba told Al Jazeera that he will be in the country to fulfil his political obligation despite concerns raised about the conduct of the election.

"I never heard from himself [Kabila] that he will hold elections, but I have also never heard that he will not hold elections ... I hope that he will respect the constitution," Bemba said.

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<sup>35</sup> International Crisis Group (ICG), Africa report no 259 (Executive summary), 4 April 2018, [url](#)

<sup>36</sup> The Economist, 15 February 2018, [url](#)

"President Kabila is an adversary in politics. The most important to me is what the people of Congo want. If I am doing politics, it's to solve the problems for the people of Congo ...

"Of course, I understand that some people may worry about it but they should not. I am just someone trying to find solutions for his country and for the people of his country," he added.<sup>37</sup>

[Back to Contents](#)

## 6. Treatment of opposition groups

### 6.1 Political space

6.1.1 The US State Report for 2017 noted there were reports of government intimidation of opposition members, such as denying opposition groups the right to assemble peacefully, restricting travel within or outside the country, targeting opposition leaders in politically motivated judicial actions, and exercising political influence in the distribution of media content.<sup>38</sup>

6.1.2 The USSD report noted:

'The law recognizes opposition parties and provides them with "sacred" rights and obligations. Government authorities and the SSF, however, prevented opposition parties from holding public meetings, assemblies, and peaceful protests. The government and the SSF also limited opposition leaders' freedom of movement and arbitrarily arrested opposition party members. At various points during the year, the SSF used force to prevent or disrupt opposition-organized events. National Assembly president Aubin Minaku prevented the opposition UDPS party from changing its representative to the CENI, allegedly in violation of a December 2016 agreement between the government and opposition parties. The government and Prime Minister Bruno Tshibala also continued its practice of duplicating opposition parties, also allegedly in violation of the December 2016 agreement.'<sup>39</sup>

6.1.3 There has been a climate of repression and violence in the country, particularly since President Kabila refused to step down after his second term of office. Human Rights Watch reported (World Report DRC – Events of 2017) that security forces killed at least 62 people and arrested hundreds of others during protests across the country between December 19 and 22, 2016, after Kabila refused to step down at the end of his second term. In total, security forces killed at least 171 people during protests in 2015 and 2016.<sup>40</sup>

6.1.4 The BBC country profile reported 'Political violence and repressive action by the Congolese authorities continued throughout 2017. The government blocked plans to organise elections, and there was systematic repression and silencing of the political opposition. Human rights activists, journalists,

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<sup>37</sup> Al Jazeera: 'As Jean-Pierre Bemba returns, DRC opposition eyes a shot at power' 1 Aug 2018 [url](#).

<sup>38</sup> USSD, HR Report 2017 (s3), 20 April 2018, [url](#)

<sup>39</sup> USSD Report: DRC – Section 3 Political Process, 20 April 2018, [url](#)

<sup>40</sup> HRW: World Report 2018 – DRC 18 January 2018 [url](#).



pro-democracy activists and others were targeted, and their rights of expression suppressed.’<sup>41</sup>

6.1.5 Freedom House stated that ‘Despite the existence of numerous parties, political pluralism is limited in practice, and opposition members do not have a realistic opportunity to increase their support through elections.’<sup>42</sup>

6.1.6 The UK Foreign and Commonwealth Office, 2016 Human Rights Priority Country report of DRC, published July 2017 noted that ‘...there has been a significant increase (400%) of abuses related to elections. There was continued shrinkage of democratic space, particularly in relation to the electoral process as President Kabila’s constitutional mandate drew to a close in December.’<sup>43</sup>

6.1.7 The 2017 report by the same source, published in July 2018 further noted that ‘With President Kabila delaying elections until December 2018, there were a large number of reported human rights violations related to arbitrary arrests and imprisonments, extrajudicial executions by state agents, and attacks on freedom of speech and expression.’<sup>44</sup>

6.1.8 The BBC News website reported:

‘The media operate against a backdrop of political power struggles and violent unrest. "Freedom of information is constantly violated and journalists are exposed to threats, physical violence, arrest, prolonged detention and even murder," says Reporters Without Borders.

