



Democratic Republic of the Congo  
Joint Submission to the UN Universal Periodic Review  
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**Joint submission by CIVICUS: World Alliance for Citizen Participation,  
NGO in General Consultative Status with ECOSOC**

**And**

**Ligue des Droits de la Personne dans la Région des Grands Lacs  
(LDGL)**

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**Ligue des Droits de la Personne dans  
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## **1. Introduction**

- 1.1** CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2** Ligue des Droits de la Personne dans la Région des Grands Lacs (LDGL) is a collective of CSOs with a mission to promote and protect the fundamental rights and freedoms of people in the Great Lake region. LDGL was established in May 1993 by 22 CSOs active in the fields of human rights, fundamental freedoms, good governance, democracy and development in Burundi, the Democratic Republic of the Congo (DRC) and Rwanda.
- 1.3** In this submission, the authors examine the DRC government's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse DRC's fulfilment of the rights to freedoms of association, expression and peaceful assembly and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in May 2019. To this end, we assess DRC's implementation of recommendations received during the 3<sup>rd</sup> UPR cycle relating to these issues and provide follow-up recommendations.
- 1.4** During the 3<sup>rd</sup> UPR cycle, the DRC government received 28 recommendations relating to the space for civil society (civic space). It accepted all 28 recommendations. However, an evaluation of a range of legal sources and human rights documentation addressed in this submission demonstrates that the DRC government has not implemented 20 recommendations relating to civic space and has only partly implemented eight. While the government has made significant progress with the adoption of a law on the protection and responsibility of HRDs, the government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination. Acute implementation gaps were found with regard to freedoms of expression and peaceful assembly.
- 1.5** We are deeply concerned by the arbitrary arrests, killings, intimidation and judicial harassment of HRDs and journalists.
- 1.6** We are further alarmed by civic space violations committed under the state of siege in eastern DRC, in particular regarding the right to peaceful assembly, including the indiscriminate killings of protesters, and the prosecution of protesters and activists before military courts.

**1.7** As a result of these issues, civic space in DRC is currently classified as repressed by the CIVICUS Monitor, indicating the existence of severe civic space restrictions.<sup>1</sup>

- Section 2 of this submission examines DRC's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- Section 3 examines DRC's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines DRC's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of expression, media freedom and access to information.
- Section 5 examines DRC's implementation of UPR recommendations and compliance with international human rights standards related to freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3<sup>rd</sup> cycle.
- Section 7 contains an annex on the implementation of 3<sup>rd</sup> cycle UPR recommendations related to civic space.

## **2. Freedom of association**

**2.1** During DRC's examination under the 3<sup>rd</sup> UPR cycle, the government received two recommendations on the right to freedom of association and creating an enabling environment for CSOs. Among other recommendations, the government committed to 'fully protect everyone's rights to freedom of expression, assembly and association'. The DRC government accepted the two recommendations but has not implemented either.

**2.2** Article 23 of the 2006 Constitution guarantees the right to freedom of association.<sup>2</sup> Article 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by DRC, also guarantees freedom of association.

**2.3** Freedom of association is regulated by Law 004-2001 of 20 July 2001, which governs the formation and operation of not-for-profit associations. Under the law, legal personality is granted to a non-profit association by the Minister of Justice following favourable advice by the minister with jurisdiction over an association's specific activities.<sup>3</sup> The Minister of Justice or the governor of a province can, according to article 23, suspend the activities of an association for up to three months on overly

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<sup>1</sup> CIVICUS Monitor: Democratic Republic of Congo, <https://monitor.civicus.org/country/democratic-republic-congo>.

<sup>2</sup> As modified by Law 11/002 of 20 January 2011 on revision of certain articles of the Constitution of the Democratic Republic of Congo of 18 February 2006.

<sup>3</sup> Article 3 of Law 004/2001 of 20 July 2001.

broad and vague grounds of disturbance to public order or activities contrary to good morals.

