



POLE INSTITUTE

Institut Interculturel dans la Région des Grands Lacs

GUERILLAS IN THE MIST

**The Congolese experience of the FDLR war in Eastern
Congo and the role of the international community**

Translated in English

by

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PREFACE

Pole Institute, Goma, February 2010

Good governance and security are closely connected: the first is a prerequisite for the second, and deteriorating security generally results in a deterioration of governance. Both issues pose severe problems for our country, the Democratic Republic of Congo, and are at the centre of the political work of Pole Institute. The presence of the Democratic Forces for the Liberation of Rwanda (FDLR) on Congo's territory and in the East of the country in particular, in North and South Kivu, is an important focus of our research, information and lobbying work as it has disastrous consequences for the lives of the Congolese. In certain parts of the country, the Congolese population lives in de facto slavery at the hands of these foreign rebels.

In June 2008, six months after the signing of the Goma peace accord between the Congolese government and Congo's armed groups, we published our first major report on the FDLR: "The Goma Conference und the problem of the FDLR in North and South Kivu: an appraisal". At the time, the final Goma peace agreement gave no clear indication as to how the complicated question of the FDLR would be addressed in the future, despite the fact that the various ethnic communities of both Kivu provinces had already denounced the major role of the Rwandan rebels in the deterioration of the general security situation. The concluding section of the agreement merely stated that the government of the DR Congo would make efforts "to refrain from providing any military or logistical support to national or foreign armed groups and to refrain from accepting any assistance from them to the regular army."

In our opinion, the Goma peace accord was merely a signpost roughly pointing out the direction to be taken and distance to be covered. Everything else depended on the travellers' choices and willingness to implement their agreement.

The accord has since been ignored by its signatories, and in 2008 the war started again in North Kivu, reaching its peak in late October when Goma, North Kivu's provincial capital, was within firing distance of the rebels of Laurent Nkunda's National Congress for the Defense of the People (CNDP), while the Congolese national army (FARDC) was retreating following a series of defeats.

Only a miracle could save the town under the volcano from being captured by the rebels of the CNDP. This feat happened in January 2009, in the form of a spectacular reconfiguration of alliances, the reverberations of which continue to be felt today. From one day to the other, Rwanda's government dropped its support of the CNDP and arrested its charismatic leader Laurent Nkunda. The Congolese government accelerated the integration of former CNDP rebels into the national army and even invited the Rwandan army to undertake joint military operations against the FDLR!

The subsequent joint military operation "Umoja Wetu" in North Kivu lasted until February 2009. Thereafter the drive against the FDLR continued with operation

“Kimia II” in North and South Kivu, conducted by FARDC with support from the ‘blue helmets’ of the UN Mission in the DR Congo (MONUC).

What was the impact of the two military operations against the FDLR on the security of the population? How much progress has been made in terms of the integration of the various former armed groups into the national army (FARDC)?

To answer these questions, we have carried out yet another investigation. The results of both the former and the new one were presented in Goma at an “open day” to which we invited domestic and foreign researchers, journalists, members of the security services, national and leading local politicians, representatives of youth and women and other interested parties to exchange findings and experiences, articulate and discuss hopes and anxieties.

At the end of their deliberations, all the participants were united around one question - more than a question, it was an appeal: “What can be done so that peace does not always remain in the distant future? Which alliances are necessary to keep the hopes alive which were born with the miracle of January/February 2009?”

We must all be creative so that our beautiful country and mountain provinces can finally break the cycle of broken promises of peace with the resulting escalation of blood and thunder, and pave the way for a positive dynamic ushering in a period of peaceful development.

The first part of this publication summarizes the results of all these investigations and discussions, from the first report of 2008 to the most recent in late 2009. The second part reviews the experiences of the local population of North and South Kivu under the presence of the FDLR, with the different perspectives of the affected actors. These accounts shed light on the ways in which the Congolese themselves experience and analyse the problem of the FDLR.

Finally, this publication considers the international and specifically German dimensions of the problem. A feature written for Pole Institute by journalist Andrea Böhm (Die ZEIT) describes the current situation in the FDLR affected areas after the various military and legal developments in 2009. In the last part of the publication, German journalist Simone Schlindwein (die tageszeitung, among others) explains in an analysis written for Pole Institute the background and complexity of the legal proceedings now being pursued in Germany against FDLR leaders living there. This is particularly relevant given the fact that Germany is the first country outside the conflict region to bring criminal charges against FDLR officials for the organisation’s actions in eastern DR Congo. Pole Institute welcomes this step and hopes that this, as well as a better comprehension of the Congolese perspective on the FDLR problem, will result in a new dynamic that can contribute to the restoration of security and good governance in the eastern part of the DR Congo. Finally, Dominic Johnson (die tageszeitung, Pole Institute) considers the importance of an effective strategy to deal with the question of the FDLR for the entire Great Lakes region and its close connection with international politics in the region since the Rwandan genocide.

Our aim through this combination of historical understanding, original research and analysis at local, regional and international levels is to offer a deeper understanding of a complex situation, and thereby contribute to setting in march long awaited and much needed positive developments for the region and its neighbours.

**POLE INSTITUTE,
GOMA, FEBRUARY 2010**

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INTRODUCTION

“Were It Not For The War...”

Andrea Böhm, Bukavu, December 2009

From Kinshasa to Bukavu: a journey of less than half a day from the capital to the eastern part of the DR Congo -- yet it could be a different country. Back in Kinshasa, the latest manoeuvres of the World Bank and other creditors of highly indebted Congo make headlines. In South Kivu there are problems of a very different nature: the Rwandan rebels of the FDLR, the Congolese army and the low intensity war both are waging. Sometimes against each other, but mostly against the population.

Not that the conflict is visible everywhere. In Bukavu these days you do not so much fear the FDLR as the the landslides of the rainy season and the trucks on slippery mud tracks. But here, in the capital of South Kivu, the news from the hinterland comes together. Almost 12 months have passed since the Congolese army officially declared war on the FDLR. Nearly four weeks have passed since the federal prosecutor in Karlsruhe ordered the arrest of the Germany-based exiled FDLR leaders Ignace Murwanashyaka and Straton Musoni. A severe blow for the group, United Nations experts hope. But what is the situation on the ground? We begin with a visit to an old acquaintance.

“Bad,” is the sober judgement of Jean-Paul Ngongo, lawyer and head of the human rights group *Vovolib* (Voix des sans voix ni liberté). Not as spectacularly bad as during the summer, when tens of thousands in South Kivu fled the fighting. But, says Ngongo, not a day passes without civilians being killed. Radio Okapi reports FDLR attacks on villages in the territory of Uvira, and new refugees in Shabunda. On Ngongo’s desk is a page torn from a notebook. “Territory of Kalehe, District of Bunyakiri, Municipality of Karale, 16 November, 2 pm” is written on it in precise handwriting. November 16 was the day before the arrest of Murwanashyaka and Musoni in Germany. On that day FDLR rebels allegedly executed ten people and raped several village women. The provincial government later reported two deaths and nine rapes.

Undisputed, however, are the next day's events. Several hundred angry women carried the body of a mutilated woman several kilometres to the next UN base, literally dumping the body at the door of the ‘Blue Helmets’ from Pakistan, shouting “Stop the rapes”, calling the UN troops cowards and furtive accomplices of the FDLR. “Which is nonsense, obviously,” says Ngongo, who was there, “but people are simply demoralized and desperate.” Because the local police wanted to break up the demonstration, warning shots were fired – apparently not only in the air. Two more people were killed.

A similar incident occurred a few weeks earlier, not far from Kamituga, about 170 kilometers to the south of Bukavu. Two men working in their fields were assaulted and beheaded by FDLR soldiers. The subsequent demonstration by the population ended when the police fired warning shots – this time only in the air. That was confirmed not only by the provincial government, but was also reported by

Dieudonné Wasolu. He heads the local office of *Vovolib* in Kamituga, although in this case it is not really an office, rather a wooden hut on Avenue Transco, Kamituga's main muddy road.

In fact, the town is clearly better off than a year ago. There is electricity now, the hospital is functioning, Kamituga itself is deemed to be secure, as is the gravel road leading to Bukavu. Goods have become cheaper, as they can now be trucked rather than flown in. All signs of progress pointing towards reconstruction and radiating out to the surrounding area. Were it not for the war, says Wasolu, the hinterland would be spared attacks, acts of revenge, displacement.

Six people work at Avenue Transco, their office equipment a handful of mobile phones, paper and ballpoint pens. "Barefoot lawyers" one might call them, although most are no lawyers. The *Vovolib* members ask for information from the police on arrests, interview witnesses in villages in the wake of FDLR attacks, visit the *maisons d'écoutes* to get statements from rape victims. That is what they call their counselling stations for women, which are often little more than wooden shacks. The number of rapes, says Wasolu, has increased significantly. Most perpetrators are FDLR rebels and army soldiers. But the latest tactics of the rebels "are abductions. They attack a village, kidnap a dozen people and demand a ransom of one hundred dollars per person."

This most recent approach to making money is apparently a result of the military weakening of the FDLR. Although their assessments usually diverge, spokespersons for MONUC and the local NGOs agree on this point: FDLR units in South Kivu have been broken up into smaller groups. Having lost control of some resource-rich areas, they have now gone into the kidnapping business.

This is of little comfort for the local population. Some of the splinter groups look for ways to desert their ranks; many others are unpredictable and have become more brutal than ever.

Making this even more difficult is the fact that the 14th Brigade of the Congolese army (FARDC) is now stationed in Kamituga. Another human rights activist calls it a "dirty mob", famous for pillaging and lack of discipline. Moreover, the 14th Brigade is under suspicion of doing business with the FDLR troops. But not all units of the Congolese army have a similarly bad reputation. There are definitely FARDC brigades, say local NGOs, that are well-trained and disciplined.

Back in Bukavu, Jean-Paul Ngongo is compiling this year's legal balance sheet. Outside, army SUVs drive down the main road again and again. "*Kimia II* - South Kivu" is written on their doors. Civilians ignore the vehicles. But everyone in Bukavu knows that the high command of *Kimia II* includes many officers from the ranks of Laurent Nkunda's rebel army. For years Nkunda was the leader of the "National Congress for the Defence of the People" (CNDP), which claimed to defend the members of the Congolese Tutsi community against attacks and pogroms by their compatriots and the Rwandan Hutu rebels. Backed by Rwanda, Nkunda's troops

could do as they pleased for years, while Congo's ramshackle army repeatedly suffered humiliating defeats. In 2004, Nkunda's troops embarked on a punitive expedition, invading Bukavu and carrying out numerous executions, raping and pillaging.

Nkunda was arrested by the Rwandan authorities in January 2009 - as part of an astonishing deal between Congo and Rwanda. Kigali would neutralize the rebel leader, while Kinshasa was to integrate the CNDP fighters into the national army and start a military offensive against the FDLR. This is how the foes of 2004 find themselves once again in Bukavu, as allies. Asked what he thinks when he sees the former occupying forces on the streets of Bukavu, Jean-Paul Ngongo prefers not to say. Indeed, sometimes it is difficult to make sense of the ever-shifting devil's bargains in eastern Congo.

In 2009 *Vovolib* provided legal counsel to 18 women who pressed charges against the men who raped them. In 16 cases, the judges handed down prison sentences of between two and ten years. Six of those convicted actually ended up in prison. Congolese justice.

And the others?

"The usual," says Ngongo. "A few banknotes for the guards - and they were off."

Still, the lawyer has another surprising statistic at hand. Ten verdicts were delivered by the military tribunal, in one case even by a colonel. Ten sentences against soldiers and officers accused of rape? If the good man Ngongo didn't count wrong, that represents astounding progress.

How did it happen?

"International pressure. The UN was much more active, Hillary Clinton's visit to eastern Congo had an impact too," says Ngongo. "Local information campaigns were also stepped up. And more brave women are taking legal action."

This was in late 2009. Shortly thereafter, MONUC and the government in Kinshasa announced the end of operation *Kimia II*. Both international and Congolese human rights groups stepped up their protest against the high number of victims among the civilian population - and against the military support that MONUC gave to an army that repeatedly commits crimes against its own population.

In early January 2010 operation *Amani Leo* began in North Kivu - in English: "Peace now". MONUC has promised a change of strategy. From now on, the mission claims, its first priorities are the protection of civilians and the securing of territory from which the FDLR has been driven out. A new UN Security Council resolution from December 2009 decided that the Blue Helmets will have to secure the protection of civilians - no matter who is attacking them. "By all means necessary."

Part I : ANALYSIS

The FDLR in North and South Kivu: A State within a State

Onesphore Sematumba, Goma, June 2008 / November 2009

1. Who are the FDLR? (June 2008)

A shapeless entity, a “state within a state,” a phenomenon – there are a lot of descriptions in the Congo for the “Democratic Forces for the Liberation of Rwanda” (FDLR). At the core of the FDLR is the former Rwandan army (ex-Forces armées rwandaises = ex-FAR), defeated in 1994 along with the Interahamwe militia, the ‘vanguard’ of the genocide in Rwanda that year. Since 1996 they have been joined by young recruits from the Rwandan refugee camps in the Democratic Republic of Congo (DRC), who after 1997 withdrew to the forests and mountains of eastern Congo. The main goal of the FDLR is a return to power in Rwanda, and their entire political and military structure is oriented towards this. Two divisions are stationed in the east of the Congo, in areas bordering Rwanda, and up to 2001 the regime in Kigali had to deal with a lot of infiltration. Politically, the FDLR has given itself a ‘blameless’ leadership, with the economist Ignace Murwanashyaka at the head. He was not present in Rwanda during the genocide of 1994. This representation for the purpose of international diplomacy is based in western countries and carries out important lobbying. However, everyday command and control of the fighters and their civilian supporters lies with the military commanders. At their head stands General Mudacumura, who with his general staff is in Kalonge, in Masisi district.

The FDLR are thus well organised in South and North Kivu and have a broad network in Africa, Europe and North America. They secure their survival mainly at the cost of the people in the Congo, who must pay them taxes, give over part of their harvests and are exposed to all kinds of arbitrary violence. This doesn’t bother either the authorities in the rest of the Congo, who either look away helpless or are accomplices, nor the international community, which prefers an international solution to the problem.

The helplessness of the Congolese authorities becomes ever clearer when Congo’s army, the FARDC, takes military action against the FDLR in South or North Kivu, often with the support of the MONUC (UN Mission in the Congo). Each time, the attacks have only resulted in spreading the FDLR further into the bush, thus giving them more protected territory to operate from.

Whether from lack of will or exhaustion, the FARDC took an approach of ‘friendly cohabitation’ with the troops of the FDLR, up to the point that some statements by the international community reveal both ignorance about the local power relations and inability to find reasonable solutions. The decisive language of the UN Security Council’s Resolution 1804 dated 13 March 2008, which called on “all members of the FDLR, Ex-FAR/Interahamwe and other armed Rwandan groups operating in the east of the Democratic Republic of Congo” to “immediately lay down their weapons and make themselves available without delay

and unconditionally to the Congolese authorities and the MONUC for their disarmament, demobilisation, repatriation and reintegration,” corresponds well to this combination of ignorance and superficiality.

Let us close this synthesis with Sébastien Matenda, who tries to get a hearing for the voices from South Kivu:

“In these forests, the refuge of the FDLR, who calmly set the rules, the people have no possibility to defend themselves against their guests: They are resigned, and arrange themselves with them, despite the stigma of occupation. As nothing is heard from either the political administration or the military, local people keep asking themselves if the national and international community really knows what is going on and if the violence against them will ever end. They are the victims in these wars and don’t know anymore who they can turn to, to finally find peace and freedom. Sometimes they consider arming themselves, taking the fight for their security into their own hands, as the state is incapable of doing so.”

2. The Congolese population in the FDLR areas: the hard realities of occupation in North and South Kivu (June 2008)

The FDLR rebels are a real danger to the Congolese population living under foreign occupation. The occupiers profit from the weaknesses of Congolese institutions and rule over a conquered land in important border regions of the national territory. Their units are everywhere in the east of the DRC. In Bwisha in Rutshuru territory „the rebels are represented in all groups and have a number of sub-groupings,” according to Mwami Paul Ndeze, the traditional king. They have occupied several zones in South Lubero, and investigations should expand to cover the northern part of the province of North Kivu, adds Reverend Mauka from the Protestant church CBK. Patrick Nyamatoma, independent researcher in South Kivu, counts the regions under the control of the FDLR as one would beads on a rosary: Burhinyi, Lwindi, Basile, Wamuzimu, Itombwe, Lulenge, etc.

Submission or flight

When talking about the forced cohabitation of the Congolese with the FDLR, one should not use the term “integration.” For “integration” is a noble term. One should rather speak of a “dictatorship”, a term used in connection with “violence, contempt, sabotage”, as one respected resident from Walikale put it.

Congolese living in the FDLR zones are *de facto* subjected to the rebels’ dictates. They must accept the laws of the strongest and all kinds of harassment, and often they must also pay the price for some pursuit of their “guests” by the FARDC or a similar initiative. Over and over again they are caught between the frontlines and accused of collaboration with the enemy as soon as they move from their ghetto to other areas, which may be just a stone’s throw away!

The FDLR carry out official duties in the localities they control. According to Léon Bariyanga, president of the provincial parliament of North Kivu: "In Rutshuru, members of the FDLR look after security (Katwiguru, Buramba, ...). They distribute land to the population. They exploit charcoal. They even demand that the roadblock from Kibati that is supposed to prevent exploitation of charcoal in the national park of Virunga be lifted, and threaten to take revenge on the population if their access to this important resource continues to be refused!"

In Walikale, as in other parts of the country, all those resisting the FDLR's laws are abused and must flee from their villages. Armed Congolese groups can control some localities in this district if they are ready to work with the FDLR. Not even the police and the FARDC can move on roads controlled by the FDLR without their permission.