‘Nonetheless, the press is able to criticise the government and some publications carry opposition party views. There are hundreds of radio stations and scores of TV networks. Most of them are privately run and the owners of the leading outlets often have political connections.’<sup>45</sup>

6.1.9 Human Rights Watch reported on levels of violence and repression in 2017:

‘Throughout 2017, government officials and security forces repeatedly and systematically banned opposition demonstrations, shut media outlets, and prevented opposition leaders from moving freely. They jailed more than 300 opposition leaders and supporters, journalists, and human rights and pro-democracy activists, most of whom were later released. Many were held in secret detention facilities, without charge or access to family or lawyers. Others have been tried on trumped-up charges. Many were arrested while planning or starting peaceful protests, which often prevented the protests from going forward. When larger protests were organized, security forces fired teargas and in some cases live bullets to disperse the demonstrators. Security forces killed five people, including an 11-year-old boy, and wounded 15 others during a protest in Goma on October 30.

‘Security forces killed at least 90 people as part of a crackdown against members of the Bundu dia Kongo (BDK) political religious sect in Kinshasa

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<sup>41</sup> Human Rights Watch: World Report 2018 DRC 18 January 2018 [url](#).

<sup>42</sup> FH: ‘Freedom in the World 2018 – Congo, Democratic Republic of’ 28 March 2018 [url](#)

<sup>43</sup> FCO, HR Priority Country Report – DRC (page 37), July 2017, [url](#)

<sup>44</sup> FCO, The 2017 Foreign & Commonwealth Office Report (page 37), July 2018, [url](#)

<sup>45</sup> BBC News: Democratic Republic of Congo – Media Last updated 21 November 2017 [url](#).

and Kongo Central province between January and March, and in August. Some of the BDK members also used violence, killing at least five police officers.’<sup>46</sup>

6.1.10 The HRW report continued:

‘In July [2017] in Lubumbashi, unidentified armed men shot and nearly killed a judge who refused to rule against opposition leader and presidential aspirant Moïse Katumbi.

‘Authorities prevented international and Congolese journalists from doing their work, including by arresting them, denying access, or confiscating their equipment and deleting footage. At least around 40 journalists were detained in 2017. The government shut down Congolese media outlets and periodically curtailed access to social media. Authorities lifted a nine-month block on Radio France Internationale (RFI)’s signal in Kinshasa in August, but they refused to renew the accreditation for the RFI correspondent in Congo in June, and the visa for the Reuters correspondent in August.’<sup>47</sup>

6.1.11 International Crisis Group noted on 15 June 2018 in an article about the acquittal of Jean-Pierre Bemba, an opposition leader, by the International Criminal Court ‘The DRC’s opposition is in flux as its leaders attempt to negotiate alliances, with deadlines for nominations of candidates only a month or two away (June for provincial, and July/August [2018] for presidential and legislative elections). Opposition parties are operating under constraints, as the government continues to impose restrictions on political freedoms, clamp down on their meetings and harass several opposition leaders.’<sup>48</sup>

6.1.12 In its June 2018 outlook analysis for June to December 2018 on political violence in urban centres in the DRC, ACAPS noted:

‘Frequent and recurrent protests across the country in recent years indicate an already high-level of political tension that is likely to grow in the lead up to presidential elections on 23 December. Since the beginning of 2015, over 700 protests across the country resulted in hundreds of civilian casualties, and the likelihood of further political violence is high. In addition to direct human rights and humanitarian protection concerns arising from violent responses to protests, increasing insecurity is also likely to drive health and livelihoods needs for urban populations, complicate access to services and constrain humanitarian efforts.’