- 2.4** The draft law modifying and complementing Law 004/2001, currently under examination in DRC's National Assembly, contains several restrictive provisions.<sup>4</sup> Article 2 of the draft law authorises the Minister of Justice to dissolve associations that are accused of compromising security or public order or discrediting political institutions. The draft law does not define the terms and determinants for such a dissolution, and therefore it is feared this article could be used to penalise human rights organisations that work to promote democracy and good governance.
- 2.5** Additionally, under the draft law, associations will be obliged to report the origin of any funds of US\$5,000 or above to the Ministry of Justice within eight days of receiving them. Failure to do so could result in the dissolution of the association (article 15bis). Article 30bis states that foreign associations will be prohibited from conducting political activities but fails to specify what those activities include.

### **3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

- 3.1** Under DRC's previous UPR examination, the government received 14 recommendations on the protection of HRDs, civil society activists and journalists. The government accepted all of the recommendations, including to 'adopt the law on the protection and responsibility of human right defenders' and 'investigate, prosecute and convict persons responsible for harassment, threats or intimidation against journalists and HRDs'. However, as examined in this section, the government has failed to operationalise many of these recommendations effectively. The government has implemented three recommendations and partially implemented four.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees freedoms of association, expression and peaceful assembly. However, in spite of these protections and despite the adoption of a law on the protection of HRDs, activists and journalists continue to be subjected to killings, arbitrary and illegal detentions, judicial harassment, intimidation, threats and physical attacks.

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<sup>4</sup> Draft Law modifying and complementing law 004/2001 of 20 July 2001 on general provisions to non-profit associations and public utility institutions.

**3.3** On 15 June 2023, the DRC government promulgated<sup>5</sup> Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC<sup>6</sup> after years of civil society advocacy efforts. Although an important step in the protection of human rights, the law contains shortfalls, which could increase the risks to HRDs and facilitate their criminalisation.<sup>7</sup> These shortfalls include an obligation on the part of HRDs who work outside legally constituted associations to register administratively with the National Human Rights Commission (NHRC)<sup>8</sup> and report their activities annually to the NHRC,<sup>9</sup> which poses risks to HRDs as a register can be misused by ill-intentioned state and non-state actors. Further, articles 8 and 9, which mandate HRDs to contribute, among others, to the ‘enhancement of independence, national sovereignty and territorial integrity of the state’ while being ‘bound to respect good morals and private life’ contain ambiguous language, open for arbitrary interpretation, which could be used against HRDs. Articles 26, 27 and 28 prescribe prison sentences and fines for HRDs, including a prison sentence of six months to two years or a fine of 500,000 to 2 million Congolese francs (approx. US\$180 to US\$720) for HRDs who disclose ‘defamatory, insulting or slanderous’ information.<sup>10</sup>

**3.4** Despite the passing of the law, activists continue to be subjected to killings, arbitrary detention, judicial harassment, intimidation, threats and attacks. HRDs are frequently detained in the context of protests, judicially harassed and subjected to torture and violence while in detention. On 3 February 2024, security forces in plain clothes arrested four activists of the Lutte pour le Changement (LUCHA) movement and three others during a protest in Kinshasha organised by Dynamique des mouvements citoyens congolais to mark the 600<sup>th</sup> day of occupation of Bunagana in North Kivu by the M23 armed rebel group.<sup>11</sup> While LUCHA activists Jean-Paul Lualaba and Crispin Tshiya, along with a driver, a photographer and a student, were released the following day, well-known LUCHA activists Fred Bauma and Bienvenu Matumo remained detained at the notorious 3Z facility of the National Intelligence Agency (ANR) in

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<sup>5</sup> Loi 23/027 sur la protection et la responsabilité des défenseur.e.s des droits humains en République démocratique du Congo.

<sup>6</sup> Adopted by the National Assembly on 12 December 2022 and by the Senate on 14 June 2023. ‘DRC: Promulgation of the law protecting human right defenders’, Protection International; ‘RDC – Promulgation de la loi relative à la protection des défenseurs des droits humains: “Il faut que les défenseur-es des droits de l’Homme se réunissent pour analyser la loi afin d’assurer son application effective” Anne Matundu Bambi’, Actualité.cd, 30 October 2023, [https://actualite.cd/2023/10/30/rdc-promulgation-de-la-loi-relative-la-protection-des-defenseurs-des-droits-humains-il#google\\_vignette](https://actualite.cd/2023/10/30/rdc-promulgation-de-la-loi-relative-la-protection-des-defenseurs-des-droits-humains-il#google_vignette).