In South Kivu the FDLR have created military and civilian authorities as well as new administrative units, named after Rwandan cities.

The Lifeline of War

To secure their survival and logistics, the FDLR exploit diverse natural and human resources in the areas they occupy. These include: exploitation of gold mines in South Kivu; of tin ore (cassiterite) in Walikale in North Kivu and trade with these minerals; transport of people and goods; slaughter and sale of animals stolen in Masisi in markets in Walikale and elsewhere; trade with finished products - especially beer - and transportation of these between Hombo and Walikale. "You have to ask yourself if their profits from these economic activities in Congo haven't overshadowed their military and political struggle," says Pole Institute manager Aloys Tegera.

Since 2004 every Congolese over 17 years of age in the district of Mwenga must pay a tax of \$10., a so-called "fee for the liberation of Rwanda". In addition, the FDLR controls local markets, sometimes together with the FARDC and the Congolese police. "Instead of cutting funds for the FDLR, the state even pays them taxes, as it gives them 35% of the market income!" a parliamentarian says indignantly.

The FDLR works closely together with the 85th brigade of the Congolese Colonel Samy in the mining and sale of cassiterite. For whoever controls the cassiterite has the heart of the economy of the southern part of North Kivu in their hands.

3. The FDLR, a Rwandan or a Congolese problem? (June 2008)

The FDLR justify their armed presence in the two Kivu provinces as a stage on the way towards returning to power in Rwanda, by force of arms, if the administration of Paul Kagame does not enter into a political dialogue with them.

Their main demand, which is a condition for any peaceful return to Rwanda, can be summarized in the demand for an inter-Rwandan dialogue, similar to the one which led to a division of power during the peace process in the Democratic Republic of

Congo. And they call for a true democracy in Rwanda. But what is such a demand worth, coming as it does from outside?

Given the intransigence of Rwanda, which demands that the FDLR surrender unconditionally, we appear rather to be witnessing a dialogue of the deaf, says Aloys Tegera.

At the same time, according to a MONUC expert, the very use of the term "Inter-Rwandan Dialogue" is designed to win the sympathy of Congolese. For that is what happened in the Congo. There, after five years of a war that involved the armies of various central African states as well as the FDLR, and whose outcome was unclear, the international community initiated an Inter-Congolese Dialogue in South Africa. Its main result in the year 2002 was the division of power among the warring parties.

Some people from the Congo and the FDLR think that the same thing should happen with Rwanda, to give the FDLR a share in power. But this support from the Congolese for an inter-Rwandan dialogue is counterproductive and unrealistic. For it would hand the FDLR new reasons to remain on Congolese soil, and the suffering of the captive people of the Congo will increase.

For Dominique Ekofo, district administrator from Rutshuru, "the problem of the FDLR is a Congolese problem only. The victims (women, youth and children) aren't Belgian, French or German - they are Congolese. Thus the solution must also be Congolese."

The Congolese dimension of the FDLR problem is often neglected at the diplomatic level: the only questions considered concern bordercrossings and the relations between the states. The Congolese rulers themselves, often victims of a loss of control of large areas to the Rwandan fighters from the FDLR, do not seem to stress the negative consequences of the FDLR in their region and on the Congolese people. Finally, it is only the NGOs and defenders of human rights who condemn the martyrdom of the Congolese people under the FDLR, perpetrators and cause of many crimes, including rape and other acts of violence against women.

The problem of the FDLR is a Congolese one because of their many local alliances. It is hard to follow trading and other economic activities of this group and make them visible. The discernible part of their business is carried out by their Congolese allies: they are the ones who escort their ore to the point of sale in the city, or who run the taxis in Rutshuru! And let us also remember the alliance between the FDLR and high political leaders in the Congo during the war. As long as these alliances continue, as long as the Congolese dimension of the problem is played down or ignored, there can be no satisfactory solution.

We have already talked about the FDLR strategy to win Congolese sympathy by calling for an inter-Rwandan dialogue. Beyond this sympathy, Congolese, including some of their parliamentary representatives in North and South Kivu, support this strategy and this demand, also in the national assembly, in the press and in other

fora. During the Kivu peace conference in Goma in January 2008, Senator Mulaila Thenga, who had led a mission of the Upper House in eastern Congo, called on the international community to apply “diplomatic pressure in (sic!) Rwanda, so that it opens itself to democracy and offers Hutu and Tutsi refugees space to live and freedom in their region; that a Rwandan dialogue be organized to solve the burning and hate-filled problems between ethnic groups and questions about hegemony”.¹

The question here is which capability and legitimacy the Congolese have to demand such a dialogue. Our parliamentarians must use all their energy and powers of persuasion to move the FDLR towards a return to their homeland, so that they can spell out their demands there.

Pact with the devil?

Since the international community recognized that genocide took place in Rwanda in 1994, and since pressure was put on its suspected perpetrators, the FDLR has tried to distance itself from the ideology of genocide in two ways. On the one hand, they claim to condemn the genocide. On the other hand, since 2000 they have had a leadership “beyond reproach,” of men not implicated in the genocide. At their head since the year 2000 stands Ignace Murwanashyaka. While in the mountains of Rwanda indescribable acts took place, this economist was living in Germany, and it is from there that he controls the FDLR. But this ‘clean’ façade can hardly conceal the role that these hardliners play locally, in the Congolese forests.

The influence of the ideology of genocide even causes young soldiers, who were not necessarily involved in the genocide, to think that it is absolutely necessary to kill Tutsis in order to have a good life in Rwanda.² These two faces exist side by side within the FDLR, and all those looking for a solution, including the Congolese government, should be aware of this

Unconfirmed rumours tell of young Hutus from Rutshuru who are rejoining the FDLR as active fighters in this area. What can our representatives at the national and provincial levels do to end this adventure? Our young Congolese men are involved without knowing the consequences that such an alliance can have at the national and sub-regional levels.

4. Sanctions or negotiations? The DRC’s options after the 2008 Goma Peace Conference (June 2008)

“When it comes to the phenomenon of the FDLR, the Democratic Republic of Congo (DRC) has always painted nightmare scenarios,” says Senator Masumbuko Ngwasi. “ In 1996 the AFDL began their war, among other things, to close down the Rwandan refugee camps. Twelve years later, the FDLR has still not disappeared. It was a failure. The RCD war (the east Congolese rebellion against Kabila’s AFDL government 1998-2003) broke out in 1998 – another failure!

¹Message of the Senate delegation to the Conference on Peace, Security and Development in the Provinces of North and South Kivu, page 6.

²„We have to kill Tutsis wherever they are“, The Guardian, 16 May 2008

And the Nairobi Communiqué (the joint declaration of the governments of Congo and Rwanda from November 2007, in which they commit themselves to take joint action against the FDLR), is a double catastrophe. It glorified the use of force and talked about FDLR fighters becoming official Congolese citizens! Are the Congolese really ready for the FDLR to become Congolese? Can't we think clearly anymore? Can we only create more catastrophes?"

The original ultimatum given to the FDLR for a voluntary return from the Congo to Rwanda by 15 March 2008, was extended to 15 June 2008. But that does not mean that the DRC has developed a clear plan for future action in this difficult area. The recent meeting of the Kinshasa government's emissary with the FDLR in Kisangani on 26 May 2008, showed the extent of disagreement on this subject. While the Congolese media congratulated the fact that the meeting was taking place, "the FDLR informed the public, the media and the international community that this meeting in Kisangani was organized by the Congolese government with dissidents who had been expelled for high treason. For this reason the FDLR declared that they would not in any case feel bound to the results of this meeting."

A more sensible way than seeking solutions by military means that lead to a dead end would be to end the isolation of internal markets under the economic control of the FDLR and open them to the general Congolese trade. Stable and solid road connections must be established between Goma and Walikale and between Bukavu and Walikale. The opening of these isolated zones, now the FDLR's refuge, would simultaneously be a step towards their demilitarization. The incentive for trade could perhaps replace dependence on the AK 47. But haven't the governments of the DRC since Mobutu supported the isolation of different parts of the country from each other as a political strategy to prevent real communication between potentially rebellious populations? Here too it is necessary to break down a mental barrier.

The Democratic Republic of Congo has important trump cards at its disposal to bring about a negotiated solution for the FDLR problem. First of all, the current institutions enjoy legitimacy through national and provincial elections. On that basis it should be easier, in the sense of a lasting solution to internal problems, to work boldly on political and diplomatic ways forward instead of staying stuck in a continuing (downward) spiral of periodic war which results only in misery for the civilian population. The people are angry and fed up and start to ask themselves why they even bothered to vote. The FDLR problem has an important sub-regional dimension. The DRC should normalize its relations with its neighbour Rwanda so that a common approach to this question can be found on a reasonable basis, if necessary with support from the international community, which appears to be willing to find a solution.

Also the fatigue of the war-weary Congolese could be an advantage, if the state sees their situation as an urgent call to finally solve the problem. Doing nothing and abandoning people in their misery and anger can easily develop into a political time bomb which can have very bad results in future elections. The final agreement of the

Goma peace conference, calling “to do things differently,” also gives a possibility for the DRC to find a way out of the logic of war.

These strengths should not, however, obscure the real weaknesses of the DRC as far as the FDLR problem is concerned. Some shortcomings lie in institutional areas, for example the weakness of the army and the institutions. Others lie in the complex relationships of the FDLR with the current government and even with the civilian population.

The FDLR are integrated into the army

The integration of the FDLR into the FARDC does not have to be proven any longer, discussion is merely about statistics. There have been symbolic gestures: In 2001, when the international community pressured Joseph Kabila in the framework of the peace negotiations for the Congo to disarm those living in the Congo who were responsible for the genocide in Rwanda, the Congolese president asked the FDLR to send him a brigade that he could disarm and house so he could show the world the only Rwandan soldiers available. Brigade 1780 was chosen, sent to Kabila, and their weapons and munitions were burned publicly before cameras on September 12, 2001. However, the services rendered to Kabila by his Rwandan auxiliaries make it difficult for the government to move against them in any way.

When it comes to the security of territory and the administration of resources, the FARDC continues to „fraternize” with the FDLR. “The first live by all kinds of plundering, accompanied by every possible act of violence and radical destruction of our living space. The others, on the other hand, have chosen the Congo as their second homeland, are involved in positive actions and even intermarry with Congolese. They carry weapons and are the comrades of our soldiers. They support each other in military missions,” says Paul Ndeze.

The FDLR even say that they can compensate for the weaknesses of the FARDC. “It is thanks to us that Laurent Nkunda was not able to push into the area of Walikale,” say Major Karim and Captain Rwaka Vital.

They are already married to our women

Intermarriage between members of the FDLR and Congolese women has made their integration into local society possible. Today they are seen as sons-in-law by the Congolese, if not uncles. Any military attack on them causes concern and fear in the local population. They think about the future widows, nephews and nieces that would have to be supported, while their own situation after 15 years of war is already miserable enough.

No clear plan for dealing with the FDLR problem

The DRC’s diplomacy and policies avoid clarity on the question of the FDLR. The question is only posed at the highest levels, or rather laid aside without actively involving the local authorities. The local parliamentarians, local dignitaries and the population must play a more active role in the search for solutions instead of being powerless spectators to a “transfer of responsibility,” as was the case at the Goma

conference in Goma in January 2008, when it was decided to dispose of the FDLR issue by relegating it to the remit of the Nairobi Communiqué.

No real Congolese army

The DRC does not really have an army capable of defying the FDLR. For the FDLR members have lots of room to move freely in the Congolese forests, and thanks to their well-developed means of self-enrichment they have an impressive military arsenal at their disposal. Meanwhile, the Congolese army is still jumbled together from former warring parties that, because of their differing past have difficulties in forming a homogenous unity. The soldiers lack training and supervision; the pay is minimal and often embezzled by seedy officers. The regular soldier has to fight for his survival and tends to extort from the civilian population and commit other crimes.

The presence of different armed groups in the Congo does not make the challenges for this army under construction any easier, and it is also split between several not clearly defined frontlines.

5. The situation after the military operations „Umoja Wetu“ and „Kimia II“ (November 2009)

After the military operations „Umoja Wetu“ of the Congolese and Rwandan armies in January and February 2009, and „Kimia II“ of the Congolese army FARDC with the support of the UN mission Monuc from May 2009, official sources in the DRC drew numerous positive conclusions. International human rights organizations and the humanitarian community on the other hand point to the large number of civilian victims and the new wave of refugees created by the attacks against the FDLR. In all, from our point of view the following conclusions can be drawn:

Security and insecurity of the population

During or around the time of the military operations against the FDLR, various groups in the civilian population were suspected of collaboration with the respective enemy. They were either mistreated by the FDLR, who assumed they supported the operations „Umoja Wetu“ or „Kimia II“, or by the FARDC which suspected them of being close to their former neighbors from the FDLR. In some cases, members of the FARDC, either pretending to be FDLR or even openly, were involved in acts of violence against the Congolese.

The FDLR is in fact a kind of ‚brand name‘ for all those, including young Congolese, who want to secure their survival with the help of a weapon. They present themselves as FDLR members to conceal their true identity.

FDLR members who want to return to Rwanda, especially the youngest, are held back as hostages by the hardliners, most of them suspected participants in the 1994 Rwandan genocide.

The main result of past and current measures is that the FDLR is moving ever further away from the border of their country, Rwanda, penetrating deeper into Congolese

territory. Insecurity is thus transferred, but the victims remain Congolese. The latter have little understanding for this strategy (“If you find a snake in the living room, do you try to lead it into the bedroom, or outside?”) That means that a global and regional solution must be found in addition to military operations.

The provincial authorities (parliament and government) are not really involved in the current developments. They look on, as all the others, although they are the ones primarily responsible for the population’s security.

The Congolese army FARDC in its current condition does not appear to have the necessary capacity to take effective military action against the FDLR. The latter have the advantage of being able to move with extraordinary dexterity in the Congolese forests, thus controlling them. They profit from reinforcements by local armed groups that have turned against the FARDC in their areas (for example the FPC of Sikuli Lafontaine in Lubero and the APCLS of Janvier in Masisi-Walikale, both defectors from PARECO).

In view of the lack of control and command of the terrain, shouldn’t soldiers be stationed there who come from these areas and know their way around This would at least make the communication between the FARDC and the local residents easier. Another suggestion is that well-known Congolese personalities take up direct negotiations with locally-based FDLR, as the provincial parliament in North Kivu has already done, to work out possibilities for the FDLR’s peaceful return to Rwanda. The FDLR’s political leadership must be neutralized in all parts of Eastern Congo in which they are located. If they want to visit their troops in the DRC, they must be arrested.

Integration and resurgence of Congolese armed groups

The “accelerated process of military integration,” that began in January 2009 to integrate combatants of the former rebel movement CNDP (National Congress for the Defense of the People) under Laurent Nkunda into the Congolese army FARDC, threatens to end in catastrophe, as was already the case in the military integration in 2006, with which this process is often compared.

In discussions and analyses by international NGOs, a Manichean tendency can be observed. On the one hand, the FARDC are presumed innocent even before integration starts. On the other hand, CNDP elements are presumed criminal. This kind of reasoning is superficial given the situation in the army, where soldiers are not regularly paid and supplies as well as discipline are sporadic. It could speed up the collapse of an army that was always affected by the problem of being jumbled together from various rebel groups.

Peace in the East of the Democratic Republic of Congo seems to be ever more remote as the government does not keep to the agreements with the armed groups. The risk that frustration and disappointment on all sides will lead to a convergence in new alliances is real, and this can in the end lead to a return to the starting point, namely to the situation from before January 2009. The diplomatic rapprochement between

Kinshasa and Kigali, and the possibility of a return of Tutsi refugees from the camps in Rwanda and Burundi into the DRC have provoked negative reactions in the local population, especially the revival and activation of the Mai-Mai militia to protect their own regions against eventual occupation by 'strangers.'

This situation is reminiscent of the early 1990s, when control over land was central to the open conflict between ethnic groups in North Kivu. It is urgent that this situation be eased, to prevent the same causes leading once again to similar consequences.

Who are the FDLR? History and current situation

Aloys Tegera, Goma, March 2008

All guilty, all responsible

It all began with the Rwandan genocide in 1994 and the subsequent debate between Rwandans living in Rwanda and those in the diaspora. Today the reality of the genocide has been recognized worldwide. But it is understood differently among the Rwandan Hutu refugees located in South and North Kivu and elsewhere in the world.

Because of the hardly describable nature of the events, the question of responsibility for the genocide and massacres became a subject of debate and this worried certain groups among the Rwandan Hutu refugees in Kivu. Between October 1994 and April 1995 the "Rassemblement pour la Démocratie et le retour des Réfugiés" (RDR) (Rally for the Return of Refugees and Democracy in Rwanda) was created in Bukavu and the camps in Mugunga in North Kivu. Its director was François Nzabahimana, a member of the editorial committee of the magazine „Dialogue“, now located in Brussels.

„The position of this movement, which presents itself as a ‘third way,’ is simple,” writes the historian Jean-Pierre Chrétien. “It is that the genocide was only one aspect of the massacre of the ‘war’; that there were many victims of the Rwandan Patriotic Front (RPF) (which is not completely false), with the dimensions of a further genocide, one kept secret. This ‘double genocide’, the argument goes on, was connected to the centuries-old confrontation between Hutu and Tutsi, and it is even suggested that what happened in 1994 was a ‘media show’, a typical Tutsi trick. As a result, the only solution is mutual forgiveness and negotiations between the Tutsi government in Kigali and the representatives of the Hutu refugees. Otherwise retaliation would be inevitable. ... On this basis attempts were made, especially in Europe, to force Kigali to negotiate with these forces on the basis of a general amnesty and a compromise based on ethnic dualism. This negationist ideology of equal responsibility achieves its goal of laying the blame on both ‘camps’ of Tutsi and Hutu, all the better to be able to call everybody innocent, starting with the initiators of the genocide.”³

These positions of the RDR were officially adopted by the commander-in-chief of the former Rwandan army ex-FAR during a meeting in Bukavu on April 28-29, 1995. At this meeting the higher officials of the army went even further, with the suggestion that the government in exile representing their interests should simply be replaced by the RDR.⁴ The executive secretariat, directed by the former head of the Bank of

³CHRETIEN, J.P., *L’Afrique des Grands Lacs. Deux mille ans d’histoire*, Aubier, Paris, 2000, pp. 296-297.