‘Between the beginning of 2015 and the end of May 2018, over 700 protests were reported in up to 100 different locations across the country, including a significant number in major urban centres: 77 in Kinshasa, 67 in Goma, 65 in Lubumbashi and 36 in Bukavu. Along with Irumu, Kisangani, Beni, Mbuji-Mayi, Mbandaka and Butembo), 10 cities account for over 56% of the total number of protests across the country.’<sup>49</sup>

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<sup>46</sup> HRW: World Report 2018 – DRC –18 January 2018 [url](#).

<sup>47</sup> HRW: World Report 2018 – DRC –18 January 2018 [url](#)

<sup>48</sup> ICG: Briefing no 140 / Africa, ‘DR Congo: The Bemba Earthquake’, 15 June 2018, [url](#).

<sup>49</sup> ACAPS: DRC – Country Profile page last updated 11 March 2016 [url](#).



6.1.13 (For information: “ACAPS is an independent information provider, free from the bias or vested interests of a specific enterprise, sector, or region. As independent specialists in humanitarian needs analysis and assessment, we are not affiliated to the UN or any other organisation.”)<sup>50</sup>

6.1.14 In August 2018, the BBC reported on the situation of exiled opposition leader, Moïse Katumbi:

‘An alliance allied to exiled politician Moïse Katumbi has called for an opposition boycott of elections in December if the prominent ex-governor of Lubumbashi is locked out of the presidential contest. The Movement of the Congolese People for the Republic (MPCR) made the call yesterday. The chairman of MPCR and member of Katumbi’s Together for Change coalition, Jean Claude Nvuemba, urged the opposition to rally behind Katumbi’s bid to be cleared to contest. The authorities have issued an international arrest warrant against Katumbi, whom they accuse of fraud and plotting to overthrow the government.’<sup>51</sup>

[Back to Contents](#)

## 6.2 Peaceful assembly and demonstrations

6.2.1 The USSD report for 2017 noted:

‘The constitution provides for freedom of peaceful assembly, but the government frequently restricted this right and prevented those critical of the government from exercising their right to peaceful assembly. The law requires organizers of public events to notify local authorities in advance of the event. The government maintained that public events required advance permission and regularly declined to authorize public meetings or protests organized by opposition parties or civil society groups critical of the government. The government did, however, authorize protests and assemblies organized by progovernment groups and political parties. During the year the [state security forces] SSF beat, detained, or arrested persons participating in protests, marches, and meetings. The SSF also used tear gas, rubber bullets, and at times live ammunition, resulting in numerous civilian deaths and injuries.’<sup>52</sup>

6.2.2 The report continued:

‘According to MONUSCO there were 596 violations of democratic space from January through August [2017]. These included restrictions on freedom of assembly, the right to liberty and security of person, and of the right to freedom of opinion and expression. At least 81 demonstrations organized by opposition political parties and/or civil society were either prohibited or repressed by authorities from January to June [2017]. During the same period, at least 70 demonstrations, including 31 organized by the ruling party coalition, were held without incident.’<sup>53</sup>

6.2.3 Amnesty International noted in an article of October 2017:

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<sup>50</sup> ACAPS: From main website – undated. [url](#)

<sup>51</sup> BBC Monitoring: ‘DR Congo opposition urged to boycott polls’ BBCM report’ August 2018 [url](#).

<sup>52</sup> USSD, DRC HR Report 2017 (section 2b), 20 April 2018, [url](#)

<sup>53</sup> USSD, DRC HR Report 2017 (section 2b), 20 April 2018, [url](#)

‘Whether it is opposition supporters or pro-democracy activists demanding respect for the Constitution and the holding of elections, children condemning the loss of their school or even public servants demanding payment of their salary arrears, protests are rarely tolerated.

‘The authorities use every means available: arrests and restrictions of movement, all manner of intimidation, switching off of radio signals, cutting telephone communications and shutting down the internet. When these measures are not enough to stop the protests, the police and the army are called in to put them down, often using excessive force and lethal weapons. The United Nations estimates that at least 300 people were killed by security forces in protests in the DRC between January 2015 and July 2017 while thousands of others were injured or arrested, and public as well as private property of considerable value was destroyed.