<sup>7</sup> See ‘DRC. Protection International Statement. DRC National Law: Challenges and Opportunities’, Protection Internationale, 30 November 2023.

<sup>8</sup> Article 7 of Law 23/07.

<sup>9</sup> Article 11 of Law 23/07.

<sup>10</sup> Article 28 of Law 23/07.

<sup>11</sup> ‘Que reproche-t-on aux activistes arrêtés en RDC?’, Jeune Afrique, 5 February 2024, <https://www.jeuneafrique.com/1533495/politique/que-reproche-t-on-aux-activistes-arretes-en-rdc>; ‘DR Congo’s arrests of activists invokes déjà vu of growing repression’, Amnesty International, 16 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/dr-congos-arrest-of-activists-invokes-deja-vu-of-growing-repression>.

Kinshasa until their release on 5 February 2024.<sup>12</sup> The two activists, who were subjected to threats and physical violence while in detention, were only released after having been forced to make a statement justifying their arbitrary detention.<sup>13</sup>

**3.5** Civil society members are also targeted with acts of intimidation, threats, attacks and judicial harassment. On 28 March 2023, unidentified armed intruders broke into the home of Dismas Kitenge, the president of human rights group Lotus Group, in Kisangani, Tshopo province. The perpetrators fired shots, searched the house for Kitenge and threatened to return when they could not find him. Days before the break-in, Kitenge received anonymous death threats and was attacked by a group of young people claiming to be members of the Movement for the Liberation of Congo, the political party of Jean-Pierre Bemba, after Kitenge commented in media on the appointment of Bemba as Minister of Defence.<sup>14</sup> Kitenge had previously, in January 2022, been subjected to intimidation, threats, insults and vilification for statements he made on social media.<sup>15</sup>

**3.6** On 10 January 2022, unidentified people, dressed as police officers and carrying AK-47 firearms, entered the residence of Timothée Mbuya, president of the CSO Justicia, and subjected Mbuya's wife and children to death threats after they searched the house and were unable to find Mbuya.<sup>16</sup> That same day, Mbuya appeared before the Peace Court in Lubumbashi, where he stood accused of harmful accusations and defamation by Ferme Espoir, a farming company owned by former president Joseph Kabila, following the publication of a report by Justicia on the negative effects of the farm on biodiversity in the Kundelungu National Park.<sup>17</sup>

**3.7** In eastern DRC, under the state of siege in the provinces of Ituri and North Kivu, which have been under a form of martial law since May 2021,<sup>18</sup> authorities have arbitrarily

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<sup>12</sup> Ibid.; 'Bauma et Matumo libérés: "La mobilisation pour la paix et la sécurité à l'est de la RDC doit se poursuivre", insiste la Lucha', actualite.cd, 6 February 2024, <https://actualite.cd/2024/02/06/bauma-et-matumo-liberes-la-mobilisation-pour-la-paix-et-la-securite-lest-de-la-rdc-doit>.

<sup>13</sup> Amnesty International, 16 February 2024, op. cit.

<sup>14</sup> 'DRC: Break-in at Dismas Kitenge's home, threats and intimidation', International Federation for Human Rights, 5 April 2023, <https://www.fidh.org/en/issues/human-rights-defenders/cod-001-0423-obs-019-attacks-threats>.

<sup>15</sup> 'DRC: Threats and intimidation against Dismas Kitenge', International Federation for Human Rights, 14 January 2022, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/drc-threats-and-intimidation-against-dismas-kitenge>.

<sup>16</sup> 'RDC: tentative d'assassinat de Me Timothée MBUYA, président de Justicia asbl', Tournons la Page, 13 January 2022, <https://tournonslapage.org/fr/actualites/rdc-tentative-dassassinat-de-me-timothee-mbuya-president-de-justicia-asbl>.

<sup>17</sup> 'RDC: ajournement du procès intenté par la Ferme Espoir contre l'ONG Justicia', RFI, 11 January 2022, <https://www.rfi.fr/fr/afrique/20220111-rdc-ajournement-du-proc%C3%A8s-intent%C3%A9-par-la-ferme-espoir-contre-l-ong-justicia>.