⁴It was recorded that the following were present at this meeting: Major General Augustin Bizimungu, Brigade General Gratien Kabiligi, Colonels Murasampongo, Aloys Ntiwiragabo, Vénant Musonera, the Lt. Colonels Juvénal Bahufite, Antoine Sebahire, Augustin Rwamanywa, Paul Rwarakabije, Edouard Gasarabwe, Dr. Baransalitse, Major Aloys Ntabakuze, Théophile Gakara and François-Xavier Nzuwonemeye. See: African Rights, “A welcome expression of intent. The Nairobi communique and the ex.FAR/Interahamwe”, December 2007, p. 12.

Rwanda, Denis Ntirugirimbabazi, was located in Nairobi, Kenya. Its military and the political wings functioned fairly well until early 1996, when a conflict about finances alienated President François Nzabahimana from Major General Augustin Bizimungu and Colonel André Bizimana, initiating the beginning of the end for the movement.⁵

The Rwandan Hutu refugees housed in South and North Kivu on the border of Rwanda were supported by a Mobutu regime that was clearly approaching its end. But they were an ecological disaster for the flora and fauna of the Virungu National Park, and a humanitarian crisis for the population of the small city of Goma, flooded by crowds of Rwandans. Its location on the border with Rwanda also made it a base for attacks on surviving eyewitnesses of the genocide.

Out of the Ex-FAR and the Interahamwe militia, a military machine was organized, which acted as the fighting wing of the RDR. Military training and embezzlement of food aid happened under the indulgent eyes of the UN refugee organization UNHCR. The military group's well-aimed attacks on Rwanda between 1995 and mid-1996 on the whole avoided a direct confrontation with the new army of Rwanda, the APR. (This was the armed wing of the Rwandan Patriotic Front, which took power in the country in 1994 following the flight of the perpetrators of the genocide.)

Alliance with Laurent Kabila and creation of the Army for the Liberation of Rwanda (ALIR)

In autumn 1996, the camps of the Rwandan Hutu refugees were smashed by the Rwandan army. The AFDL (Alliance of Democratic Forces for the Liberation of Zaire), supported by the Rwandan army, was the Congolese rebel alliance under Laurent-Désiré Kabila that toppled the Mobutu dictatorship in 1997. AFDL troops drove the refugees apart and massacred many of them. This marked the beginning of the complexities faced today, and the stagnation when it comes to dealing with the problems of Rwandan Hutu refugees in Congo, and especially with their armed elements.

The alliance between Laurent Kabila and his Rwandan godparent did not last long. His attempt to free himself definitively from them triggered a second rebellion in August 1998, that of the Rally for Congolese Democracy (RCD). Given this coalition of rebels, supported from Rwanda, Uganda and Burundi, Kabila could think of nothing better than to ally himself with the Ex-FAR and Rwandan Interahamwe. These had just recently played an important role in Sassou Nguesso's takeover of power in Congo-Brazzaville from its elected president Pascal Lissouba.

According to a report by the International Crisis Group (ICG), a delegation from the Ex-FAR went to Lubumbashi on 10 August 1998, to meet with Laurent Kabila. Following a month of negotiations, a kind of „Gentlemen's Agreement“ was agreed on 10 September 1998. According to this, the Ex-FAR and Interahamwe would support Laurent Kabila in his fight against the aggression in the east of the Democratic Republic of Congo, while he would, in return, offer them the logistics necessary to

⁵ African Rights, *ibenda*, S. 13.

regain power in Rwanda. Those on the Congolese side who supported Kabila in this approach were Victor Mpyo, Didier Kazadi Nyembwe and Mwenze Kongolo. On the side of the Rwandan Hutu refugees, the key people in this alliance were André Bizimana und Dr. Casimir Bizimungu.⁶ Another person was also there, inconspicuous and hardly known, Fabien Singawe, the former Rwandan Ambassador to Switzerland.⁷

In the meantime, three higher officers, Léonard Nkundiye, Paul Rwarakabije and Gaston Lyamuremye, infiltrated themselves into Rwanda to lead an uprising in Ruhengeri and Gisenyi.⁸ Parallel to the organizing and structuring of the activities of these insurgents in northern Rwanda, an armed force formed in Kinshasa calling itself the Army for the Liberation of Rwanda (ALIR). It was made up from Ex-FAR and Interahamwe militias coming from various countries⁹ into which they had been driven from the Congo during the AFDL's takeover. In contrast to the creation of the RDR and their difficulties with their armed wing, the ALIR founded a political wing, called PALIR (People's Army for the Liberation of Rwanda), to mobilize the public.

Initiially ALIR consisted of some 10,000 men,¹⁰ with brigades in Kamina, Lubumbashi (Katanga province) and in Mbuji-Mayi (Eastern Kasai province), while two battalions were located in Mbandaka und Ikela (Equateur province). With the help of Zimbabwean and Angolan airplanes and artillery, the Ex-FAR and Interahamwe were a powerful ally of Laurent Kabila in the western and southern part of the country.

After the collapse of the rebellion in northwestern Rwanda, especially after the death of officers Nkundize and Muhemanyi, the remaining troops under the leadership of Paul Rwarakabije returned to the Congo, to Masisi (North Kivu) in October 1998.¹¹ But it was not until 2001 that the forces of the ALIR were finally unable to do further harm in Rwanda.

The creation of the Coordination Committee for Resistance (CCR)

The defeat of the ALIR in Rwanda coincided with its inclusion in the US list of terrorist organizations. This put the Congolese regime of Laurent Kabila in a quandary, as it was allied with this movement. Thus the ALIR was forced to invent a new identity and turned itself into the "Coordination Committee for Resistance" (CCR) under the leadership of Dr. Casimir Bizimungu, Tharcisse Renzaho (executive secretary and head of the army), Hyacinthe Rafiki (former Minister of Public Works, afterwards assigned to documentation and security), Colonel André Bizimana (responsible for military training), Colonel Aloys Ntiwirigaba (responsible for logistics) and Colonel Jean-Bosco Ruhorahoza (responsible for recruitment and

⁶African Rights, op.cit., p.17

⁷TSHITENGE LUBABU, « Qui sont les FDLR ? », *Jeune Afrique*, 2. Dezember 2007

⁸African Rights, op.cit., p.15

⁹Mainly Congo(Brazzaville) and the Central African Republic

¹⁰Major Mugaragu arrived in Kinshasa from Brazzaville on 5 October 1998 at the head of 2200 men. Evariste Nyampame, who had been in Central African Republic together with Sylvestre Mudacumura, followed Laurent Kabila's call with an estimated 380 men. See: African Rights, op.cit., p.18

¹¹TSHITENGE LUBABU, op.cit.; African Rights, op.cit.

military operations). Internal conflicts led to a split in the CCR and quickly thereafter to the founding of the “Democratic Forces for the Liberation of Rwanda” (FDLR).

The FDLR in Laurent Kabila’s wake

The idea to found this armed movement came from Colonel Aloys Ntiwirigaba and Hyacinthe Rafiki. At the start the movement was only military. Its commander, Colonel Ntiwirigaba, was then stationed in Kinshasa, and his deputy, Colonel Renzaho, in Lubumbashi. They enjoyed the support of other officers like Sylvestre Mudacumura, stationed at the time in Pweto (Katanga), Bernard Uwizezimana and André Bizimana.

Laurent Kabila proved incapable of reconquering the lost territories in eastern Congo. The rebels of the RCD in eastern Congo were on their side held in check by Zimbabwean and Angolese troops, supported by the Ex-FAR and the Rwandan Interahamwe in Kasai, Katai and Equateur. In view of the military stalemate, a political dialogue was initiated. The negotiations between the war parties that led to the Lusaka Accord in July 1999 labelled the FDLR and Laurent Kabila’s other armed auxiliaries as “negative forces.” This isolation compelled Kabila to form a broad coalition between the FDLR and the Mayi-Mayi militias, who fought against the Rwandans in eastern Congo and were also allied to him. This was supposed to, on the one hand, bring the Rwandans in the FDLR closer to the Congolese population, and on the other hand, present the struggle of the Mayi-Mayi as a patriotic effort. This would serve to cover up the Rwandan identity of the FDLR, who were the main fighters of the coalition in both Kivu provinces. This strategy was based on an agreement that was signed in 1999 between the representative of the Mayi-Mayi in South Kivu, General Kalendo Bulenda (alias Padiri) and Paul Rwarakabije from the FDLR.¹²

The military defeat in Pweto – a turning point for the FDLR

The fall of the city of Pweto in Katanga in July 2000, a great defeat for Laurent Kabila, marked a turning point in his relations with the FDLR. The disintegration of his army and the loss of a great deal of weapons destroyed any remaining hopes of regaining the regions in the east of the country and to keep his promise to help the FDLR return to Rwanda by force of arms. In addition, criticism came from foreign troops fighting on his side, especially the Zimbabweans. For them the Congolese armed forces were a band of incompetents, hard to help without taking on enormous losses oneself. In addition there was international pressure on Kabila to disarm the Ex-FAR/Interahamwe responsible for the Rwandan genocide.

Kabila decided to turn the military promise he had made to the FDLR into a political involvement to their benefit.

¹²African Rights, op.cit., p.20

Specifically, the FDLR first of all had to give him a brigade he could disarm, put in barracks and show the world as the only Rwandan soldiers they would see. Secondly, it was proposed that the FDLR look for a leader who had not been in any way involved in the Rwandan genocide..

Brigade 1780, commanded by Colonel Ndagijimana, was selected and brought to Kamina, where their weapons and munition were burned before international cameras. And the economist Ignace Murwanashyaka, living in Germany since 1989, was nominated as the new president of the FDLR. His nomination was confirmed at the FDLR Congress in October 2000.¹³ The first vice president was Jean Marie-Vianney Higiro, second vice president Paul Rwarakabije, and Alexis Nshimiyimana would be the executive secretary.

The murder of Laurent Kabila and the FDLR's new orientation

Laurent Kabila was murdered on 16 January 2001. His son Joseph Kabila took over as president and was open for a political dialogue with his war opponents. These changes caused agitation inside the FDLR. They were compelled to learn to integrate a political dimension into their fight. Their anxieties were reinforced by the decision of the USA in July 2002 to offer rewards of up to several million US dollars for the capture of people responsible for the Rwandan genocide who had been indicted worldwide and were dispersed. Parallel to this American initiative the Pretoria Peace Agreement between Rwanda and the Democratic Republic of Congo was signed on 31 July 2002. This obligated Rwanda to withdraw its army from the Congo. In return the DRC had to forbid the political activities of the FDLR on their territory and expel their leadership within 72 hours.

And in fact, on 2 August 2002 Major General Augustin Bizimungu was arrested in Angola.,Tharcisse Renzaho was captured in the DRC on 29 September 2002, and finally ten FDLR leaders stationed in Kamina were transferred to Rwanda. These arrests and expulsions of high-ranking people from the general staff of Ex-FAR/Interahamwe forced the armed branch of the FDLR, located in the western part of the Congo under Kabila's control, to join up with Paul Rwarakabije's forces fighting within the RCD rebel area in the east of the country. On 15 February 2003, troops led by Sylvestre Mudacumura reached Kilembwe in South Kivu.

But this unification of troops from the west, ALIR 2, with those in the east, FDLR-FOCA - (Forces Combattantes Abacunguzi), did not last long, because on 15 November 2003, Brigadier General Paul Rwarakabije, commander of the armed FDLR wing FDLR-FOCA, decided to return to Rwanda, accompanied by 160 men, among them four high officers and three junior officers.¹⁴ The remaining forces were reorganized under the leadership of Major General Mudacumura.

¹³African Rights, eop.cit., p.21

¹⁴SEZIBERA R, « Development Partner s Meeting », Kigali, December 1-2, 2005

The burden of genocide and the appetite for money

In view of the new political orientation of Joseph Kabila to end the war in Congo by encouraging dialogue, the FDLR saw their strategic importance decline. In addition, there was discord inside the movement, for two main reasons.

The first reason had to do with the level of responsibility of the higher officers for the genocide. They were above the officers who were recruited in exile and who had not themselves taken part in the horrible events around the genocide. The election of Ignace Murwanashyaka was, as previously presented, largely an attempt to give the FDLR a cleaner leadership.

As expected, the Rome Communiqué signed by Murwanashyaka on 30 March 2005 at the end of the negotiations organized by the community of Saint Egidio included the following statement: "The FDLR condemns the genocide committed in Rwanda and its perpetrators. It commits itself to fight against all ideologies of hatred and emphasises once again its willingness to cooperate with international justice." This was a further attempt to act in as correct and trustworthy political movement.¹⁵ However the local military leadership in the hands of officers who were involved in the genocide regarded this turnaround simply as a betrayal.

The second reason for the discord inside the movement had to do with money. As much as the ideological positioning concerning the Rwanda genocide, money was a reason for more division and restructuring of the FDLR in the forests of the Congo.

The main wings of the FDLR are:

RUD-URUNANA (Rally for Unity and Democracy-Rassemblement pour l'Unité et la Démocratie). This wing was founded on September 12, 2004, by Jean Marie-Vianney Higiro together with Félicien Kanyamibwa in a split with Ignace Murwanashyaka. Since June 2006, he had enjoyed the military support of the AN-Imboneza following a quarrel about money between Mudacumura and Colonel Jean-Damascène Ndibabaje, alias Musare. His general staff included: Colonel Ndibabaje, alias Musare (chief commander), Lt. Col. Martin Nzitonda (vice commander), Lt. Col. Bernard Hitimana (administration and personnel), Lt. Col. Nteziyaremye (training), Lt. Col. Nzitonda (recruiting and operations), Lt. Samuel Bahembera (logistics), Col. Victor (war name) (political mobilization). Ndibabaje's brigade was further divided into four companies.

CMC-FOCA (Commandement Militaire pour le Changement – Military Command for Change). This wing was founded in June 2005 by Major General Séraphin Bizimungu, alias Amani Mahoro, following a dispute over the Communiqué of Rome between Bizimungu and Major General Mudacumura, commander of the FDLR-FOCA. Bizimungu was supported by Colonel Nsabimana (alias Rubasha), and another officer, Balthazar Ntakamarishavu. When Bizimungu decided in December 2005 to return to Rwanda, he was replaced by Christophe Hakizabera.

¹⁵GESLIN Jean-Dominique, « Démobilisation générale », J.A., 10 April 2005

Rasta: These are more of a combination of various elements than a permanent grouping. They include members of the FDLR, the Mayi-Mayi and the Bashi militia „Mudundu 40“ and are known for their brutality, massacres, thefts, rapes and plundering of the civil population in South Kivu.

The FDLR – a well structured war machine

Despite these divisions, the FDLR is well organized and structured. Their general staff has both military and political wings. The political leadership has its official seat in Mbeshimbeshi in Ufamando 2, Katoyi Masisi territory, North Kivu province. The military leadership is in Kalonge in the same location.

The political leadership is made up of Ignace Murwanashyaka, president, living in Germany; and vice president Straton Musoni, also living in Germany; Brigadier General Gaston Iyamuremye, in Masisi; Callixthe Mbarushimana, executive secretary, living in France; Col. Rungabo, deputy executive secretary, in Masisi; and Jean-Marie Vianney Nyawenda, Murwanashyaka’s chief of cabinet, in Masisi. The executive secretariat is structured like a government cabinet, with heads of various commissions, such as defence, finance, political, social and education, mobilization, gender, foreign relations and human rights.

The military leadership is directed by Major General Sylvestre Mudacumura, seconded by Stanislas Nzeyimana alias Bigaruka, with Brigadier General Léodomir Mugaragu as Chief of Staff. In addition there are officers for administration, investigation, recruiting and operations, logistics and political mobilization. There is one division each in South and North Kivu, each with four battalions, in addition a reserve brigade of three battalions.

In addition the FDLR has an important support network throughout Africa (Tanzania, Sudan, Zambia, Cameroon, Uganda and Mozambique), Europe (Germany, Belgium, France, Norway, Holland, Austria, Switzerland, Sweden, Denmark) and North America (Canada and the United States).

The problem with the FDLR’s demands

The FDLR justifies its armed presence in both Kivu provinces as a step towards regaining their lost power in Rwanda with force of arms should the regime of Paul Kagame not agree to a political dialogue. This demand for a “inter-Rwandan dialogue” is more like a dialogue of the deaf.

On the one side, the Rwandan government finds itself in a position of strength against a rebellion that makes its demands from foreign territory. Rwanda demands the unconditional surrender of the FDLR, as previously with other armed groups and military commandos returning to Rwanda. On the other side, the FDLR demands security guarantees, the integration of part of their combatants in the Rwandan army and the possibility to change into a fully accepted political party, should they return

to Rwandan territory. And they are only willing to talk about the necessary political consensus in the framework of an inter-Rwandan dialogue.

In any case, the presence of the FDLR in both Kivu provinces has become more damaging for the local population than for the Rwandan government which they claim to be fighting. At the Goma Peace Conference in January 2008, the statements of all the ethnic communities of the Kivu provinces clearly demanded the complete withdrawal of these armed groups which have caused them so much suffering. Although some of these statements supported the FDLR demand for an inter-Rwandan dialogue, it is difficult to make that a condition for their return to Rwanda. In any case, it is difficult for a country like the DR Congo to force Rwanda into an internal dialogue.