‘A government measure introduced in September 2016 barred all political protests across the country “until further notice”. Although never made public, the measure is regularly cited by mayors, governors and police officials to prevent all protests other than those organized by supporters of the government.’<sup>54</sup>

6.2.4 Freedom House similarly observed in its report covering events during 2017 that:

‘The constitution guarantees freedoms of assembly and association. Demonstrations are held regularly despite limits on these rights in practice. The government repeatedly banned opposition demonstrations throughout the year. In 2017, police and security forces violently dispersed protests, used deadly force against civilians, and arbitrarily arrested participants. Starting at the end of 2016, security forces also recruited former members of the M23 rebel group to break up protests. Police arrested at least 100 demonstrators during protests in numerous Congolese cities on July 31 [2017], which marked the unmet deadline for voter registration. In August, members of the religious and political Bundu dia Kongo sect demonstrated against Kabila in Kinshasa and Kongo Central province. Security forces fired live ammunition at the protesters, and at least 27 people were killed. In September [2017], 49 activists against the postponement of elections were arbitrarily arrested across eastern DRC.’<sup>55</sup>

6.2.5 The UN News noted on 21 March 2018, ‘The security services and defence forces of the Democratic Republic of the Congo (DRC) killed at least 47 people during anti-government protests over a 13-month period through 31 January 2018, a United Nations human rights report has found.’<sup>56</sup>

6.2.6 The United Nations News stated:

“It is particularly disturbing that security services and defence forces carry out this violence with almost full impunity which can be perceived as encouraging such repression,” Zeid Ra’ad Al Hussein, the UN human rights chief, said in a press release on the report, which concluded that freedom of

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<sup>54</sup> Amnesty, ‘Don’t let violence triumph...’ 16 October 2017, [url](#)

<sup>55</sup> FH, Freedom in the World (E. Associational and organizational rights), February 2018, [url](#)

<sup>56</sup> United Nations News: DR Congo: ‘UN report finds 47 protestors killed’ 21 March 2018 [url](#).

peaceful assembly was “severely restricted and often violently suppressed” by the authorities in 2017.

“We are seeing the quashing of dissent at all costs – even at the cost of human life – in the DRC by the systematic deployment of armed forces alongside the Police Nationale Congolaise to handle protests,” added the UN High Commissioner for Human Rights.

‘While some people armed with sticks and broomsticks attempted to perpetrate violence during some protests, the vast majority of demonstrators were peaceful, according to the report published on Monday by the UN human rights wing and the UN peacekeeping mission in the African country.

‘The report concluded that the use of excessive force – including lethal force – by the authorities was thus “unlawful, unjustified and disproportionate.”

‘Between 1 January 2017 and 31 January 2018, at least 47 people, including women and children, were killed in the context of demonstrations and there are indications that Congolese security services have attempted to cover up these serious human rights violations by removing the bodies of victims and obstructing the work of national and international observers, the report states.’<sup>57</sup>

‘For her part, Leila Zerrougui, the UN Secretary-General’s Special Representative in the DRC, said the report highlights a continued shrinking of the democratic space in the country since the beginning of 2015.

“Demonstrations are intrinsically related to freedom of expression and it is absolutely necessary that all voices can be heard in the context of the forthcoming elections,” said Ms. Zerrougui, also the head of the UN peacekeeping mission, known as its French acronym MONUSCO.

‘The two UN officials urged the Government to allow the exercise of the rights to peaceful assembly and expression, warning that repression would only breed frustration, could lead to serious deteriorations in the security situation in the country and could pose a threat to the electoral process.

