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[Home](#) > [Research Program](#) > Responses to Information Requests

Responses to Information Requests

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COD104769.E

7 February 2014

Democratic Republic of the Congo: The armed group M23 (Mouvement du 23 mars), including information on its activities and the situation of its members and leaders; forced recruitment by the Armed Forces of the Democratic Republic of the Congo (FARDC) and the government in the eastern region of the country (February 2013-January 2014)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. M23

For information on M23's activities before February 2013, please consult the Response to Information Request COD104292.

On its official website, the M23 describes itself as a [translation] "political-military movement" (M23 n.d.). The website states that the political branch is led by Bertrand Bisimwa, the M23 president, and the military branch is led by Sultani Makenga, who is also the vice-president (ibid.). In the political bureau, Jean Serge de la Croix Kambasu Ngeve is listed as the permanent secretary and principal negotiator for M23 (ibid.). Benjamin Mbinimpa is listed as the executive secretary of the M23, who is supported by a team of 34 cadres and heads of department (ibid.).

1.1 Abuses and Human Rights Violations in 2013

In a July 2013 report, based on over 100 interviews held since March 2013 with recently defected M23 combatants and civilians living close to the Democratic Republic of the Congo (DRC)-Rwanda border, Human Rights Watch states that M23 elements "summarily executed at least 44 people and raped at least 61 women and girls in eastern Democratic Republic of the Congo" between March and July 2013 (22 July 2013). Its report details numerous abuses committed by M23 fighters, including the following: executing, beating, detaining, or abducting civilians suspected of collaborating with other militias; executing people who refused to surrender money or their children to M23; torturing captured government soldiers; forcing local chiefs and civilians to undergo military and ideological training; and threatening women they had raped with death if they reported the rape or sought medical treatment (Human Rights Watch 22 July 2013). Human Rights Watch indicates that, at the time of publication of its report, M23 was in control of the territories of Rutshuru and Nyiragongo (ibid.).

In interviews with 60 local human rights defenders on the situation in the territories of Nyiragongo, Rutshuru and Masisi territories [North Kivu], between June 2012 and July 2013, Amnesty International (AI) received information that M23 "used intimidation, threats, and other abuses against individuals suspected of relaying information and reporting on abuses to those outside their area of control" (AI Dec. 2013, 16). Several NGOs told AI that they had been asked by M23 officers to hand over their organization's budgets, work plans, or records (ibid.).

In its January 2014 report, the UN Group of Experts on the Democratic Republic of the Congo, which interviewed 71 M23 ex-combatants and political cadres in 2013, as well as civilians living under M23 control, community leaders, and Congolese government officials, stated that M23 forcibly recruited civilians from the DRC, Rwanda, and Uganda in 2012 and 2013 (UN 23 Jan. 2014, para.5, 6, 18). Some recruits were reportedly made false promises of employment (ibid., para.18). UN sources also reported in July 2013 that M23 was forcibly recruiting members in the villages of Bushama and

Rutovu in Kibumba [North Kivu] and shooting those who resisted (ibid., para. 19). Human Rights Watch also reported in July 2013 that, according to residents in eastern DRC, M23 had recently recruited civilians, including children, by force (Human Rights Watch 22 July 2013, 6). Civilians recruited from Rwanda also told Human Rights Watch that they had been promised jobs in the DRC by M23 and had been forced into military training upon arrival in the country (ibid., 3).

According to the UN Group of Experts' January 2014 report, M23 obtained the majority of its income "by levying taxes on and looting the population in its area of control" (UN 23 Jan. 2014, para. 32). Three former M23 officers told the Group of Experts that the majority of the rebels' income in 2013 was drawn from taxes on households and transport and from revenue from businesses and properties (ibid.).

Sources indicate that M23 continued to receive support from Rwanda in mid- 2013, including ammunition and reinforcements from the Rwandan army (ibid., para. 4; Human Rights Watch 22 July 2013).