But then the question remains how to get the FDLR to leave Eastern Congo, as they control and administer whole regions in North and South Kivu. As opposed to the almost non-existent national Congolese army, the FDLR has proven itself in battle. They are very active in a number of trade networks with raw materials under their control (minerals, wood, transport, etc.), and with this they finance their war and also have a source of enrichment.

The final statement of the Goma Peace Conference, signed by the armed groups of Eastern Congo and the government of Joseph Kabila, referred, when it came to the FDLR, to the November 2007 Nairobi Communiqué agreed between the governments of the DR Congo and Rwanda. This said that Rwanda, the DR Congo and the United States would participate in the voluntary repatriation of the FDLR, if necessary also with force. However the FDLR do not feel affected by any agreement resulting from a discussion at which they were not represented. And they promise the people of Kivu to make life hell for them if the FDLR are forced by violence to repatriate.

Why the DR Congo is unable to deal with the FDLR problem

In view of this complex situation, the DR Congo finds itself in difficulty. Statements like that of Defence Minister Diemu Tchikez, that 30 percent of the FDLR are Congolese, or from the parliament's president Vital Kamerhe about the integration of the FDLR in the social and family structures of the country, highlight more than ever the inability of the DRC to find an adequate solution for the presence of the FDLR in the two Kivu provinces.

The first complexity results from the integration of the FDLR into the Congolese national army FARDC. This goes back some years to the time that Laurent Désiré Kabila was fighting the rebellion of the RDC/Goma and the MLC in Eastern Congo. It was estimated that between 1998 and 2001, 6,000 soldiers from the Ex-FAR and Interahamwe were integrated into the Congolese forces of the time.¹⁶ In the same way there are FDLR integrated fighters in today's Congolese army FARDC and

¹⁶« DRC to hand over 6000 militia to Rwanda », *Xinhua, Rwanda News Agency*, 18 September 2001

FDLR forces that operate like autonomous armed bands in both Kivu provinces: In South Kivu, among others, in Walungu, Shabunda, Mwenga, and Bunyakiri, and in North Kivu, among others, in Katoyi, Walikale, Kibua and Bunyatende. They often form occasional alliances with armed Congolese Mayi-Mayi groups. The fighters integrated in the FARDC are specifically not affected by the Nairobi Communiqué and their existence is easy to hide.

The attempt of Diemu Tchikez to pass off 30 percent of the FDLR as Congolese is connected with this effort to have them included in the number of troops of the FARDC, especially in view of the treaties and promises that tie the Congolese government to the FDLR and from which they cannot distance themselves without facing their anger. On the other side the FDLR's services are still necessary for a government that is weakened because of defeats against domestic armed groups and that doesn't have a real army in the normal sense of the term.

The FDLR who operate autonomously in the two Kivu provinces are, however, directly affected by the Nairobi Communiqué. According to our information¹⁷ it is clear to them that since March 15, 2008, a military offensive against them could come at any time, and they are preparing themselves for that in Walikale¹⁸ and around the chain of volcanoes at Virunga.¹⁹ Concerning this, they say to anyone who will listen that the time when they only fought with assault rifles which they took with them during their flight from Rwanda in 1994 is over, and that they now have much more effective armaments.²⁰

The number of FDLR members who are integrated into the FARDC and operate in both Kivu provinces has provoked contradictory debate. It is hard to estimate the exact number of FDLR in the Congo. In 2001, the government of the DRC estimated the number of FDLR elements integrated into the FARDC at 6,000, and in the two Kivu provinces it estimated around 40,000 FDLR forces.²¹ The UN mission MONUC estimated the total number of FDLR in the Congo at 25,000. A report from the International Crisis Group on May 23, 2003, found at the time 8,000 FDLR forces in North Kivu and 14,000 in South Kivu.²² An independent study carried out in 2007 corrected the number of FDLR forces to be found in both Kivu provinces to under

¹⁷Pole Institute research in the Walikale area from 24. Februar to 4. März 2008.

¹⁸In Walikale, the written summary of the tribal chief's eye-witness report confirms intensive FDLR training among the Rwandan Hutu refugees, going as far as the recruitment of 12 year old children and women.

¹⁹According to as yet unconfirmed rumours of an independent survey, FDLR units are gathering at the volcanoes of Nyamulagira, Nyiragongo and Mikeno, reinforced by young Rwandans who sympathize with them and have joined them. Conversation of the author, Goma, 5. March 2008.

²⁰The theory that the FDLR purchase weapons with the profits from their trade in minerals (kasseritit, gold, etc.), ivory, transport networks and other commercial activities has never been fully documented or proved by an in-depth study. However that does not mean that this hypothesis is false. According to our investigations, Das Major Karim (war name) confirmed that cattle and goats stolen in Masisi, the transportation of goods and kasseritit minerals between Hombo and Walikale, the delivery of sand and the repair of the Goma-Walikale road, etc., are invariably financial sources whose profits are paid to the political and military leadership, for, as he says, "the business." In addition, the FDLR emptied the FARDC's weapons depots in Nyanzale and Katale between October und December 2007.

²¹« DRC to hand over 6000 militia to Rwanda », *Xinhua, nach: Rwanda News Agency*, 18 September 2001.

²²ICG "Les rebelles Hutu rwandais au Congo: Pour une nouvelle approche du désarmement et de la réintégration", 23. Mai 2003

7,000.²³ In March 2008, the MONUC talked about 8,000 FDLR soldiers in Kivu, 6,000 of them in North and 2,000 in South Kivu.²⁴ To launch a military offensive against an army without knowing their numbers and means presents a serious problem.

The voluntary repatriation of FDLR fighters and their dependents to Rwanda in the framework of the MONUC's demobilization process DDRRR has certainly brought back a number of Rwandan Hutu refugees from the Congo into their homeland. But here the exact number is also unclear and incoherent. The MONUC estimated the number repatriated between the years 2003 to 2007 to be 2,559 Rwandans on 24 September 2003; 5,058 on 21 January 2004; 7,072 on 1 February 2005 and finally 6,712 in September 2007.

The economic integration of the FDLR in various areas is an accepted fact. They are involved in artisanal goldmining in South Kivu; cassiterite mining in Walikale in North Kivu; in the marketing of these minerals; in transportation of persons and goods; in the slaughtering of animals stolen in Masisi, selling them in different markets in Walikale and elsewhere; and in the sale of consumer goods, especially beer, and their transport between Hombo and Walikale. All of these activities make the FDLR a major economic force in both Kivu provinces. One could ask oneself if the dividend from this trade in the Congo doesn't really overshadow their political and military struggle. For that reason it is important to remove these internal markets from FDLR control, to open them to Congolese citizens as normal trade, especially through a solid and sustainable road infrastructure. Opening up trade in these isolated zones which have become a refuge for the FDLR could mean the beginning of the demilitarization of this region. The incentives that have been achieved through this trade could eventually replace the dependence on the AK-47 for survival. This approach would certainly be more effective than the military solution, which has got stuck.

Marriages between the FDLR and the Congolese population have made their integration into society at the local level possible.²⁵ FDLR dependents are today accepted by the Congolese as sons-in-law and uncles. A military attack on them worries the local population as it considers the future widows, nephews and nieces that must be cared for, while their own situation because of the wars of the last 15 years is already miserable enough.

Political and military solutions that have been badly negotiated, badly conceived and badly prepared have all ended in failure and allowed the FDLR to win back empty areas and territories given up by foreign and national troops. Rwanda's withdrawal from the Congo in October 2002 allowed the FDLR to take over control of parts of South Kivu and the district of Walikale in North Kivu.

²³ROMKEMA, H., ebenda

²⁴MONUC, « Kivus : Disarmament campaign for armed groups launched by DRC gouvernement », <http://www.reliefweb>.

²⁵Cases of rape aside, consensual marriage between Nyanga women and FDLR members in the area of Walikale are nil, without a doubt based on demographic and anthropological grounds that we will not discuss in this paper. In other areas like Rutshuru and Masisi there are indeed marriages between the FDLR and the local population.

The dispatching of troops from the west of the country by Congo's president Joseph Kabila in December 2004, to close the last loophole in North Kivu (a failed offensive against former RCD rebels who did not want to be part of Kabila's army and out of whom the CNDP rebellion later developed) forced the brigade of Commander Wilson, which was not integrated into the army, to retreat from Walikale. This area then came under the control of Col. Sami, former Mayi-Mayi leader from Ntoto, who commanded the 85th army brigade which collaborated with the FDLR. Both these groups completely took over the commercialisation of cassiterite and its transport for sale in Bukavu, Goma and Kisangani, as well as other various economic activities. In February 2008, Congo's Minister of Mines ordered the suspension of mining in Walikale, but this decision had no consequences in the face of commanders in chief who followed neither their military leadership nor an elected government, and instead ruled a small state within a state with an iron fist.

At the beginning of 2007, the process of training a joint army combining Congo's national forces and the CNDP rebels of the Tutsi general Laurent Nkunda was decided upon. It fell apart, a failed attempt, in August 2007. And the fact that the CNDP troops of Nkunda took up position around Runyoni in Rutshuru district made it possible for the FDLR to occupy completely the transport axis Kiwanja-Ishasha (leading from North Kivu to Uganda) and most of Busanza.

Any military initiative against the FDLR must consider these complete failures of the past years. One must avoid acting rashly and without a clear plan and proceed with a clearly defined goal. On the other hand, the government of the DRC finds itself once again confronted with the responsibility of protecting the goods and people of Eastern Congo. Its inability to manage casts doubt on its legitimacy.

Perspectives for peace in Kivu today

Aloys Tegera, Goma, October 2009

1. The Congolese-Rwandan Miracle of January 2009

On October 29, 2008, the Eastern part of the Democratic Republic of Congo almost fell under the control of the rebel movement CNDP (National Congress for the Defence of the People). Congo's national army (FARDC), having just given up the front north of Kibumba, fled from Goma towards Bukavu. Left behind, Goma's residents hid in their houses and waited for Laurent Nkunda's CNDP forces to occupy the city. But as the first of the CNDP troops approached Goma airport they turned back, as if directed by a magician's hand, and gathered at Kibati hill some 12 kilometres outside the city.

What was the decision behind this? And on what level was it taken, preventing the CNDP from taking Goma and putting the DRC in an unprecedented political crisis which would certainly have paralysed the government of Joseph Kabila? Some believe that the CNDP's intelligence services had heard about an FDLR plan for a hidden massacre in Goma, to be blamed on the CNDP. So the CNDP went out of its way to avoid this risk. Others say that the order not to occupy Goma came as a result of US pressure relayed via Kigali.

Regardless of these speculations it is clear that Kabila had failed in his attempts to obtain European or Angolan intervention against the CNDP threat. This put pressure on the Kabila government to take a realistic path: They had to enter into direct negotiations with Kigali in order to ask for Rwanda's support. Between Kigali and Kinshasa a marriage of convenience resulted that was seen by many Congolese as most unnatural.

In January 2009, events accelerated. On 5 January the CNDP chief of staff General Bosco Ntaganda deposed his president, General Laurent Nkunda, because of "bad leadership". On 16 January 2009, the CNDP high command signed a cessation of hostilities and the end of the war against the FARDC. On 22 January 2009, charismatic CNDP President Nkunda was taken prisoner by the Rwandan army and put under house arrest in Gisenyi, the Rwandan city near Goma. Five months later he was transferred to Kigali. An "accelerated symbolic integration" of the first armed forces of the CNDP into the FARDC took place in Rumangabo military base on 29 January 2009. There, some 60 CNDP soldiers were incorporated in great haste into FARDC units, which seemed finally to confirm and seal the control of Joseph Kabila over the entire territory of the Congo.

Such a sudden change, such a closing of ranks between Kinshasa and Kigali, between Congo's government and their armed opponents, was until then unimaginable, following 15 years of merciless confrontations, massacres of thousands of people, the suffering of thousands of displaced people in camps in the country's interior and in neighbouring countries. And one could ask why Kigali and Kinshasa had waited so long to find a solution and avoid more bloodletting? What had happened to make

Joseph Kabila suddenly embrace Rwanda, the country seen as the enemy of the Congolese people and responsible for all its misery? What had happened since Paul Kagame told the newspaper “Le Soir” in September 2008 that he had lost all interest in events in Congo under Joseph Kabila because one could not trust him? What was the basis for the new-found trust between Kigali and Kinshasa? So many questions with so little answers, but on which the future of the Great Lakes region depends.

For a start, the almost non-existent Congolese state was resurrected as an interlocutor with whom Rwanda could negotiate. Then Joseph Kabila also gave up his silence and, with the help of his two confidants, Katumba Mwanke and General John Numbi, negotiated an agreement with Rwanda, while disregarding official decision makers, especially the national assembly and the government. This was an enormous political gamble, allowing no room for failure.

Whether this agreement will be successful or not can only be judged once real and lasting peace has returned to both parts of Kivu. This is also the way to evaluate the joint operations “Umoja Wetu” in North Kivu and Kimia II in South Kivu.

2. Congo reconciled with its neighbours

One of the most important results of the rapprochement between Kigali and Kinshasa for the DRC, and undoubtedly the most spectacular of all, was the orderly dissolution of the military and political structure of the CNDP rebel movement. Since its chief was taken prisoner and its soldiers moved into the national army FARDC, the CNDP, at least for the moment, no longer represents a threat to Kabila’s power.

A second significant result, for the country and the entire region, was the weakening of the FDLR. This Rwandan group had long received important support from the governments of Laurent Kabila and his son Joseph Kabila. For them, closer relations between Kigali and Kinshasa were a hard blow, endangering the balance of terror that they had imposed on the rulers in Kigali from the Kivus. The FDLR had installed itself in resource-rich zones that were hard for the Congolese to reach. The FDLR controlled the resources in these isolated areas, organising the sale of minerals, hemp, wood and charcoal, taxing all access and use of transport – and thus securing the means to fight a long war, while the higher officers shamelessly enriched themselves.

The Congolese-Rwandan joint operation „Umoja Wetu“ successfully disrupted this financing network and the FDLR chain of command, especially the power of high officers over young soldiers who might want to return to Rwanda. Even though the FDLR took up all its old positions on the day after the Rwandan army’s retreat, the resumption of relations between Kigali and Kinshasa had sown real doubt and insecurity about the FDLR's perspectives in the Kivus.

The revival of diplomatic relations between Kigali and Kinshasa and of the Economic Community of the States of the Great Lakes (CEPGL) was the third result of the closer relationship between Kigali and Kinshasa. The two capitals exchanged ambassadors and Kinshasa named its representative at the CEPGL, which had long

been blocked by Joseph Kabila as he had not approved of it. Reviving CEPGL could be an important lever for stabilisation in the east of the DRC. Indeed, the entry of Rwanda and Burundi into the East African Community (EAC) has opened the entire eastern border of the DRC, from Aru in Ituri in the north to the harbour of Mpulungu (Zambia) in the south, to one large market reaching to the Indian Ocean.

Customs and tariff unions as well as the prospect of a common public transport system in the EAC countries will bring new economic dynamism to the border cities in the east of the DRC. The first signs are already visible. The Goma-Gisenyi border has been open until midnight since June 2009²⁶ and should stay open 24 hours a day, according to an agreement between the authorities of the Congo, Rwanda and Burundi in the process of normalisation of relations between CEPGL countries. However the fact that Rwanda and Burundi are members of two customs agreements in the CEPGL and EAC triggers protectionist reflexes against particular agricultural products from the EAC region. This is especially true for maize from the DRC, import duties on which will be raised to 30% when customs barriers between the CEPGL countries fall, so that it will not compete with maize from Kenya.

Of course a lot remains to be done, but the opening of a market from the Atlantic to the Indian Ocean is a huge step forward in the economic relations of the Great Lakes countries. It could bring about a change in mentality in both Kivus, the provinces that span the Congo and Nile basins. With its geographical position in the heart of this huge market, Kivu has a strategic function connecting central and east Africa. For Kivu's people this offers more than just economic possibilities. They can also be a link between the people of Congo and East Africa.

This cultural continuum centred around trading interests of the Great Lakes population is in the short and medium term a significant bulwark against the ideological and political manipulations that have overshadowed the region for so long, and in the long run is an unofficial security guarantee for Central and East Africa. The efforts taken by Presidents Yoweri Museveni and Joseph Kabila towards the consolidation of this new order at their meeting on 4 March 2009, in the neutral zone on the Ugandan-Congolese border between Kasese and Kasindi, as well as the historic meeting of Paul Kagame and Joseph Kabila on 6 August in Goma, represent a positive turn for a region that has been such a trouble spot for the African continent.

Another manifestation of this climate of cooperation between the three presidents was the arrest of several suspected perpetrators of the Rwandan genocide in Congo, especially the Mayor of Kivumu, Grégoire Ndahimana, who was arrested on 11 August 2009 in North Kivu and taken to Arusha in Tanzania on 20 September 2009. Another was the "Butcher of Butare", Colonel Ildephonse Nizeyima, who during the genocide was commander of the school for noncommissioned officers (ESO) of Ngoma in Butare. Nizeyima worked in the office of the second vice-president of the

²⁶The border between Goma and Gisenyi was open until midnight before, during the transitional government from 2003-2006. The opening hours were reduced in February 2007 because of charges of fraud in connection with the transport of Congolese mining products into Rwanda. The new freedom of travel between Goma and Gisenyi until midnight affects only people crossing, and does not apply to heavy vehicle traffic.

FDLR, Brigadier General Gaston Iyamuremye. He was arrested on 5 October 2009, in a hotel in Kampala on his way to Kenya, and taken to Arusha the next day.

The rapprochement between Kigali and Kinshasa has thus brought unexpected advantages. However, its further consolidation depends on the Congo developing a leadership which offers clear perspectives and conveys them to the population. Joseph Kabila must take on this challenge in order to prove that he is equal to his responsibilities.