‘For credible elections to be held at the end of this year, the Government has an obligation to ensure that people’s civil and political rights are respected and their exercise is facilitated, they said.’<sup>58</sup>

#### 6.2.7 Freedom House also reported on the climate of violence and repression:

‘Demonstrations are held regularly despite limits on these rights in practice. The government repeatedly banned opposition demonstrations throughout the year. In 2017, police and security forces violently dispersed protests, used deadly force against civilians, and arbitrarily arrested participants. Starting at the end of 2016, security forces also recruited former members of the M23 rebel group to break up protests. Police arrested at least 100 demonstrators during protests in numerous Congolese cities on July 31, which marked the unmet deadline for voter registration. In August, members of the religious and political Bundu dia Kongo sect demonstrated against

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<sup>57</sup> United Nations News: DR Congo: ‘UN report finds 47 protestors killed’ 21 March 2018 [url](#).

<sup>58</sup> United Nations News: DR Congo: ‘UN report finds 47 protestors killed’ 21 March 2018 [url](#).

Kabila in Kinshasa and Kongo Central province. Security forces fired live ammunition at the protesters, and at least 27 people were killed. In September, 49 activists against the postponement of elections were arbitrarily arrested across eastern DRC.’<sup>59</sup>

6.2.8 The Economist reported that in Kinshasa it is difficult to walk about without hearing from shoppers and market traders of their deep hatred for Joseph Kabila. They noted that Kabila is Africa’s youngest head of state, and one of the most ‘embattled’, despite having ruled for 17 years. The report noted the recent protests and demonstrations against President Kabila, including the killing of seven protesters by government forces on New Year’s Eve (31 December 2017).<sup>60</sup>

6.2.9 The UN Secretary General noted in his report on the activities of MONUSCO of March 2018 that:

‘Increasing restrictions on political space continue to impede the establishment of an environment conducive to a credible, peaceful and transparent electoral process. That trend is illustrated by the 103 violations linked to restrictions on fundamental freedoms and political rights documented by MONUSCO in January [2018], more than double the number recorded in January 2017 (47 violations). Those violations were committed mainly by State agents and principally target journalists, civil society activists and political opponents, who face harassment, threats and intimidation. As indicated in my report of 15 February [2018] on the implementation of the 31 December 2016 political agreement (S/2018/128), the demonstrations called for by CLC throughout the country on 21 January [2018] were violently repressed by national security forces, with at least 7 persons, including 2 women, killed, 47 wounded and 121 arrested, some of whom are facing trial. Moreover, MONUSCO staff were physically and verbally assaulted by national security forces while monitoring the situation.

‘On 1 February [2018], the Minister of Human Rights, Marie-Ange Mushobekwa, established a joint commission of enquiry composed of representatives of the Ministries of Human Rights, Justice, and the Interior and Security, the National Human Rights Commission and civil society to investigate allegations of human rights violations committed on 31 December 2017 and 21 January 2018 and to bring the alleged perpetrators to justice. The commission conducted its investigations, including hearings from 9 to 21 February [2018]. MONUSCO, through the United Nations Joint Human Rights Office, provided technical advice to the commission, notably on investigating human rights violations and protecting victims, witnesses and sources.’<sup>61</sup>

6.2.10 The Secretary General also observed in his report on progress against the December 2016 political agreement of February 2018 that:

‘In January [2018], MONUSCO published its annual analysis of the human rights situation in 2017, highlighting that 1,375 alleged violations related to democratic space were documented during the year. This represents an

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<sup>59</sup> Freedom House: Freedom in the World 2018 – DRC, section E1, 28 March 2018 [url](#).

<sup>60</sup> The Economist: ‘Joseph Kabila has ruled DRC for another unconstitutional year’ 4 Jan 2018 [url](#).