<sup>18</sup> Under the state of siege (similar to a state of emergency), military and police officers were appointed to replace civilian authorities and were granted extraordinary powers, including the power to restrict freedoms and prosecute civilians in military courts. The state of siege, although meant to be for a short period, has been extended dozens of times and used to crack down on dissent, including through the

arrested and detained civil society activists for prolonged periods, often without trial. Under the state of siege, civilians are tried by military courts, instead of civilian courts. On 1 April 2022, a military court in Beni, North Kivu, sentenced 12 LUCHA activists<sup>19</sup> to a prison sentence of one year for ‘provocation and incitement to breaches of public authority’.<sup>20</sup> The 12 had been in detention since their arrest on 11 November 2021 while peacefully protesting in front of Beni Town Hall to demand the protection of civilians and the end of the state of siege.

- 3.8** Several HRDs have been killed in DRC, mainly in eastern DRC, often in the context of protests or by non-state actors in conflict zones. On 21 May 2020, police used live ammunition during a protest in Beni, North Kivu, against insecurity in eastern DRC, killing LUCHA activist Marcus-Freddy Kambale.<sup>21</sup> On 13 July 2020, the military court of Beni-Butembo sentenced a police officers to life in prison for the killing of Kambale.<sup>22</sup> On 24 January 2022, security forces used live ammunition while attempting to break up a peaceful protest in Beni, North Kivu province, killing LUCHA activist Mumbere Ushindi Dorake.<sup>23</sup> On 23 November 2019, security forces violently dispersed protesters during a peaceful protest in Beni, using live ammunition and killing LUCHA activist Muhindo Kanzogha Obadi.<sup>24</sup> Non-state actors, such as M23, have also perpetrated multiple human rights violations against HRDs, including threats, abduction, detention and killing of HRDs. For example, on 11 February 2024, M23 rebels in Kishanga reportedly arrested Laurent Kamundu, a civil society activist in Bashali chiefdom, Masisi territory, on accusations of having alerted the public, via

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arbitrary arrest of civil society activists and opposition activists. In October 2023, President Felix Tshisekedi announced a gradual and progressive reduction of restrictions in the two provinces. See ‘DRC: Stop using prolonged state of siege as excuse to crush protests’, Amnesty International, 27 September 2022, <https://www.amnesty.org/en/latest/news/2022/09/drc-stop-using-prolonged-state-of-siege-as-excuse-to-crush-protests>; ‘DRC president eases restrictions in conflict-hit east ahead of elections’, Africanews, 13 October 2023, <https://www.africanews.com/2023/10/13/drc-president-eases-restrictions-in-conflict-hit-east-ahead-of-elections>.

<sup>19</sup> The 12 were Dany Dimanja, Archimède Ependa, Jireh Kabambi, Joël Kabunga, Dieu-merci Kighoma, Esai Liko, Elysé Lwantumba, Jeanpy Muhindo, Georges Mumbere, Eddy Mupika, Eric Sankara and Paluku Vihamba. See ‘Congo Jails 12 Activists as Repression Intensifies in the East’, Human Rights Watch, 7 April 2022, <https://www.hrw.org/news/2022/04/07/congo-jails-12-activists-repression-intensifies-east>.

<sup>20</sup> Ibid.

<sup>21</sup> ‘RDC: un militant du mouvement citoyen Lucha tué lors d’une manifestation à Beni’, La Libre Afrique, 22 May 2020, <https://afrique.lalibre.be/50641/rdc-un-militant-du-mouvement-citoyen-lucha-tue-lors-dune-manifestation-a-beni>.

<sup>22</sup> ‘Procès Freddy Kambale: le policier meurtrier écope d’une peine de servitude pénale à perpétuité’, Radio Okapi, 14 July 2020, <https://www.radiookapi.net/2020/07/14/actualite/justice/proces-freddy-kambale-le-policier-meurtrier-ecope-dune-peine-de>.