3. No peace dividend in Eastern Congo

So why is it then, one can ask, that the Congolese who had found a kind of 'modus vivendi' with the FDLR were targeted by them after the operations „Umoja Wetu“ and “Kimia II”? It has to be said, unfortunately, that the declared goal of operation „Umoja Wetu“, namely to drive out the FDLR and render them harmless, was not attained. The FDLR has regained territory in North Kivu, and the local population in both Kivus suffered violent repression from the Rwandan rebels. As a farmer from Kibumba put it: “The united Rwandan-Congolese forces tore open a beehive. The bees are upset and furious and mercilessly attack the helpless local population, who don't know to whom they can turn to save them.”

The cry for help from the people suffering under the violence of the Rwandan rebels stands in sharp contrast to the satisfaction and triumph of the governments in Congo and Rwanda. In his official address during the closing ceremony of “Umoja Wetu” on 25 February 2009 in Goma, General John Numbi pointed out the important losses of the FDLR, with 153 killed, 13 wounded, 37 imprisoned and 103 desertions. He also explained that 1,300 FDLR fighters and their dependents as well as 5,000 civilians were going to return to Rwanda. During the same ceremony, Rwandan foreign minister Rosemary Museminali expressed her satisfaction that the FDLR had been substantially weakened. While the emphasis on this absolutely necessary success of a Rwandan-Congolese operation which was the object of much criticism from Congolese at home and abroad is understandable, the suffering and violence that the people still endure are no grounds for satisfaction.

The military operations “Kimia II” against the FDLR in South Kivu, which were carried out after the end of “Umoja Wetu” by the “integrated FARDC” with logistical support from MONUC, were met with bitter resistance from the FDLR, strengthened by some elements of the Burundian FNL. The list of people killed or wounded, torched houses, local officials held captive and refugee camps grows ever longer. As opposed to the joint Rwandan-Congolese actions in North Kivu, where very few real military confrontations took place, the FDLR in South Kivu fought fierce battles against the FARDC. The balance of power appeared to shift back and forth. Rwanda had declared its readiness to provide help if the government in Kinshasa requested it, but until today, Kinshasa prefers to test its own forces in South Kivu, opposing any military intervention by the Rwandan army in its territory.

Our research in North Kivu in the areas of Lubero, Rutshuru, Nyiragongo, Masisi and Walikale shows that the security situation for the people and their possessions considerably worsened after the end of the joint military operations “Umoja Wetu” from the Rwandan-Congolese forces. In addition to acts of violence and repression of the FDLR against the defenseless population, a recent report of the OCHA put the number of displaced persons at 1,065,791.²⁷ In South Kivu the military actions of “Kimia II” resulted in heavy fighting and waves of displacement in Mwenga and the plain of Ruzizi. Our investigations bring the following facts to light: there were not very many military clashes in North Kivu between the FDLR and the joint forces from Rwanda and the Congo, because planned attack within operation “Umoja Wetu” were regularly announced several days in advance, which allowed the FDLR to retreat to their positions and flee even deeper into the forests.

The FDLR are disappointed by the local Congolese population, because the people greeted the announcement of the military elimination of the FDLR in North Kivu with satisfaction. Current acts of violence against the civilian population can be understood as retribution for this betrayal.

The people most affected by the acts of violence ascribed to the FDLR are those Congolese who had commercial relationships with them and used the joint Rwandan-Congolese military attacks to flee with FDLR money and goods.

Following the retreat of the Rwandan military, the FDLR took up their old positions again. However they now preferred to stay in the hills around the villages in which they had earlier lived. Thus they are now more mobile, compared to their settled life before the joint military operations. The FDLR control the paths through the Congolese forests so well that it is difficult to remove them by military means. The pompous announcement of the Congolese government representative that during the “Umoja Weta” operation 153 FDLR fighters were killed in North Kivu and that during the “Kimia II” operation 1,037 FDLR were killed in South Kivu, are hardly convincing without verification from independent sources.

No regular troops are stationed in Bapere area northwest of Lubero, moreover it was not affected by the military operation „Umoja-Wetu“. Thus it has become a new safe haven for the FDLR. They have fortified their positions well around Mangurijipa, a region known for its wealth in coltan, gold and cassiterite.

The FDLR’s control of information is an important aspect of the war. Most young men recruited from the Rwandan Hutu refugee camps around Goma and Bukavu have as their sole source of information anti-Tutsi lies, propaganda of higher officers who were involved in the Rwandan genocide. Every attempt to spread other information is quickly stopped.

This is why the radio station at Tayna in the area of Lubero was burned to the ground. It provided information about the possibilities of return to Rwanda for the FDLR and carried information from the UN’s Radio Okapi about the united military

²⁷OCHA, «RD Congo/Nord-Kivu: Rapport humanitaire mensuel aout 2009» , 31 August 2009.

operation "Umoja Wetu". Radio "Moto" from Butembo, which denounces the violent actions of the FDLR, could be the next goal.

The importance of FDLR-controlled activities for the economy can be felt in several isolated zones, especially in the centre of Walikale district, where food prices doubled right after "Umoja Wetu". In some villages like Busurungi, where most teachers and students in elementary and high schools were Rwandan Hutu refugees, the directors and prefects of these schools fear that because of the dispersal of the Rwandan refugees and the movements of internally displaced persons, who make up 11 percent of the population, a complete school year will be lost.

In South Kivu the traditional chiefs are divided concerning the legality of the military operation „Kimia II” against the FDLR. Some chiefs are clearly against such military actions if no security measures are taken to protect the local population.

Because of the acts of violence and repression of the FDLR against the local population, the rapprochement between Kigali and Kinshasa is seen by some armed groups as betrayal. These include the Mayi-Mayi under the command of Sikuli Lafontaine in southern Lubero district (North Kivu), and the new „Alliance of Patriots for a Free and Independent Congo” (APCLS), which has its base in Nyabiondo in Masisi and strongly resembles the groups of Hunde and Nyanga under the command of a particular Janvier. These armed Mayi-Mayi bands accuse the government of Joseph Kabila of giving the CNDP preferential treatment, because he integrated their forces into FARDC and above all promised them ministerial offices in a new government.

These Mayi-Mayi bands consider themselves discriminated against by a secret agreement between Kigali and Kinshasa, and might be capable of sabotaging one of the main demands of the CNDP, the return of the Tutsi refugees from the camps in Rwanda and Uganda. In a letter of 26 May 2009, to the governor of North Kivu, traditional chiefs from Walikale area clearly declared that the 53,000 Congolese refugee families living in Rwanda are not welcome in their area, as in their opinion none of their residents ever emigrated and no one who speaks the Rwandan language Kinyarwanda has ever belonged to their territory. The defence of the land of their ancestors against "Rwandan speaking" invaders is the main reason for the existence of the armed bands of the APCLS. These are trying to ally themselves with the Hutu fighters of PARECO (Patriots of the Congolese Resistance) in order to prevent Tutsi refugees living in Rwanda from returning and reclaiming their lands.

Part II : LOCAL VOICES

1. „The true master of the area“: The FDLR in Walikale territory

Primo Pascal Rudahigwa, June 2008

One part of North Kivu where the FDLR presence is clearly visible is Walikale territory. According to the administrative head of this resource-rich area, only 40% of the territory is actually under his control, the rest is administered by the FDLR and its local allies. Given the obvious difficulty in inviting the FDLR to Goma, the journalist Primo Pascal Rudahigwa travelled to their fiefdom. In a general way the statements below reflect the opinions of the FDLR.

In most parts of Walikale, the Rwandan Hutu combatants are labelled „FDLR“, while the civilians are identified as “Rwandan refugees”. However, it is difficult to differentiate the civilians from the soldiers.

According to Major Karim, the local division chief of FOCA, the FDLR is a politico-military movement. Its armed wing is called FOCA: Forces Combattantes Abacunguzi. The military wing is active in the east of the DR Congo, in particular the two Kivu provinces. It is commanded by a colonel based in Lubero district (North Kivu) whose identity was not revealed by our interlocutor.

In turn, the political wing of the movement is directed by civilians living in Germany who maintain regular contact with FOCA.

FOCA is composed of several brigades manned by both older and more recently recruited soldiers. The newly recruited young men and women receive continuous training in the General Staff of the brigades. All refugees learn how to handle weapons to prepare them for an eventual return to their home country by force.

The relationship between the FDLR and the local population is shaped by mutual interests: local residents who refuse to comply with the rules of the FDLR are abused and flee their villages. At present, the chiefs of the four sub-districts (groupement) of Luberike, Ihana, Kisimba and Walowa Yungu have left their administrative entities.

The armed groups that accept cooperation with the FDLR have been able to retain control over certain localities. This is the case for the Mai Mai of Tasibanga in Kisimba and PARECO in the villages of Kichanga, Mera and Kibabi near the Mpofi-Nyabyondo road. The national police and the Congolese army (FARDC) cannot use the roads controlled by the FDLR without their permission. As a result, they are only present in the territory's capital and along the route that is important for mining, which connects Walikale with Mubi, Njingale and Bisie.

Relations between the FDLR on the one hand and the armed groups, the army and the police on the other are characterised by submission – given the fact that the FDLR is the true master of area.

In economic terms, the FDLR is present in many areas of Walikale, pursuing a variety of activities:

- Bakano (since 1999): trade in cattle and goats, local bars and restaurants
- Bakanjo (since 1999): schools, health posts, markets, mining and fish farming
- Bakasu (since 2006): transport (motorbikes and bicycles)
- Ihana (since 1999): artisanal gold mining and petty trade
- Kisimba (since 1999): trade, agriculture and artisanal gold mining
- Luberike (since 1999): woodworking, exploitation of stone quarries, trade in local drinks
- Usula (since 1999): ivory and gold trade
- Utunda (since 2005/06): artisanal gold mining, transport, local snack bars, cattle trade
- Walowa-Loanda (since 1997): car rental, wholesale trade in beer, trade in cattle and goats, fish farming and agriculture
- Walowa-Uroba (since 1997): taxation of local markets
- Walowa-Yungu (since 1997): taxation, artisanal gold mining, trade
- Wassa (since 2006): artisanal mining and transport of cassiterite

At the political level, local sources report that the FDLR played an important role during the 2006 elections. Numerous Rwandan Hutu either registered as voters or presented themselves as candidates in an effort to support the presidential contender Joseph Kabila or candidates of his party (PPRD) for national and provincial assembly seats. Captain Rwaka Vital of the S5 Division of FOCA, who received us in Kibua, denied this. He claimed that the role of the FDLR was limited to providing security for the ballot boxes and for national and provincial deputies during their election campaigns.

In terms of security, some chiefs of the sub-districts concede that a large part of Walikale is under the control of the FDLR. In these places, local residents are forced to share their harvests with the soldiers. Captain Rwaka Vital admits that he organizes the collection of harvests, a practice he considers to be characteristic of "African solidarity".

The FDLR claim that they compensate for the deficiencies of the FARDC. "It is thanks to us that Laurent Nkunda did not succeed in advancing into Walikale", Major Karim and Captain Rwaka Vital assert. Likewise, they claim to have recaptured Katale in Masisi in December 2006 after the FARDC brigade under Colonel Yav had fled. They also provide security for all politico-military, administrative and religious officials as well as all visitors who report to their General Staff with valid travel permits.

On the socio-cultural level, relations with the local population are not very close. Since the arrival of the Rwandan refugees, the chief of a sub-district told us, not a single marriage has been concluded between members of his community and members of the FDLR. He explained this by pointing out that the locals resent their forceful domination. Moreover, the FDLR considers them as "uncivilized" forest dwellers.

Their respective villages are still separated from each other. The Nyanga (or Wanianga) live along the road that crosses the valley while the FDLR members build their houses in the hills. Even so, some of their children attend the same schools and church services as the Nyanga. Priests and pastors from Masisi often visit the area to perform wedding ceremonies among the Rwandan Hutu.

Six FDLR brigades are stationed in Walikale: in Kashunga, Kashebere, Pinga, Usala, Lusamambo and Mangele. The commanders of these brigades are replaced every year. The units of the FDLR are constantly on the move and maintain close contact with their brothers in arms in other parts of North Kivu and South Kivu. Contact with South Kivu is kept via Hombo.

The FDLR in Walikale has three main demands:

- a) The FDLR has lent its support to successive governments of the DR Congo (Mobutu, Laurent-Désiré Kabila and Joseph Kabila). In return, they expect Congo to provide diplomatic backing to the FDLR by putting pressure on the international community in an effort to bring about an Inter-Rwandan dialogue in Rwanda.
- b) The Rwandan government should stop considering the FDLR as genocidal forces to the degree that the Tutsi have also been implicated in massacres of Hutu in Rwanda and the DR Congo. In view of the numbers advanced by international organisations, according to which four million Congolese and 200,000 Hutu refugees have died during the war, the FDLR considers the Tutsi to be even more genocidal than the Hutu. Thus they too should be brought to justice.
- c) Rwanda needs to become a real democracy. Otherwise, power will forever remain in the hands of President Paul Kagame.

Soldiers we met told us that these demands have been repeatedly transmitted to the United Nations Secretary General and the UN High Commissioner for Refugees – without success.

The declarations that we collected suggest that the FDLR is not willing to voluntarily return home. The soldiers believe they are militarily strong and cannot be neutralized because they are well equipped with weaponry. A number of local chiefs have noted that arms deliveries arrive from Kasugho and Futaua in Lubero district.

The FDLR in Walikale control an uncontested territory they can quietly exploit, becoming richer every day. It would be naïve to expect them to spontaneously return to start a new life on Rwandan hills that do not offer the same amenities. As for local residents, they reject a forced disarmament as stipulated in the Nairobi communiqué: they may become victims of the FDLR. Therefore they suggest a negotiated solution to avoid such a worst case outcome. A local chief compared the FDLR in Walikale with “a snake hatching eggs”. If you try to get rid of it by force, all the eggs may be smashed and the reptile could bite you.

On the cultural level, there is the following danger. If relations between the FDLR and local residents intensify, for example through the churches and schools that some FDLR members visit, the local Congolese – now a minority in their own homeland – will be assimilated by the FDLR. Both speak a common language, Kiswahili. Were Walikale to become the exclusive fiefdom of the FDLR, it would possibly be completely cut off from the rest of North Kivu province.

2. „Congo as a second home“: The FDLR in Rutshuru Territory

Mwami Paul Ndeze Mali Ni Kazi, Chief of the Collectivité-Chefferie Bwisha,

Rutshuru, June 2008

It was amidst the masses of Rwandan refugees arriving in our country in 1994 that the FDLR was formed. Its fighters are present in all of our administrative entities. They are organized in several divisions that do not always see eye to eye, but they all insist that an inter-Rwandan dialogue is a necessary prerequisite for their return home. The differences among the FDLR units can be illustrated by their diverse ways of life, in particular their cohabitation with the population of Bwisha, Rutshuru. Some make their living from looting, accompanied by all sorts of violent acts and the wholesale destruction of our environment. Others in turn have adopted Congo as their second homeland. Their behaviour is decent enough and they even marry Congolese women. They carry arms and cooperate with the soldiers of our national army. They are in regular contact with local authorities and even desire to take part in security-related meetings that are organized by local officials.

The population is divided in its opinion about the presence of the FDLR. Due to the mischief of some of them, one part of the population holds the view that the FDLR should return to Rwanda as quickly as possible. A second opinion considers that reintegrating the fighters in Rwanda is difficult and therefore proposes that they should simply disarm and fully integrate into Congolese society.

The FDLR combatants are fully aware that they are a burden on the Congolese. They also know that the solution is their return to Rwanda. But they assert that they will never give in to military pressure. They even promise that all hell will break loose if such a solution were ever planned.

3. „War is a profitable business“: The FDLR in Masisi Territory

Bertin Kirivita and Nkuba Kahombo, provincial deputies from Masisi, June 2008

“North Kivu is losing out”, said our older politicians years ago, at the time of the inter-ethnic wars in 1993. Even today, one cannot but recognize that North Kivu and Masisi in particular are in a downward spiral: multiple conflicts, ever worsening poverty, the spread of HIV/AIDS, the disconcerting plummeting of economic indicators.

The already existing chaos was aggravated by the arrival of massive numbers of Rwandan refugees. Not a single locality was spared. Nowadays they are organized in a politico-military movement, the FDLR.

The FDLR division in Masisi goes by the name of “Zenith” and it is directed by General Mudacumura. Its main area of operations is south-east Masisi. It counts about 2,165 fighters, divided in four brigades:

- 1) Battalion SCUD under Major Safari Martin: 380 fighters
- 2) Battalion PUMA under Lieutenant-Colonel Igor Araphat Franck: ca 470 fighters
- 3) Battalion BICPES under Lieutenant-Colonel Cadence: ca 415 fighters
- 4) Battalion PM under Lieutenant-Colonel Romeli: ca 500 fighters

This Masisi division also has a protection force of some 500 people.

The massive presence of the Rwandan refugees and the FDLR in particular is at the root of worsening poverty among Congo’s population, which has fallen victim to its own hospitality. Frustrations about increased poverty have contributed to social tensions and the destabilisation of local communities, setting the context in which conflicts over citizenship, national identity and nationality have resurfaced.

The conflicts in Kivu are a profitable business for the FDLR, hence its refusal to return to their home country where its members would not enjoy similar economic benefits. Their repatriation needs to be subject to political negotiations in order to avoid massacres of the local population that is already taken hostage. In Masisi, the FDLR is deeply involved in every aspect of political and economic life. Leading an unencumbered life, the group is not prepared to leave this paradise, where they can live without problems.

In view of the insecurity caused by the FDLR in the Great Lakes region, various propositions have been advanced to neutralize them or else to find a solution to the problem. In our opinion there are several ways forward:

- The FDLR claims to fear “victor’s justice” in its own country. Thus, they demand that negotiations must precede their repatriation, although we know well that they are a terrorist group. Therefore we suggest that they negotiate political asylum with their host country. As a prerequisite, however, they

must lay down their weapons. Nowadays the road to power passes by the ballot box.