1.2 Other Activities

Sources indicate that the M23 split into two factions in early 2013, with one contingent continuing under the former leader, Bosco Ntaganda (UN 23 Jan. 2014, para. 4; Human Rights Watch 22 July 2013). The second faction was led by Sultani Makenga (ibid.; UN 19 July 2013, para. 18). In March 2013, the Makenga faction defeated Ntaganda, who subsequently fled to Rwanda with over 700 of his supporters (ibid. 23 Jan. 2014, para. 4; Human Rights Watch 22 July 2013). Another 500 reportedly surrendered to Makenga in the DRC (UN 19 July 2013, para. 28). Additionally, 200 M23 fighters are estimated to have been killed in the clashes between the two contingents (ibid. para. 30; Human Rights Watch 22 July 2013). Ntaganda surrendered to the US embassy in Kigali, Rwanda, and was transferred to the International Criminal Court in the Netherlands (ibid.; UN 19 July 2013, para. 27; AI Dec. 2013, 11). Sources indicate that other former M23 leaders who crossed into Rwanda include [military commander] Innocent Zimurinda, [military commander] Baudouin Ngaruye, [political leader] Jean-Marie Runiga (ibid.; Human Rights Watch 22 July 2013), and Eric Bagege (ibid.). The UN Group of Experts reports that a "weakened" M23, comprising approximately 1,500 combatants, continued under the leadership of Makenga after Ntaganda's defeat (UN 19 July 2013, para. 31).

According to the Group of Experts, there was "relatively little fighting" between M23 and the FARDC or the United Nations Organization Stabilization Mission in the DR Congo (MONUSCO) in June and July 2013 (ibid. 23 Jan. 2014, para. 4, 7). Similarly, Human Rights Watch indicates that a two-month ceasefire preceded a resurgence of violence near the eastern city of Goma in mid-July 2013 (22 July 2013). AI reports sporadic fighting between the FARDC and M23 in mid-May, mid-July, and late August in 2013 (Dec. 2013, 12).

The FARDC reportedly expelled M23 from Rutshuru territory and took control of the area in late October 2013 (AI Dec. 2013, 12). M23 conceded defeat on 5 November 2013 (ibid.; UN 23 Jan. 2014, para. 4). The UN Group of Experts indicates that 284 M23 members subsequently surrendered to FARDC in the DRC and 55 surrendered to MONUSCO, while some M23 members escaped to Rwanda (UN 23 Jan. 2014, para. 16, box 2). The "bulk of the remaining force" under Sultani Makenga, reportedly crossed into Uganda on 5 Nov. 2013 (ibid., para. 16). The Congolese government and MONUSCO estimate that fewer than 400 M23 combatants entered Uganda (ibid., box 2). In contrast, the government of Uganda reported to the UN Group of Experts that 1,445 M23 members had crossed into the country and had surrendered their weapons (ibid.). The Ugandan authorities also confirmed that M23 leaders Makenga and Innocent Kaina were in Uganda (ibid.).

1.3 Post Military Conflict

In December 2013, delegations from the Congolese government and the M23 met in Nairobi, Kenya, and signed declarations formalizing their positions with respect to the end of the armed conflict (AFP 12 Dec. 2013; RFI 12 Dec. 2013; UN 17 Dec. 2013). Sources emphasize, however, that the declarations signed did not constitute a peace treaty per se (RFI 12 Dec. 2013; UN 17 Dec. 2013). Rather, the government and the M23 both signed a different document outlining their own commitments (RFI 12 Dec. 2013). The M23 reportedly committed to ending its armed rebellion (AFP 12 Dec. 2013; RFI 12 Dec. 2013). It also indicated that the movement would transform itself into a political party (AFP 12 Dec. 2013; UN 17 Dec. 2013). The Congolese government reportedly committed to facilitating the process of demobilizing and reintegrating M23 fighters into society (AFP 12 Dec. 2013; RFI 12 Dec. 2013). Additionally, it pledged to introduce legislation to grant amnesty to some fighters (ibid.; AFP 12 Dec. 2013; UN 17 Dec. 2013). According to Radio France internationale (RFI), the amnesty law would cover acts of insurgency and war but would prevent any person accused of committing crimes against humanity, sexual violence, or genocide from obtaining amnesty (RFI 12 Dec. 2013). The same source indicates that former M23 combatants would not be permitted to be integrated into the Congolese army (ibid.). Sources report that the bill was passed by parliament on 4 February 2014 and is awaiting presidential assent (AP 5 Feb. 2014; Agence Belga 4 Feb. 2014). Agence Belga reports that the bill covers acts of insurrection and war, as well as political infractions, committed between 1 January 2006 and 31 December 2013 (4 Feb. 2014).