<sup>61</sup> UN Security Council, Secretary General report (paras 28-29), 1 March 2018, [url](#)

increase of 25 per cent compared with 2016 and indicates the continuous shrinking of democratic space and increasing restrictions on civil and political rights. State agents continue to be responsible for most of the alleged violations (97 per cent of the total), including 712 by the Congolese National Police, 269 by the Armed Forces of the Democratic Republic of the Congo, 153 by political/administrative authorities and 135 by officers of the Agence Nationale du Renseignement. Alleged violations mainly consisted of arbitrary arrests and detentions, violations of the rights to freedom of opinion, expression and peaceful assembly, and the targeting of human rights defenders, political opponents and journalists. Perpetrators continue to enjoy impunity, with no significant investigation, follow-up or convictions in any of the cases recorded.’<sup>62</sup>

6.2.11 According to the UN Secretary-General in June 2018, ‘the authorities continued to enforce the general ban on political demonstrations’.<sup>63</sup> More information about events may be available in periodic reports produced by the UN and other sources available at:

- [ACLEDD](#)
- [Radio Okapi](#) (for latest news though is in French)
- [MONUSCO](#)
- [Security Council Report](#)
- [Refworld/Democratic Republic of the Congo](#)
- [Ecoi.net/Congo, Democratic Republic](#)

[Back to Contents](#)

### 6.3 Arrest and detention

6.3.1 The UK Foreign and Commonwealth Office, 2016 Human Rights Priority Country report of DRC, published July 2017, referring to the UN Joint Human Rights Office documentation of a total of 1,102 human rights violations during 2016, noted ‘The majority of incidents, for which the state was reportedly responsible, related to arbitrary arrests and detentions; spurious charges against opposition figures; attacks on freedom of speech; and extrajudicial killings by state agents. State human rights violations continued, including the disproportionate use of force by the security services of the DRC against supporters of the political opposition.’<sup>64</sup>

6.3.2 The USSD HR report for 2017 observed: ‘Security personnel arrested and detained numerous perceived opponents and critics of the government, occasionally under the pretext of state security, and often denied them due process, such as access to an attorney [...] Throughout the year security forces regularly held protestors and civil society activists incommunicado and without charge for extended periods.’<sup>65</sup>

6.3.3 The USSD also reported in 2017 that:

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<sup>62</sup> UN Security Council, Report of Secretary General, 15 February 2018, [url](#)

<sup>63</sup> UN Security Council, Letter from the SG President of the Security Council 1 June 2018, [url](#)

<sup>64</sup> FCO, HR Priority Country Report – DRC (page 37), July 2017, [url](#)

<sup>65</sup> USSD, HR Report 2017 (section 1d), 20 April 2018, [url](#)



‘There were numerous reports of political prisoners and detainees. Authorities charged political prisoners with a variety of offenses, including offending the person or threatening the life of the head of state, inciting tribal hatred or civil disobedience, spreading false rumors, treason, and attacking state security. While the government permitted international human rights organizations and [UN Mission to DRC] MONUSCO access to some of these prisoners, authorities consistently denied access to detention facilities run by the [Republican Guard] RG, military intelligence, and the [National Intelligence Agency] ANR [...].

‘During the year [the Council of Catholic Bishops] CENCO concluded that Jean-Claude Muyambo’s conviction and imprisonment were unfounded and amounted to “judicial harassment.”

‘In Goma, the [state security forces] SSF arrested 13 opposition activists for planning and participating in peaceful protests in December 2016. The 13 face charges of inciting civil disobedience. According to a report, one of the activists, Sephora Bidwaya, was kept in detention despite serious chronic health problems linked to a miscarriage during her detention as well as chronic asthma, which was aggravated by a fire in the prison in July. All 13 activists remained in prison as of August 16.

‘In August, four civil society activists who were arrested on July 31 for attempting to march and deliver a letter to the Lubumbashi CENI office were convicted of disturbing the peace and sentenced to eight months in prison. In November a fifth member of this group, NGO activist and human rights lawyer Timothee Mbuya, was convicted of provocation and incitement of disobedience and sentenced to 12 months in prison.