- We call upon the DR Congo to assume its responsibility for protecting the local population against the FDLR. It must also promise to the national and international community that the FDLR will never again attack Rwanda. Given that the DRC has signed several agreements that do not permit it to tolerate the presence of a politico-military group on its territory that could potentially destabilise neighbouring countries, the Congo must make sure that the FDLR no longer poses a threat.
- Rwanda needs to act responsibly too, by embracing a new policy to facilitate the repatriation of every Rwandan citizen and even more importantly to prevent Rwandan refugee camps abroad. Recent history suggests that these camps always turn out to be a ticking time bomb for the countries in question.
- Considering that the destruction of trust between citizens and political leaders contributes to war, we need to restore a climate of trust between the government and the population to foster peace.

In conclusion, we emphasize that insecurity in North Kivu and South Kivu will remain pervasive and that bilateral relations between Congo and Rwanda will not improve as long as the FDLR remains active in the Congo.

4. „Master and Slaves“: Daily life in the FDLR-controlled areas of Mwenga and neighbouring territories in South Kivu

By Patrick Mihali Nyamatomwa, South Kivu, June 2008

The FDLR has two divisions. The first is stationed in North Kivu, led by General Mudacumura, the longest-serving commander of all officers in North and South Kivu. The second division, in South Kivu, is directed by General Kagoma. Each division consists of brigades, which in turn are divided into battalions. Battalions are composed of companies which are divided into platoons.

In South Kivu, each brigade has at its head a Colonel or Lieutenant-Colonel; companies are led by captains and platoons by lieutenants. The estimated strength of a brigade is 4,000 to 5,000 men.

The FDLR units are highly mobile, both within a province and across the provinces of North and South Kivu. The FDLR effectively controls and exercises power in the areas of Burhinyi, Lwindi, Basile und Wamuzinu in Mwenga territory. This territory is the economic powerhouse of South Kivu province. It has abundant mineral resources; agriculture as well as livestock breeding is widely practised. Five different ethnic communities live there: Shi, Bembe, Nyindu, Lega and pygmies.

In Itombwe, the well-armed fighters of the Bembe community have mounted fierce resistance against the FDLR. In Fizi territory, the FDLR is based in the sector of Lulenge; in Uvira territory they control the middle plateau and the Ruzizi floodplain. Linking the middle plateau with Ruzizi, the Uvira corridor is a strategic location for the FDLR, permitting them to export minerals (coltan, gold, cassiterite, etc.) and other resources (especially hemp) to neighbouring countries such as Burundi where they re-supply themselves with ammunition and other essential goods.

Concerning its political activities, the FDLR organises meetings where political assessments are discussed; declarations are issued verbally and in writing; and political and military alliances are formed with other armed groups in the region. This has been the case in Uvira, for example, with the Burundian Hutu rebel group National Forces for Liberation (FNL); in the high plateaus with the Banyamulenge general Patrick Masunzu, at the time when the latter was in open conflict with the groups of Bisogo and Makanika in Minembwe; in the d Mwenga territory with a number of Maï Maï militias that refused to integrate into the national army. Similar alliances are also in place with Kapopo in Itombwe, with the Yakotumba group in Fizi, with Zabuloni in Uvira, with Kirikicho in Kalehe and so on.

The FDLR also participates in both formal and informal meetings at the international, African, national, provincial and local levels. This was for example the case with the negotiations organised by the community Saint Egidio in Rome, or a conference organised by the Protestant Federation of Churches (ECC) in South Kivu in November 2007.

The rebels have formed a well established administration that includes a number of local Congolese notables and chiefs loyal to them. In some localities, for instance Luhwindja, the chief of the sub-district protects their interests.

The FDLR also has military and civilian courts – although the military ones are more numerous – that can take action against FDLR members as well as the Congolese living under their yoke.

The rebels have established new administrative units named after Rwandan towns, for example: Byumba II, Kigali II, Cyangugu II, Ruhengeri II, Butare II, etc. They appoint and remove political officials. Likewise, they have formed a quasi-governmental structure with ministries for health, education, external relations, defence, justice, trade and local government.

Wherever it is in control, the FDLR organises the illegal exploitation of mines and forests. It trades minerals and other valuables resources, locally and even abroad. This is the case for precious hardwoods that are exported to Burundi. Transport is organised via Fizi, the Ubwari peninsula and Kazimia, where the FDLR uses motor-driven dug out canoes to ship wood, charcoal, hemp and smoked game meat to Rumonge province in Burundi. The nature reserves of Itombwe (in Mwenga) and Namutungulu and Ubwari (in Fizi) are severely affected by exploitation of the forests.

The FDLR also trades in basic necessities like staple foods and alcoholic beverages. And they have a monopoly on cattle trading.

Since 2004, in Mwenga territory they raise a so-called “tax for the liberation of Rwanda”. It amounts to 10\$ and is imposed on every Congolese older than 17 years. Initially, the tax was collected monthly; at present, it is charged every three months. Following a census under FDLR supervision, each chief of a locality has to compile a list of local residents who have reached the required age. Other mandatory duties are imposed on the mines, the most important ones being in Lemura (Uvira), Mississi (Fizi) and Kakanga (Mwenga). The following taxes are collected in the pits:

- Rations chip: 1\$ pro Paket;
- Vignette: 1\$ per week and person
- Deposit: 2\$ per week and person
- Digging permit for the quarry director, called PDG: 35\$ per year and director
- Registration card for miners: 3\$ per year and person
- Customary law: lump sum
- Permission to access a mine: 1.5\$ per person and entry
- Permission to leave a mine: 1.5\$ per person and exit
- Tax for the association of miners: 1\$ per person and 1\$ per bag (by exit)
- Residential tax: 1\$ per person and week
- Cooperation tax for the Director of the mine: 5\$ per week
- Allotment tax: a one-time tax of 10\$ per plot
- The buyers pay 1 kg of coltan or cassiterite for each bag of 10 kg they buy
- The buyers pay 4\$ a week for a security guard (night and day)

Moreover, the FDLR have assumed control over local markets, sometimes in conjunction with Congo's army (FARDC) and police. In some parts of Fizi, an estimated 35% of market revenues accrue to the FDLR. In other areas, for example Mwenga and parts of Shabunda, they pocket all market fees.

The FDLR has autonomous socio-cultural structures in the regions under its control. There are FDLR-run churches, cemeteries, schools for their children, video movie cinemas and football teams. There are also traditional healers and theatrical groups among their numbers. Moreover, wedding ceremonies are organised, although it should be noted that they have the habit of marrying young women they bring over from Rwanda.

The relationship between the FDLR and the local Congolese population is reminiscent of that between master and slaves. The Congolese have little choice but to pay mandatory levies on the agricultural products they produce; they do not move freely for fear of sexual violence and assaults on the road etc. Finally, the Congolese are conscripted to clean the military camps of the FDLR at least once a week.

On the military level, key demands of the FDLR include the return to Rwanda and their integration into the national army, commensurate with their military ranks. Politically speaking, they call for a collective amnesty because, they say, "in Rwanda, everyone has committed killings and everybody has been killed." They also demand an inter-Rwandan dialogue, similar to the one that was held in the DR Congo. Finally, they claim that the Congolese state should compensate them for the crucial support they lent Congo's army during the successive wars under Kabila, father and son.

In view of the numerous criminal acts that have been committed by the FDLR in the regions it has colonised, we suggest the following:

- That the FDLR's sources of financing be cut off. We propose an official ban on exploitation of mineral resources in North and South Kivu and parts of Maniema, to be accompanied by measures to support local miners.
- Putting pressure on the Congolese president to make public and, if possible, respect the agreements signed with the FDLR, which the latter incessantly claim do exist.
- That all minerals from eastern DR Congo be subjected to a temporary embargo in order to prevent the FDLR from procuring weapons and ammunition in neighbouring countries (Rwanda, Burundi, Uganda, Tanzania etc.) after selling their minerals there.
- That the agreements of Nairobi be re-negotiated.
- That the Congolese communities living under the yoke of the FDLR should be associated with the tripartite negotiations that are organised by the governments of the region.
- That the international community accompanies independent researchers and civil society groups in their activities geared towards the FDLR question.
- That the strategy be reinforced to place amidst the FLDR certain persons to permanently sensitize FDLR members about their repatriation and counter

the rumours that their already repatriated brothers have been ill-treated in Rwanda.

- That the international community apply pressure on the FDLR to disarm.

5. „The population is resigned to its fate“: The FDLR in Shabunda territory

Sébastien-Matthias Matenda Kaningini, President of the administrative council of ADIN, Shabunda, June 2008

The first Rwandans to reach Shabunda territory arrived from Walungu after the town of Bukavu and its vicinity had fallen under the control of the Alliance of Democratic Forces for the Liberation of Congo (AFDL) in October 1996. Upon their arrival in the locality of Kigulube, 170 km from Bukavu, the civilians and the military elements parted ways. While the civilians made their way westwards towards Shabunda town and even further west to Kindu, the soldiers set out north in the direction of Nzovu, crossing the Kahuzi National Park to reach Walikale in North Kivu in order to counter the advance of the AFDL. They were crushed by the AFDL forces in Walikale and Tingitingi.

Subsequently many of the survivors were constrained to stay in the Kahuzi-Biega National Park, an area that separates Shabunda in South Kivu from Walikale in North Kivu. Step by step they began to organize their survival in the forest, that is, until the outbreak of the second war in the DR Congo in 1998. They did not join forces with the Mai-Mai militia of General Padiri, which was also present in the area, but both groups coexisted and tolerated each other.

With the formation of the FDLR, the Rwandan Hutu in Kahuzi-Biega Park linked up with their comrades in Mwenga and their mobility and range expanded to both North Katanga and North Kivu, touching the Fizi, Mwenga and Shabunda territories and moving to Kalehe, Walikale or Masisi. It is during this period that the FDLR extended its foothold in the area.

In Shabunda territory the FDLR is directed by the brigade that is stationed in the Ninja chieftaincy (Kabare territory). Its battalion commanders are stationed in Itanga Muliku near Kalonge (Kalehe territory), in Luyuyu (sub-district of South Banugula) and in Makutano (sub-district of North Banugula) inside Kahuzi-Biega National Park. Smaller units are spread across the area, both along the roads and in the forest. They have established road blocks in Nyalubemba, Kimbili, Ngolombe, Isezya, Lutika und Kiluma, where they extort money from thousands of travellers each day. In Wakabongo in the southern part of the territory, towards the border between Shabunda and Fizi, FDLR soldiers virtually ceased operations after their forced disarmament by the Raia-Mutomboki gang in 2005.

Researching the FDLR's political activities is difficult due to the fact that its soldiers build their camps deep inside the forest where they live with their wives and children. The locals never visit these areas.

When they first arrived in the area in 1996, the vast majority of the Rwandan rebels and refugees spoke only Kinyarwanda and they did not eat bush meat either.

Nowadays, they all speak Swahili and eat bush meat. It is well known that they poach heavily in the Kahuzi-Biega National Park.

Their children attend the same schools as the Congolese children. However, they have also built a few schools within their camps where Kinyarwanda is the language of instruction. The situation is similar with their church services.

Marriages between the Congolese and the Rwandan refugees or militaries are very uncommon. The local population resents the presence of the FDLR, feeling dominated and wary.

The FDLR controls the main road that links Bukavu with Shabunda as well as all tracks leading into the interior of the province. Visible and well structured, its combatants are stationed within a radius of 100 km.

Except for those who enrich themselves in illegal ways (pillaging, extortion, even murder), the majority of the FDLR fighters trade minerals, cattle, goats and poultry to make a living. At the same time, they engage in mining. Frequently they carry out their business with the help of Congolese accomplices based in the towns or even in neighbouring countries.

To collect funds for their own needs, the FDLR has established a system of revenue collection:

- Toll collection points and road blocks in Kishatu (Kabare), Lubimbe (Walungu), Nyalulemba, Kirubili, Ngolombe, Isezya, Lutika and Kiluma in Shabunda territory on the road from Bukavu to Kigulube.
- In each mining pit they collect weekly taxes, in the form of minerals (2 g of gold or 2 kg of coltan, cassiterite, tourmaline or amethyst for each gallery).
- They charge a fee of 20\$ per cow and 2\$ per goat, pig or mutton that crosses FDLR-controlled areas.
- They receive daily supplies of food and firewood that the local chief collects from the local community.

The forests in Shabunda provide the FDLR with a safe haven. They exercise authority as a matter of fact and the local community has no means to defend itself against these guests. Despite the heavy burden imposed by this de facto occupation, the community has accepted its fate of forced cohabitation with the FDLR. Given the silence of the Congolese state's political, administrative and military authorities, local residents cannot help but wonder if the national and international community is actually aware of the things that happen in this part of the country and if the extortions and abuses will ever end. Not knowing to whom they should turn for peace and tranquillity, local residents sometimes feel the urge to take up weapons to restore security by themselves, something the state is not capable of doing.

Popular expectations can be summarized as follows:

- Provincial and national state authorities need to make every effort to connect the sanctuaries of the FDLR with the road networks by opening all roads for vehicles.
- The international community must seriously engage in the process of disarmament and repatriation of the FDLR troops and other Rwandan refugees who came to Congo under their wings.

Part III : THE INTERNATIONAL DIMENSION

How FDLR President Ignace Murwanashyaka pulled the strings in the Congo war for years from Germany without problems

Simone Schlindwein, Kampala, January 2010

On the morning of 17 November 2009, officers from the German Federal Bureau of Criminal Investigations in Baden-Württemberg arrested FDLR President Ignace Murwanashyaka and FDLR first vice president Straton Musoni. With this act, Germany set a judicial precedent. It was the first time in the history of the FDLR that someone was held responsible for crimes committed by the Rwandan militia in Congo. Neither the Congolese authorities nor those of other countries have ever made the FDLR accountable.

The chief federal prosecutor said: „The defendants are accused as members of the foreign terrorist organization „Democratic Forces for the Liberation of Rwanda“ of having committed crimes against humanity and war crimes.”²⁸ Ignace Murwanashyaka was additionally accused of being the “ringleader of a terrorist organization”. The FDLR militia in the DR Congo, the statement went on, between January 2008 and July 2009 “killed hundreds of civilians, raped a multitude of women, plundered many villages, setting them on fire, displacing some of the villagers, and forcibly recruiting many children as soldiers. According to current information, the local civilian population living in the area of the Congolese civil war was through the systematic attacks forced to supply the FDLR fighters and protect them from enemy militia. At the same time these acts served as a warning to the civilian population against cooperation with the military opponents of the FDLR”.

The arrest of the presumed war criminal was also a precedent in German criminal law. For the first time suspected war criminals were called to account under the international criminal law (VStGB)²⁹ introduced in Germany in 2002. It aligns German criminal law with the Rome Statute establishing the International Criminal Court, thus allowing prosecution through German criminal justice. As the Statute of Rome noted, under the concept of “the responsibility of superiors”, leaders of an organization are responsible for the crimes of their organization even if they did not commit them personally, but either gave the instructions or simply did not prevent them.³⁰

²⁸This and further quotes: GBA/Justiz/Kriminalität/OTS Nr. 24, URL: <http://www.polizeipresse.de/pm/14981> Karlsruhe, 17.November 2009.

²⁹„Völkerstrafgesetzbuch“ of 26 June 2002 (BGBl. I S. 2254), adopted as Article 1 of law 26.6.2002 I 2254 by the German Bundestag. It came into force on 30 June 2002 according to Article 8 of this law. <http://bundesrecht.juris.de/vstgb/index.html>.

³⁰VStGB, § 4 Responsibility of military commanders and other holders of responsibility: 1) A military commander or civilian holder of responsibility who fails to prevent those under his command from committing acts according to this law is punished like a perpetrator of the act committed. § 13 paragraph 2 of the criminal code is not applicable.

(2) Any person who exerts actual command or leadership and control in a military force is a military commander. Any person who exerts actual leadership and control in a civilian organisation or a company is a

On the day of their arrest the accused were brought before the investigating judge in Germany. He confirmed the urgent suspicion of a criminal act as well as danger of absconding. Since then Murwanashyaka and Musoni remain in custody pending trial. The arrest was welcomed by experts, members of the UN mission in the DRC (MONUC), and investigators from the UN Group of Experts monitoring sanctions concerning the DR Congo. For years the members of the disarmament, demobilization and reintegration program (DDRRR) of MONUC, responsible for voluntary demobilization and repatriation of Rwandan militia in Eastern Congo, had tried various strategies to get the remaining 6,000 or so armed FDLR fighters out of the forest. Radio programs were broadcast; fliers with a 24 hour hotline number were dropped over the jungle. MONUC staff negotiated with FDLR commanders by phone to get them to surrender along with their battalion. But these efforts were generally in vain. The reason: "Most commanders don't act without a direct order from their leaders. They were directed from Germany. This is our biggest challenge," said Bruno Donat, head of the DDRRR program in Goma.³¹

Now that is over - five years after the interior ministry of Baden-Württemberg was first informed by the German Interior Ministry that Murwanashyaka, as President of the FDLR, had been put on the list of the UN sanctions committee for breaking the international arms embargo concerning the DRC.³² And more than a year after Rwanda's public prosecutor had issued an international arrest warrant against the Rwandan citizen Murwanashyaka on July 14, 2008.³³

The Rwandan public prosecutor Martin Ngoga condemned this delay as „inacceptable“ and as “an embarrassment for Germany – a country that because of its history should know better”. Because every day Murwanashyaka was allowed to act freely, people died in the DRC, he said.³⁴ The human rights advocacy group Human Rights Watch also accused the FDLR militia of responsibility in 2009 for many bloody massacres of women and children in Eastern Congo.³⁵ So why did it take so many years for German officials to act?³⁶

civilian superior. VstGB, 26 June 2002, Völkerstrafgesetzbuch vom 26. 6.2002
http://bundesrecht.juris.de/vstgb/_4.html.

³¹Interview in Goma, 21 February 2009.