In January 2014, the head of MONUSCO stated in a briefing to the UN Security Council that he had received "credible" reports that M23 had continued its military recruitment after the signing of the Nairobi declarations and that there had been a resurgence of M23 activity (VOA 13 Jan. 2014; RFI 14 Jan. 2014; *The Hill* 23 Jan. 2014). M23 is reported to be active in Ituri, in northeastern Congo (RFI 14 Jan. 2014; VOA 13 Jan. 2014). The UN Group of Experts has also reported "credible reports" from UN and Congolese government sources that M23 is continuing to recruit in Rwanda (UN 23 Jan. 2014, para. 38). M23, however, has denied the reports (RFI 15 Jan. 2014; M23 14 Jan. 2014). In an official press

release, M23 leadership stated that all of its former combatants had [translation] "submitted, in their country of refuge, to the process of disarmament [and] confinement, and are installed in well-known sites that are accessible to all" (14 Jan. 2014).

Voice of America (VOA) reports that, according to the Congolese minister of information, the governments of both Rwanda and Uganda have refused the DRC's request to extradite M23 leaders who are accused of committing human rights violations (30 Jan. 2014). A January 2014 article published in the *Hill* and authored by a Goma-based human rights lawyer and a representative of the Washington-based NGO Enough Project suggests that Uganda has not taken action to return Makenga to the DRC (23 Jan. 2014). Also in January 2014, the second-in-command of MONUSCO stated that some former M23 rebels were moving freely around Uganda, including in [translation] "official spaces," and were not in prison, under house arrest, or detained in closed camps (RFI 16 Jan. 2014). The MONUSCO official added that Sultani Makenga was walking around free in Uganda despite the arrest warrants issued for him and the requests to transfer him [back to the DRC] (*ibid.*). Similarly, a *Jeune Afrique* article comments on the [translation] "relative liberty of movement" enjoyed by ex-M23 rebels in Uganda and Rwanda (*Jeune Afrique* 4 Feb. 2014). The same article indicates that former troops are housed in the Kasese camp, where they can reportedly "circulate freely," and that at least three former officers and their men have reportedly returned to the DRC (*ibid.*).

2. Forced Recruitment by the FARDC

Sources published in 2013 and 2014 report that FARDC elements have forcibly recruited civilians and subjected civilians to forced labour (IDMC 14 Jan. 2014; US 19 June 2013; UN May 2013, para. 17). Children have reportedly been among those forcibly recruited by the FARDC (AI 2013; UN May 2013, para. 17). In a report on human rights violations perpetrated by M23 and the FARDC based on over 350 interviews with victims and witnesses, the United Nations Joint Human Rights Office (UNJHRO) indicates that it documented forced labour and forced recruitment and use of children by both sides of the conflict in Goma and Sake [North Kivu] and Minova [South Kivu] between 15 November and 22 November 2012 (*ibid.*). AI's report on the events of 2012 states that children recruited by the FARDC and other armed groups were subjected to "sexual violence and cruel and inhuman treatment while being used as fighters, carriers, cooks, guides, spies and messengers" (2013).

In its *2013 Trafficking in Persons Report*, the US Department of State indicates that the FARDC "routinely used threats and coercion to force men and children to mine for minerals, turn over their mineral production, pay illegal 'taxes,' or carry looted goods from mining villages" (US 19 June 2013). Citing information from MONUSCO, the report indicates that men, women, and children, including internally displaced persons and prisoners, were pressed into "forced labor to carry ammunition, supplies, and looted goods, fetch water and firewood, serve as guides and domestic laborers, mine for minerals, or construct military facilities and temporary huts" (*ibid.*). MONUSCO reportedly recorded 21 children who were recruited and recovered from the FARDC in 2012 (*ibid.*). The US Department of State's *Country Reports on Human Rights Practices for 2012* also indicates that members of the FARDC, particularly the "poorly integrated elements," recruited and used children in the provinces of North and South Kivu and Orientale (*ibid.* 19 Apr. 2013, 12, 13). *Country Reports 2012* also states that forcibly recruited civilians were used as "sex slaves" by the FARDC (*ibid.*, 37).

The US Department of State reports that the Congolese government trained 700 police and FARDC officers in 2012 on civilian-military relations, including the prevention of child soldiering; however, it notes that the FARDC high command "lacked sufficient command and control to compel some FARDC commanders to comply with standing orders to release their child soldiers or to prevent ground troops from recruiting additional children or subjecting local populations to forced labor" (*ibid.* 19 June 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In July 2012, a Ugandan news site, *Chimpreports.com*, reported having seen a copy of a letter written by M23 president Bertrand Bisiimwa to UN secretary-general Ban Ki-Moon that condemned crimes reportedly committed by the FARDC, including "use of human shields within ostensible war zones where no civilian should be allowed to stay and forced conscription of unemployed, desperate and drug addicts plus children" (22 July 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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