‘As of June 30 [2017], the United Nations estimated that at least 170 persons were held in detention for their political opinions or legitimate citizens’ activities.’<sup>66</sup>

6.3.4 The USSD report also noted, regarding political prisoners ‘Following the defeat of the March 23 Movement (M23) in 2013, the National Assembly enacted a law in 2014 that provides amnesty for acts of insurgency, acts of war, and political offenses. Many individuals who should have benefited from the amnesty, however, reportedly remained in custody at year’s end in contravention of both the 2014 law and the December 2016 agreement between the government and opposition parties.’<sup>67</sup>

6.3.5 FH noted in its report covering events in 2017 that:

‘Opposition party members and leaders are often intimidated and face restrictions on their movement and organizing. In August, the security forces removed Franck Diongo, a parliamentarian and president of the Movement of Progressive Lumumbists opposition party, from his hospital room and re-imprisoned him; he had first been arrested in December 2016. The government arrested UDPS members prior to Félix Tshisekedi’s arrival in Lubumbashi in October.

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<sup>66</sup> USSD, DRC HR Report 2017 (section 1e), 20 April 2018, [url](#)

<sup>67</sup> USSD, DRC HR Report 2017 (section 1d), 20 April 2018, [url](#)

‘Another leading opposition figure—Moïse Katumbi, a businessman and former governor of Katanga Province who left Kabila’s majority coalition in 2015—fled Congo in May 2016, and in June of that year was sentenced in absentia to 36 months in prison for selling property illegally. He remained in exile in Europe throughout 2017.’<sup>68</sup>

[Back to Contents](#)

## 6.4 Opposition groups outside the DRC

6.4.1 On 12 March 2018, IOL (IndependentOnline), a South African online newspaper, reported:

‘Exiled Congolese opposition leader Moïse Katumbi (of the Peoples’ Party for Reconstruction and Democracy) launched a campaign Monday to be elected president in polls scheduled for December, unveiling his new "Together for Change" party in South Africa.

“We will fight the battle to take power -- and we will win,” said Katumbi at a meeting of several hundred supporters at a hotel outside Johannesburg.

“This fight and the successful transfer of power are national issues... so we have decided to establish a political movement known as 'Together for Change'.”... Katumbi declared he would go back to his native country by June, describing the grounds for his conviction and his sentence as “fictitious”. “I don't fear being arrested,” he told a news conference...

‘Katumbi's new grouping received the backing of more than a dozen small opposition parties, which had sent delegates to the gathering in South Africa ... Anti-government protests have turned deadly in recent months, raising international concern that the country could slide into all-out violence as it heads to the elections. “Congolese are suffering a lot because of one individual,” said Katumbi, without mentioning his rival Kabila by name. “We are being killed every-day,” he said adding that once he takes over power, the country “will never be a sanctuary of armed bandits”.

‘The violence has pitted Kinshasa authorities against the Catholic church, which has backed the demonstrations that have denounced Kabila’s government as corrupt.’<sup>69</sup>

6.4.2 APARECO’s website, only available in French, contains background and current information on the treatment of its members. See <https://www.info-apareco.com/>. CPIT has been unable to find any information in English about this group.

[Back to Contents](#)

## 6.5 Conditions and treatment in detention

6.5.1 Freedom House reported:

Prison conditions are life-threatening, and long periods of pre-trial detention are common. Security forces have tortured prisoners.’<sup>70</sup>

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<sup>68</sup> FH, World Report 2018 (section B: Political pluralism and participation), February 2018, [url](#)

<sup>69</sup> IndependentOnline (IOL): ‘Exiled DRC opposition leader...’ 12 March 2018 [url](#).

<sup>70</sup> FH: ‘Freedom in the World 2018 – Congo, Democratic Republic of’ 28 March 2018 [url](#)



6.5.2 The USSD report stated:

'The law criminalizes torture, but there were credible reports that the [state security forces] SSF continued to torture civilians, particularly detainees and prisoners. In July, the DRC National Human Rights Commission (CNDH) stated, "Most people arrested by security forces on suspicion of belonging to [Kamuina Nsapu] claim they were victims of serious torture. Following this treatment, some lost their lives or became mentally ill." The CNDH also noted that suspected militants brought to military camp Bobozo in Kananga were "subjected to torture and treatment of a rare cruelty." In February government officials were filmed beating a mortally injured girl in what appeared to be a government building in Kananga. On December 31, police were filmed beating peaceful and in some cases sedentary protesters with sticks in the towns of Beni and Kasindi.' <sup>71</sup>