³²Statement of the Baden-Württemberg Interior Ministry, 14/5462, 14 December 2009.

³³Arrest warrant RPGR 005/06/KGL/NM, issued on 14 July 2008, Kigali, signed Martin Ngoga, Public Prosecutor.

³⁴Interview with Martin Ngoga in Kigali, 29 September 2009

³⁵Human Rights Watch: Report “You will be punished”, 13.12.2009

³⁶This paper was to a large extent researched in interviews with former FDLR members and experts on foreign armed groups in the DRC. Some of the research results have been previously published in „Die Befehle kommen aus Deutschland“, die tageszeitung, 10 October 2009. The interviews were conducted between September and December 2009, partly in the DRC, partly in Rwanda. The interlocutors were at the time undergoing the DDRRR programme financed by the World Bank and implemented by MONUC and the Rwandan Demobilisation Commission. Interviews were always carried out confidentially, and as far as former fighters are concerned mostly immediately after their transfer from the DRC and before their interrogation by Rwandan security services. The facts learned in these interviews about the FDLR leadership and the role of its leaders in Europe are all based on at least three independent accounts and have been compared with expert reports. Not all interview partners can be named. Some are possible witnesses in a possible trial against the two arrested FDLR leaders, others have to be kept anonymous for their own safety or that of their families. Most of these are demobilised and repatriated FDLR fighters from the middle command. Some had already received death threats at the time of interview, others were frightened of the FDLR internal surveillance system. The FDLR in Eastern

1. The FDLR command structure

„When we pick up someone from the bush, we always ask first,: Who is your leader?“, a UN worker reports about his work demobilizing FDLR fighters. “They all say: Ignace!”³⁷

It always comes up, even with regular or child soldiers. Everyone knows his name. They call him “our great leader”³⁸, or “our president who lives in Germany”.³⁹ Almost no one in FDLR circles doubts that their FDLR leader living in Germany, Ignace Murwanashyaka, directs the FDLR’s strict chain of command.

That the elected FDLR president remains at a distance from the war unfolding in the Congolese forests, in safe Baden-Württemberg, was never a disadvantage for the FDLR, quite the opposite. From Germany, Murwanashyaka was able to coordinate the FDLR’s political leadership living in Europe and Africa using stable telephone and internet connections. Financial transfers were possible with the help of international banking systems and financial institutions like Western Union.⁴⁰ At peace negotiations with the Congolese government, as well as in radio and TV interviews, Murwanashyaka represented the interests of the FDLR, which was in effect a kind of refuge for presumed planners and perpetrators of the 1994 genocide in Rwanda

For example, shortly before Rwandan President Paul Kagame’s state visit to Germany in 2008, Murwanashyaka wrote an open letter in excellent German to German President Horst Köhler, in which he accused Kagame of being “the biggest Black Khmer.”⁴¹ In short, Murwanashyaka was able, from Germany, to carry out the functions, as set out in Article 41 of the FDLR statutes, of political leader and legal representative of the organization.

Murwanashyaka himself never made a secret of his role. His mobile phone number was on the FDLR website. Until spring 2008 he published FDLR press releases in four different languages with his name, e-mail address and signature. The website was registered in Germany under his name until the beginning of September 2009. In 2008 he boasted in the German MDR TV programme „fakt“ that as president of a tightly run organization “I know exactly what goes on”.

According to FDLR statutes, Murwanashyaka as president is not just the political leader but also the organization’s military commander in chief.⁴² Leading military officers confirm that all important decisions were taken in Germany – whether the

Congo has its own military police, consisting of a bataillon stationed in Makohe, Masisi district, which watches over loyalty and discipline and punishes misbehaviour, usually by beheading as an FDLR captain confirms.

³⁷Interview in Goma

³⁸Interview with FDLR sub-lieutenant, Gisenyi, Rwanda

³⁹Interview with FDLR captain, Ruhengeri, Rwanda

⁴⁰UN Group of Experts report S/2009/603, 23 November.2009, §94

⁴¹Open Letter to Federal President Horst Köhler by Ignace Murwanashyaka, 21. April 2008, www.fdlr.org.

⁴²UN Group of Experts report S/2009/603, 23 November .2009; §93, Annex 18

FDLR was readying itself for attack or withdrawing, or whether it entered into alliances with Congolese forces.⁴³

The UN mission in Congo is in possession of a radio message from March 2009 in which the FDLR high command sets out the military strategy since they came under attack by Congo's army: "Supply operations through strikes against the army to capture munitions and weapons, as well as against hospitals and health centers to acquire medicines". And, "attack the population to cause a humanitarian catastrophe." This order was passed on by the highest commander of the FDLR armed wing FOCA, General Sylvestre Mudacumura, via radio to his commanders in the field.

According to FDLR statutes, Mudacumura receives all strategic decisions as orders from President Murwanashyaka.⁴⁴ For this the president consults his deputy Straton Musoni as well as FDLR executive secretary Callixte Mbarushimana, who lives as a refugee in Paris, although there is an international arrest warrant out for him. During the genocide, Mbarushimana worked at the UN in Rwanda and is said to have carried out massacres against his own colleagues there.⁴⁵

Murwanashyaka, his first deputy Musoni and his second deputy Gaston Iyamuremye stationed in Eastern Congo, are according to FDLR statutes elected for 5 years by the central body, the Committee of Directors. This committee, which meets only every few years, brings together 30 electors, at least half belonging to the military wing FOCA. Thus the president is not only the representative of the political wing of the FDLR, but also commander in chief, authorized by the military.

Murwanashyaka's direct military subordinates in Eastern Congo include the military chief Mudacumura, stationed at FDLR headquarters⁴⁶, and until recently his spokesman Edmond Ngarambe. This command hierarchy is not only codified in the statutes, but is also strengthened through informal relationships of loyalty. For instance, Ngarambe is Mudacumura's brother-in-law. He was, however, captured in February 2009 in Eastern Congo, brought to Rwanda and will soon have to answer there for suspected participation in the genocide.

Military chief Mudacumura is one of Murwanashyaka's closest friends, high ranking FDLR officers confirm. The 55-year old was once a member of Rwanda's presidential guard, which was active in the 1994 genocide. In Congo, Mudacumura helped to found the FDLR forerunner RDR (Rally for Democracy and a Return to Rwanda), and was responsible for the procurement of weapons and munitions. Supposedly with Murwanashyaka's help he brought his wife and both daughters to Germany and it is said that Murwanashyaka still takes care of his friend's children.⁴⁷

⁴³ UN Group of Experts report, S/2009/603, 23 November 2009; §93, Annex 18.

⁴⁴ UN Group of Experts report S/2009/603, 23 November 2009; §93, Annex 18.

⁴⁵ Arrest warrant against Callixte Mbarushimana (first version), issued on 27 October 2004, Kigali, Rwanda, signed. Martin Ngoga, Public Prosecutor

⁴⁶ According to media reports this headquarters was destroyed by Congolese forces in July 2009: DRC Forces Overrun FDLR Stronghold, New Times, 23 July 2009.

⁴⁷ Interview with FDLR Major-General and FDLR captain, Kigali, Rwanda

The close contacts between Murwanashyaka in Germany and Mudacumura in the Congo are reflected in the log of phone calls between Murwanashyaka's home phone in Mannheim and the satellite telephone in Congo controlled by Mudacumura. These logs have been given to the UN Group of Experts for the surveillance of actions against Congo's armed groups. Between September 2008 and August 2009, the experts registered more than 240 calls, each between two to three minutes long. The calls increased in frequency as recent military operations against the FDLR went into effect.⁴⁸

Paul Rwarakabije, Mudacumura's predecessor as FDLR military chief, also talked almost every other day with Murwanashyaka in Germany. In 2003 he left the rebel militia and returned to Rwanda. As to doubts as to whether or not Murwanashyaka really directs the bloody war from Mannheim, Rwarakabije just shakes his head in disbelief: "But of course", he says. Murwanashyaka always gave strategic and political directions to him as orders and he had to carry these out. And, on the other hand, he would report regularly to Germany by satellite telephone or internet.⁴⁹

Direct connection between Murwanashyaka in Germany and war crimes in the DRC is suggested by the phone logs during the massacre on 10 May 2009 when FDLR fighters killed between 60 and 96 civilians in Busurungi in Eastern Congo. The UN Group of Experts report says that Murwanashyaka contacted the local FDLR commanders 14 times between 5 and 16 May. On 9 May Mudacumura sent four text messages to his president. The last text message came at the end of the attack on Busurungi on 11 May⁵⁰

Murwanashyaka's political representative on the ground is the second FDLR vice president Brigadier General Gaston Iyamuremye, alias Rumuli. Stationed until December 2009 at Kibua, Masisi district, he ran Murwanashyaka's office there. His advisor, Colonel Ildephonse Nizeyimana, was arrested on 6 October 2009 in Uganda's capital Kampala and was handed over to the International Rwanda Tribunal in Arusha, where he must now answer charges of participation in the Rwandan genocide⁵¹

According to the FDLR organizational structure, the second vice president takes over the leadership if President Murwanashyaka and his first deputy Musoni are indisposed. But can he replace the charismatic FDLR head Murwanashyaka so easily?

Former FDLR commanders and MONUC experts have their doubts. One reason is that Iyamuremye does not have a good relationship with the current military chief Mudacumura. When the latter's predecessor left the FDLR, Mudacumura and Iyamuremye had a confrontation, as both wanted to become the new military commander. Finally Murwanashyaka chose his close friend Mudacumura. "Since then the relationship between the two has been very tense", says a former FDLR

⁴⁸UN Group of Experts report, S/2009/603, 23 November.2009, §92

⁴⁹Interview in Kigali

⁵⁰UN Group of Experts report, S/2009/603, 23 November.2009, S.82

⁵¹ „Schlächter von Butare gefasst“, die tageszeitung, 7 October.2009

commander who has known both men since his school days. He could not imagine Mudacumura taking direct orders from Iyamuremye.⁵²

According to FDLR statutes, it is now Iyamuremye's duty to call together the electors of the directors' committee to elect a new political leadership. Meanwhile, in Paris executive secretary Callixte Mbarushimana has made efforts to take over the political leadership in Europe.⁵³ However one can safely assume that since the arrests in Germany the FDLR leadership is weakened.

2. The FDLR leaders' careers in Germany

One reason why the militia leaders Murwanashyaka and Musoni were able to pull the FDLR strings unhindered from Germany for years is that for decades they presented themselves as paragons of successful integration.

Ignace Murwanashyaka

Murwanashyaka came to Germany in March 1989 as a student of economics with a Bonn university scholarship. During the genocide in Rwanda he remained in Germany. He moved to Mannheim and married a German woman there with whom he had at least two children. In 2001 he obtained his PhD on "Investigations Into Money Demand in South Africa".⁵⁴ This was a topic that later, as FDLR president, gave him recognition and know-how in procuring international financial transfers. Politically he was active as the elected German representative of the Hutu exile party RDR, the first political organization of the perpetrators of the genocide after their flight from Rwanda. From this organization sprung PALIR/ALIR, the foreunner to the FDLR, in which Murwanashyaka was commissioner for foreign relations.⁵⁵

After a massacre of British and US tourists in the Ugandan Bwindi national park in March 1999, American authorities listed ALIR as a terrorist organization. This was one reason why in 2000 the successor organization gave itself a new name: FDLR.⁵⁶

In the same year, in February 2000, Murwanashyaka applied for asylum in Germany. In his 25-page application the Rwandan presented himself as politically persecuted. The Federal Office for Migration and Refugees (BAMF) approved his application within six weeks. He received an unlimited residence permit.⁵⁷

Germany seemed to be a safe haven for him. Between 2001 and 2006, Murwanashyaka travelled between Germany and Congo several times, spending

⁵²Interview in Kigali

⁵³Interview with Monuc DDRRR

⁵⁴Murwanashyaka, Ignace: „Untersuchungen über die Geldnachfrage in Südafrika“, Marburg, 2001.

⁵⁵Rakiya Omaar: „The Leadership of Rwandan Armed Groups abroad with a Focus on the FDLR and RUD/URUNANA“, Kigali, Dezember 2008. S.40-44.

⁵⁶Rakiya Omaar, op.cit..

⁵⁷Statement, Interior Ministry, Baden-Württemberg, p. 2.

time in the forests as well as undergoing two months of military training. He travelled with a Ugandan passport and a German one, but under another name.⁵⁸

During his first trip, to Kinshasa in 2001, he was unanimously elected as President of the FDLR by the 30 electors. In 2005 he was reelected with 24 of 27 votes in Lubumbashi. Former FDLR officers and civil cadres report that he was chosen president because he was not – unlike many in the higher leadership – involved in the genocide and was thus presentable to the outside world.⁵⁹

Meanwhile the FDLR established a territory in Eastern Congo that is larger than Rwanda, a state within a state. The rebels imposed taxes, controlled mines as well as the lucrative mineral trade, using the proceeds to buy weapons. In 2005 and 2006 Murwanashyaka was received several times by his soldiers in the jungle like a head of state with pomp and parades. He negotiated in their name with the UN as well as with the Congolese government and distributed more than \$250,000 in cash to pay the troops.⁶⁰

Like a general, Murwanashyaka visited every FDLR battalion during a month-long forced march from Bukavu to Rutshuru in 2005: He presented commanders with bundles of dollar bills, says one of the 30 personal bodyguards who accompanied him on the trip: “I got \$10, like all the other soldiers. The officers got \$100 each and Ignace decided that \$1,000 had to be invested in medicines and office materials.”⁶¹ The fact that Murwanashyaka came with so much cash convinced the fighters of his political influence in Europe.

But Murwanashyaka also had to bargain for support. In negotiations with Congo’s government in Rome in the spring of 2005 he had promised an end to the FDLR’s armed struggle on condition that the Rwandan government legalises the FDLR as an organized force. For Rwanda that was unacceptable. But for the extremists in the FDLR even Murwanashyaka’s compromise offer was too much, as a participant remembers: “The perpetrators of genocide still cannot imagine ever living together with the Tutsis again.”⁶² It resulted in a split in the FDLR.

Trouble was also brewing in Germany for the militia chief. In February 2006, during his last Congo trip, the BAMF revoked Murwanashyaka’s asylum status, after the officials received information about the FDLR from the Foreign Office. But the revocation could not be issued to him. His wife stated that he was at an unknown location. Actually he was in Eastern Congo. As the two week delivery deadline passed, the BAMF on 1 April 2006 ordered a public delivery, and this ensnared him temporarily. On his return on 8 April 2006, he landed in custody pending deportation.⁶³

⁵⁸Interviews with FDLR military members.

⁵⁹Interview with Murwanashyaka’s former office colleagues, Mutobo

⁶⁰Interview with FDLR Captain, Ruhengeri

⁶¹Interview, Ruhengeri

⁶²Interview with FDLR Captain, Ruhengeri

⁶³Submission to Ansbacher Verwaltungsgericht, AN 9K 06 30646; 9.Kammer, Ansbach, 13 April 2006.

Murwanashyaka challenged this in court and was released from custody after 19 days. In her ruling the judge said that the FDLR was not a tightly organized entity and there was not enough evidence that the FDLR had committed crimes. Thus he did not bear any command responsibility⁶⁴

Finally on 11 January 2010, the Bavarian administrative court declared that the revocation of Murwanashyaka's asylum status was legal. Thus his asylum status should now be denied.⁶⁵ Murwanashyaka was until this decision still recognized as having a right to asylum. Since April 2006 he had only been obliged to meet certain conditions. He was not allowed to leave the Mannheim city area without registering with the police. And from May 2006 he was also subject to a ban on political activities.⁶⁶

On 3 March 2009, Murwanashyaka had already appeared before the Mannheim municipal court for 13 violations of his residence conditions. He had sent press releases from his private e-mail address. So in April 2009 a ban on means of communication was imposed. From then on, at the latest, he was no longer allowed to use e-mail or telephone for political purposes,⁶⁷ a condition that he repeatedly violated.

He was also given a suspended four month prison term. According to the ruling he was also sentenced to 160 hours of socially useful work. "You have to keep completely silent. If you don't like it here, then go to another country!" the judge thundered.⁶⁸

The accused as well as the prosecutor appealed. The prosecutor demanded eight months. The district court in Mannheim sentenced Murwanashyaka on June 18 to a suspended sentence of six months.⁶⁹ The prosecutor appealed again. At present the case is pending before the appellate court in Karlsruhe.

Parallel to the asylum case the German authorities had already learned in November 2005 that Murwanashyaka, as FDLR president, had been placed on the UN sanctions list for breaking the arms embargo concerning the DRC.⁷⁰

In response the federal prosecutor started a first judicial investigation in April 2006 on the charge of violating international criminal law. This was suspended in July 2007, as the charge could not be substantiated⁷¹ - a temporary victory for the rebel chief in Germany's judicial jungle.

⁶⁴Ruling of Verwaltungsgericht Ansbach, 13 December 2006

⁶⁵Press release „Asylverfahren Murwanashyaka“, Bayer. Verwaltungsgerichtshof, Az. 9 B 08.30223, 11.1.2010.

⁶⁶Ruling of Landgericht Mannheim, Az. 15 Ns 503 Js 19692/08

⁶⁷Ruling of Landgericht Mannheim, Az. 15 Ns 503 Js 19692/08

⁶⁸„Ruandischer Rebellenführer zu Bewährungsstrafe verurteilt“, Rheinpfalz, 4.3.2009

⁶⁹Ruling of Landgericht Mannheim, Az. 15 Ns 503 Js 19692/08

⁷⁰Statement of Interior Ministry Baden-Württemberg, p. 2.

⁷¹Statement of Interior Ministry Baden-Württemberg, p. 2.

The Rwandan public prosecutor then took action and on 16 July 2008 sent a 28- page arrest warrant with seven charges to Germany.⁷² Since then Murwanashyaka is on the Interpol wanted persons list. But despite this international request, Germany remained a safe haven for Murwanashyaka. The reason: because of a decision by the Federal Ministry of Justice, the German federal police BKA did not put his name on the national wanted list.⁷³ Murwanashyaka continued to operate freely in Germany.

He was also safe from possible deportation and extradition to his homeland Rwanda. On 8 December 2008 the appellate court in Karlsruhe rejected a request for extradition to Rwanda, on the grounds that a fair and constitutional trial could not be guaranteed there.⁷⁴ The court is now examining the extradition case in a second appeal.

Another lawsuit against deportation is also pending in the administrative court in Karlsruhe. But thus far this court has opted to wait for the decision of the Bavarian administrative court in the revocation of asylum status.⁷⁵ Even if a deportation were approved, because of the on-going judicial inquiries it could not be carried out without approval from the federal prosecutor.

Then finally in the second half of 2008 the federal prosecutor initiated a concealed investigation on the charge of violating international criminal law. But it took another year until the investigator had gathered enough evidence. The application for the arrest warrant presented to the investigating magistrat a week before the arrest contained 15 charges. "We had to investigate until we could be sure that the arrest warrant would go through", senior public prosecutor Frank Wallenta in the federal prosecutor's office explained shortly after Murwanashyaka's arrest.⁷⁶

Straton Musoni

Even when FDLR vice president Straton Musoni was already behind bars, many parishioners in Neuffen, near Stuttgart in Baden-Württemberg, couldn't quite believe it. "He had such a nice family, and a very nice wife, so I didn't ever want to think that it was true", said the manager of the association responsible for the "free children's house" in nearby Nürtingen, Julia Rieger.⁷⁷ Musoni's boys were regular visitors to the children's house. "He seemed like a businessman, as integrated as one could wish, and he speaks excellent German", the woman continued.

Musoni had lived in the Stuttgart region since 1986. From 1988 to 1993 he studied land maintenance at the Nürtingen technical college and obtained a degree as a qualified engineer. Afterwards, from September 1995 to November 1996, he was registered as a research student on international economic relations.⁷⁸ During all

⁷²Arrest Warrant RPGR 005/06/KGL/NM, issued on 14 July.2008, Kigali, signed Martin Ngoga, Public Prosecutor.

⁷³Statement of Interior Ministry Baden-Württemberg, p. 4.

⁷⁴Statement of Interior Ministry Baden-Württemberg, p. 4.

⁷⁵Statement of Interior Ministry Baden-Württemberg, p. 6.

⁷⁶Interview with Frank Wallenta, senior public prosecutor, 1 November 2009.

⁷⁷"Er wirkte wie ein Geschäftsmann", Stuttgarter Zeitung, 18 November 2009.

⁷⁸"Er wirkte wie ein Geschäftsmann", Stuttgarter Zeitung, 18 November 2009

these years the Rwandan had a student residence permit. As his first son was born in 1998 and two years later he married a German, he received repeated limited residence extensions.⁷⁹

Musoni's family situation saved him from possible deportation when in September 2004 he could no longer show a current Rwandan passport. He had tried without success to get new documents from the Rwandan Embassy in Berlin.⁸⁰

Actually, at this moment Musoni should have had to leave the country. But the Interior Ministry of Baden-Württemberg stated: "A deportation of Straton M. was not possible on the sole grounds that he was added to the list of the UN sanctions committee on March 29, 2007. He is married to a German woman and has two German children".⁸¹ They had, however, been informed by the Foreign Office in April 2006 "that Straton M. was presumed to be the vice president of the FDLR".⁸² However it seemed that in Baden-Württemberg this suspicion fell on deaf ears. For just a month later the State Office of Criminal Investigation pressed a charge of money laundering against Musoni. But the investigation was halted in November 2006. In June 2007 the district attorney in Stuttgart reopened investigations into suspected money laundering but halted them again the same month, although Musoni had on 29 March 2007 been placed on the UN sanctions list for breaking the UN arms embargo concerning the DRC.⁸³

While the investigator in Karlsruhe looked for evidence, Musoni regularly went in and out of the Ministry of Justice in Stuttgart to service the computers. From the beginning of 2005 until 14 July 2008, he worked there as an employee of a computer company. Despite the UN weapons embargo listing and the suspicion of money laundering, Musoni survived two security checks from the Justice Ministry of Baden-Württemberg.

In retrospect it can no longer be established how in 2004 and again in 2007 Musoni slipped through the security checks, the interior ministry of Baden-Württemberg concedes. Because: "There are no written files in the police headquarters in Stuttgart any more because the record retention period has expired."⁸⁴ It is true that Musoni at the time of the check was listed in the police files under "money laundering". However: "This information is outside the scope of an inquiry for a security check."⁸⁵

Finally, on 10 July 2008, following media reports about the FDLR leadership in Germany, a new check was carried out -- and four days later he was denied access to

⁷⁹Statement of the Interior Ministry Baden-Württemberg, p. 2.

⁸⁰Interview with the Rwandan Embassy, Berlin, July 2009

⁸¹Statement of the Interior Ministry Baden-Württemberg, p. 6.

⁸²Statement of the Interior Ministry Baden-Württemberg, p.. 6.

⁸³This „listing“ was implemented in the EU on 12 April 2007 by regulation 400/2007 of the Commission changing regulation 1183/2005 of the Council on the implementation of specific restrictive measures against persons who violate the arms embargo concerning the DR Congo. Musoni was included in Annex 1 of regulation 1183/2005. See: Statement of the Interior Ministry, p. 5.

⁸⁴Statement of the Interior Ministry Baden-Württemberg, p.. 7.

⁸⁵Statement of the Interior Ministry Baden-Württemberg, p.. 6.

the Justice Ministry.⁸⁶ On 14 December 2009, the Interior Minister declared himself ready to investigate how the security checks were handled.⁸⁷

But in any case, although no political activity was identified, on 22 October 2009 Musoni was banned from political activity. For the first time the German authorities had guessed right in Musoni's case: "Decisive for this was that Ignace M., after he was given a prison sentence for violating his ban on political activity, could no longer operate publicly. Thus it was feared that now his deputy Straton M. would become politically active."⁸⁸

That was indeed to be assumed. Musoni as a precaution had already registered two more FDLR websites in his name (www.fdlr.info and www.fdlr.net), probably holding them open in case the official site registered by Murwanashyaka, www.fdlr.org, was shut down.

On these websites, Musoni showed himself as an integrated, child-friendly neighbor, posting private photos there of a children's sport festival in Neuffen. Who would think, looking at these photos, that the website was hosted for an organization that sent child soldiers into battle?

The FDLR network in Germany

Despite the detention of both ringleaders, the chapter "Germany and the FDLR" is far from over. It can be assumed that Murwanashyaka and Musoni have built up an effective support network in Germany and other countries, including the USA. The UN expert report said: "The group also had evidence that Murwanashyaka administers large sums of money coming from the illegal sale of natural resources from areas under FDLR control."⁸⁹ The bank accounts of the FDLR president and his deputy have been frozen since the listing on the UN sanctions list for violations of the arms embargo. So there must be helpers in Germany who transfer money in their names.

The UN expert report identified one source of money: the trading company Muyeye, one of the largest export companies for minerals in Bukavu in Eastern Congo. Bank account statements and money transfer receipts show that their staff transfers money from the Congo to presumed colleagues of Murwanashyaka, among others Metete Nzita and his wife in Germany.⁹⁰ The UN expert group also has a Western Union receipt that identifies Musoni's wife, Brigitte Musoni, as the sender of 300€.⁹¹ Ms Marie-Goretti Stock, a graduate in business administration working as a bookkeeper in a bank branch in Neu Isenburg near Frankfurt, also had direct satellite telephone

⁸⁶Statement of the Interior Ministry Baden-Württemberg, p.. 10

⁸⁷Statement of the Interior Ministry Baden-Württemberg, p.. 9.

⁸⁸Statement of the Interior Ministry Baden-Württemberg, p.. 6.

⁸⁹UN Group of Experts report, p. 25

⁹⁰UN Group of Experts report, Annex 19: Copies of two different money transfers made by Mr. Shamavu and his son in Bukavu to Mr. Nzita and his wife in Germany on 4 June 2008, p.. 125.

⁹¹UN Group of Experts report, Annex 20: Copy of a Western Union transfer made in August 2005 by Brigitte Musoni to Jules Mateso Mlamba, the alias of General Stanislas Nzeyimana (also known as Bigaruka), p.. 126.

contact with FDLR members in Congo. The Rwandan-born woman says on her internet profile that she is active in “children’s projects in Rwanda”.⁹²

The UN experts group presumes that anyone who transfers money or pays bills in Murwanashyaka’s name is also violating the UN sanctions. For that reason the UN investigators have made requests to the German authorities. They want to find out who paid the bill for the German server that hosted the FDLR website until the end of August.⁹³ And who pays for the German-registered, but Rwandan managed software companies through whom the content of the website is published?

But the UN experts complain that their questions to the German authorities go unanswered. Copies of e-mail messages in Murwanashyaka’s frozen account could also provide information about his German support network. But the German authorities do not want to share this information with the UN investigators either, although the UN sanctions are being broken from Germany.

3. „Investigations must move forward quickly“

Rwandan public prosecutor Martin Ngoga is now clearly relieved: “For us the arrests in Germany were a very important step”, he says.⁹⁴ He is not calling for extradition to Rwanda. The location of the case, whether in Rwanda or in Germany, is not that important to him, “as long as something starts moving here”, as he says. But Ngoga’s biggest worry is that the case against Murwanashyaka in Germany might collapse. “That would be even worse than before”, he says.

The Rwandan public prosecutor has good reason to be worried. Ngoga remembers that in November 2008 two Rwandans suspected of genocide were released from German detention. One was Callixthe Mbarushimana, executive secretary and propaganda chief of the FDLR, based in Paris. Ngoga had issued an international arrest warrant against him in 2004. Arresting him in France would be, Ngoga says, the next step towards breaking up the FDLR leadership in Europe for good.⁹⁵

There are grounds for hope that the French authorities could become active soon. Rwanda and France have just, after years of disputes, re-established diplomatic relations. After the arrests in Germany, Ngoga received a team of French investigators in Kigali.

Finally, watertight evidence is required in order to bring Murwanashyaka and Musoni to trial in Germany for war crimes and crimes against humanity. This means having witnesses who can confirm the roles of the two suspects as commanders in the FDLR, as well as victims of human rights violations who can testify in a German court against the perpetrators. One thing is clear: For the German investigator as well

⁹²see: https://www.xing.com/profile/MarieGoretti_Stock, and Un Group of Experts report, p. 26.

⁹³***The website www.fdlr.org was closed by its German server after a journalistic inquiry and then moved out of Germany. See: „Terror-Webseite abgeschaltet“, die tageszeitung, 31 August 2009, and „Terrorseite zieht aus Deutschland weg“, die tageszeitung, 4 September 2009

⁹⁴Interview in Kigali, 18 December 2009

⁹⁵Interview in Kigali, 18 December 2009.

as the UN experts, there are many witnesses in Germany as well as in Rwanda and the DRC who could give more information on Murwanashyaka's and Musoni's leadership role in the FDLR.

The number of potential witnesses is growing. That is shown by the growing numbers of FDLR fighters who are allowing themselves be demobilized and repatriated.⁹⁶ Not since February 2009, when a joint operation of the Rwandan and Congolese armies against the Hutu militia was underway, have so many FDLR soldiers surrendered as at present. In November and the first half of December only, UN data showed 240, as compared to 1,285 in the first 10 months of 2009.⁹⁷

One of them is Second Lieutenant Samuelle Twahira, who crossed the border to Rwanda on 18 December 2009. The 32 year old Rwandan served with the FDLR in Eastern Congo for 15 years, until he handed his automatic rifle to Monuc and gave himself up. The reason? "After the arrests of our leaders in Germany the morale of our troops was destroyed", says Twahirwa. Similar reasons are given also by other newly repatriated former fighters who are currently kept in Mutobo reintegration camp.

When asked why they fought on for so long, they smile. "Murwanashyaka in Germany always gave us hope", they say and discuss the time when he was first arrested in Germany 2006, when the morale in the troop first appeared to sink. "That he was then released again convinced us of how powerful he is", added another.⁹⁸

Thus, one UN worker says, hopefully Murwanashyaka will not go free again. He sums up his recent interviews with ex-fighters of the FDLR: "The FDLR leadership is trying to persuade their fighters that Ignace will soon be freed."⁹⁹ That is why Monuc is sending more radio news into the jungle, explaining that their leader was arrested in Germany for war crimes and crimes against humanity and that his trial will start soon.

⁹⁶ „Die Kampfmoral ist zerstört“, die tageszeitung, 29.12.09

⁹⁷ Numbers provided by Monuc DDRRR

⁹⁸ Interview in Mutobo, Rwanda

⁹⁹ Interview in Mutobo, Rwanda

The responsibility of the international community

Dominic Johnson, Berlin, January 2010

The international community bears a particular responsibility for dealing with the Rwandan FDLR militia in Eastern DR Congo. It looked on passively during the 1994 genocide in Rwanda as more than 800.000 people were slaughtered by the army and militias who wanted to exterminate the Tutsi population group in the country. It then came to the aid of the perpetrators of the genocide when they fled from Rwanda into the DR Congo (then still called Zaire) and partly even supported them. The United Nations set up a gigantic humanitarian aid operation for the Rwandan refugees in Eastern Congo while Rwanda was left to fend for itself.

This led the perpetrators of the genocide to think that they were protected by the world. Rwanda's new government and the victims of the genocide, on the other hand, felt abandoned. The people of Eastern Congo felt victimised and ignored from all sides. This constellation to a large part drives the continuing dynamics of conflict in Eastern Congo, in which the FDLR as successor organisation of those responsible for the Rwandan genocide represent the last remnant of what was once called „Africa's First World War“.

For this reason many Congolese hold the international community alone responsible for the „FDLR problem“. And for the same reason some international actors, including some within the UN Mission in the Congo (Monuc), have apparently developed a new kind of sensibility: something has to be put right – for the sake of the Congolese, for the sake of Rwanda, for the sake of one's own reputation. This sensibility must now be turned into workable politics. To this end, arresting two FDLR leaders in Germany is a necessary but by no means sufficient step.

New politics means questioning many cherished certainties of past international involvement in the region. For example the conviction that the most important step towards peace in Eastern Congo is the establishment and support of unchallenged state power in Kinshasa. For a long time, this viewpoint overshadowed the „FDLR problem“: 2001-2002, when foreign troops were pressured to withdraw from the Congo and the FDLR stayed behind as the only foreign army; 2003-2006, when peace between Congo's belligerents and elections were the priority and the FDLR was the only belligerent left out of demobilisation and integration; 2006-2008, when it was all about neutralising Eastern Congolese rebels and the FDLR was the only belligerent in Eastern Congo not to be included in the Goma peace conference.

If anyone thought about the FDLR at all, then as a Rwandan problem, not a Congolese one, despite its members progressively becoming part of Congolese society. Its Rwandan fighters were privileged compared to their Congolese brothers: Nobody asked them to become part of a national army, instead they remained undisturbed and furthermore were offered the choice of free return into civilian life in Rwanda in the context of „voluntary repatriation“, in practice a kind of UN-sponsored early retirement package.

Only at the end of 2008 and the beginning of 2009, when the DR Congo and Rwanda jointly decided to seek a military solution against the FDLR in Eastern Congo, the rest of the world was left with no other choice either. But a military strategy against the FDLR, however indispensable compared with previous inactivity, has its limits. First, a disorganised and chaotic national Congolese army cannot defeat the oldest and best-organised still active armed group of Eastern Congo, how ever much help it gets from Rwanda or the UN. Second, years of political toleration of the Rwandan genocide perpetrators as an organised military force have endowed the FDLR with a political legitimacy which it will not surrender without a fight and which its international sympathisers still defend. Third, the power of the FDLR in Eastern Congo is based on particular local power relationships. Therefore military, political, judicial and economic efforts must be joined up on a local, national and international level.

Until now there has not even been the beginning of coordination between the various international actors concerned. No wonder: if donors countries cannot even coordinate help for victims of sexual violence in Eastern Congo, even less is to be expected for a joint position against the FDLR. The minimal conditions for a coordinated international strategy would include:

- on the military level, clear coordination between the UN mission MONUC and the EU security missions EUSEC and EUPOL as well as other international partners of the DR Congo in the security sector regarding relations with the national Congolese security forces in Kivu and their future;
- on the political level, a common understanding amongst and with the governments of the region about the future of FDLR members, whether in Rwanda or DR Congo;
- on the judicial level, close cooperation within the EU and between European countries to take forward judicial measures against FDLR leaders in Europe;
- on the economic level, coordinating humanitarian and development donor programmes in Eastern Congo, for example within the existing UN reconstruction programme STAREC;
- on the local level, initiating dialogue with communities affected by FDLR presence on appropriate steps to surmount their present situation and improve their condition.

These challenges are not just theoretical; they are of considerable urgency. The latest military offensives in Eastern Congo and the arrests in Germany have put the FDLR onto the defensive and weakened it, but they have not dismantled it and above all have not removed its capacity to cause harm to the population of the Kivus. Furthermore, those responsible for the Rwandan genocide regard the question of ideological supremacy in the African Great Lakes region as still open. The elections in Burundi and Rwanda this year, the impending end of judicial proceedings at the UN Rwanda tribunal in Arusha and at the Gacaca courts in Rwanda, the elections looming next year in the DR Congo and Uganda – unsettled times lie ahead everywhere, and fundamental questions about coexistence between communities are being asked openly or in whispers in all countries of the region.

Should there be peaceful coexistence between peoples? Or is power based on the subjection or even annihilation of others? Will the ideology of genocide and ethnic politics be overcome, or will it fuel renewed political power struggles? The international community has by no means paid off its debt to the African Great Lakes region which it incurred in 1994.