6.5.3 The USSD reported on prison conditions in DRC at greater length, stating:

'Conditions in most prisons throughout the country remained harsh and life threatening due to food shortages, gross overcrowding, and inadequate sanitary conditions and medical care. Even harsher conditions prevailed in small detention centers run by the National Intelligence Agency (ANR), Republican Guard (RG), or other security forces, which often detained prisoners for lengthy pretrial periods without access to family or legal counsel. Some civil society activists arrested in Kinshasa were reportedly held in an underground cell operated by the RG at a military camp.

'Serious threats to life and health were widespread and included violence (particularly rape); food shortages; and inadequate potable water, sanitation, ventilation, temperature control, lighting, and medical care. Because inmates had inadequate supplies of food and little access to water, many relied exclusively on relatives, nongovernmental organizations (NGOs), and church groups to bring them sustenance. The International Committee of the Red Cross (ICRC) visited an unknown number of prisoners.

'In July, a prison director in Tshikapa reported that eight prisoners had died of malnutrition in three weeks, citing food shortages. Also in July part of the central prison in Goma caught fire, reportedly due to electrical problems. Authorities generally confined men and women in separate areas but often held juveniles with adults. In August, the provincial office of the CNDH successfully advocated for 10 minors detained in Mbuji Mayi to be separated from adults in the prison.

6.5.4 The USSD report continued:

'Authorities rarely separated pre-trial detainees from convicted prisoners. Central prison facilities were severely overcrowded, with an estimated occupancy rate of 200 percent of capacity; they also had little ventilation or light, subjecting detainees to extreme heat. For example, Makala Central Prison in Kinshasa, which was constructed in 1958 to house 1,500 prisoners, held as many as 8,500 inmates during the year, although as many as 4,000 of these escaped during a mass prison break on May 17. The United Nations reported 100 individuals died in detention between January and

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<sup>71</sup> USSD Report: DRC – Section 1c – 20 April 2018 [url](#).

June, mostly from starvation or illness; 45 of these deaths occurred in Kongo Central Province.

'Most prisons were understaffed, undersupplied, and poorly maintained, often allowing escapes. From January to June 30, the United Nations documented at least 5,528 prisoner escapes.

'Authorities often arbitrarily beat or tortured detainees. For example, the United Nations reported that one 14-year-old boy arrested by the Armed Forces of the Democratic Republic of Congo (FARDC) for association with the Kamuina Nsapu militia was tortured by soldiers who hacked off his thumb and cut him at least 22 times over his body with a machete.'<sup>72</sup>

- 6.5.5 Freedom from Torture have published a [briefing for the Home Office](#) in which they document 'election-related detention and torture in the DRC between 2011 and 2016, providing evidence of the use of torture by state actors to punish and suppress political opposition in the DRC, indicating the 'endemic nature of torture in the detention context in the DRC'.<sup>73</sup>

[Back to Contents](#)

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<sup>72</sup> USSD Report: DRC – Section 1c – 20 April 2018 [url](#).

<sup>73</sup> Freedom from Torture, Briefing to CPIT, June 2018, [url](#)

# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- The Political system
  - The Constitution
  - The Electoral process
  - Political developments: December 2016 to mid 2018
- Participation of women and ethnic minorities
- Political parties
- Political parties outside the DRC
- Treatment of opposition
- Political demonstrations and treatment of demonstrators
- Political prisoners and detainees
- Treatment in detention

[Back to Contents](#)

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[Back to Contents](#)

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[Back to Contents](#)

# Version control

## Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **7 September 2018**

## Changes from last version of this note

The COI material has been completely updated.

The analysis section has been updated, but there are no changes to our policy position.

[Back to Contents](#)