<sup>23</sup> ‘Beni (North Kivu): another activist shot dead by “law enforcement”’, LUCHA, 24 January 2022, <http://www.luchacongo.org/beni-nord-kivu-un-autre-militant-de-la-lucha-abattu-par-les-forces-de-lordre>.

<sup>24</sup> ‘Urgent/RDC: Un militant de la Lucha tué par un policier après la dispersion d’une manifestation à Beni’, La Congo Libéré, 23 November 2019, <https://congolibere.com/urgent-rdc-un-militant-de-la-lucha-tue-par-un-policier-apres-la-dispersion-dune-manifestation-a-beni>; ‘Police use lethal force on peaceful protesters’, Front Line Defenders, 27 November 2019, <https://www.frontlinedefenders.org/en/statement-report/police-use-lethal-force-peaceful-protesters>.

WhatsApp, of rebel positions and movements in Kirokirwe, allowing the armed forces of DRC to monitor the movements of rebel convoys.<sup>25</sup>

**3.9** Despite President Felix Tshisekedi's promise, in his inauguration speech on 24 January 2019, to turn the press into a 'real fourth estate', journalists continue to be targeted with arbitrary arrests, threats, physical attacks, judicial harassment and killings. According to the CSO Journaliste en Danger (JED), at least three journalists were killed during Tshisekedi's first administration from 2019 to 2023. JED further documented at least 160 cases of arrests of journalists and at least 130 cases of threats or physical violence against journalists.<sup>26</sup>

**3.10** Journalists are particularly threatened by state and non-state actors in eastern DRC. On 14 August 2021, three unidentified assailants killed Joël Musavuli, a journalist and director of community radio station RTCB/Biakato, in Mambasa territory, Ituri province.<sup>27</sup> Musavuli hosted a programme in which he criticised local armed groups and government forces in Ituri and prior to his killing received death threats via telephone calls for weeks from people claiming to part of armed groups and government forces.<sup>28</sup> The killing came a week after Héritier Magayane, a journalist with state-owned Radio Télévision Nationale Congolaise (RTNC), was killed by unknown armed people in Rutshuru, North Kivu.<sup>29</sup> In Bunia, Ituri province, people claiming to belong to the armed group Force Patriotique et Intégrationniste du Congo, also known as Chini ya Kilima, sent death threats via telephone calls and text messages to Radio Canal Révélation journalists Nicolas Synthe Awacang'o and Freddy Upar in January 2021, accusing the journalists of siding with armed forces.<sup>30</sup>

**3.11** Journalists throughout DRC continued to be detained and judicially harassed for their work, at times on orders of local power holders, facing charges of criminal defamation, insulting authorities, spreading false rumours, or disseminating false information

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<sup>25</sup> 'Masisi: un acteur de la société civile arrêté par le M23 à Kitshanga (alerte)', EstInfo.net, 21 February 2024, <https://estinfo.net/2024/02/21/masisi-un-acteur-de-la-societe-civile-arrete-par-le-m23-a-kitshanga-alerte>.

<sup>26</sup> 'Les pages sombre de la liberté de la Presse en RDC. Rapport 2023.', Journaliste en Danger, November 2023, <https://jed-afrique.org/wp-content/uploads/2023/11/Rapport-2023-FINAL-002.pdf>.

<sup>27</sup> 'RDC: Joël Musavuli, la deuxième journaliste assassiné dans l'est du pays en une semaine', RFI, 14 August 2021, <https://www.rfi.fr/fr/afrique/20210814-rdc-un-autre-journaliste-assassin%C3%A9-en-ituri-dans-l-est-du-pays>.

<sup>28</sup> 'RD Congo: le journaliste Joël Musavuli et son épouse assassinés en Ituri', Africa 24 TV, <https://africa24tv.com/newsexpress/rd-congo-le-journaliste-joel-musavuli-et-son-epouse-assassines-en-ituri>; 'Intruders stab community radio director to death in northeastern DRC', Reporters without Borders, 17 August 2021, <https://rsf.org/en/intruders-stab-community-radio-director-death-northeastern-drc>.

<sup>29</sup> 'Nord-Kivu: le journaliste Héritier Magayane tué à Rutshuru', Radio Okapi, 9 August 2021, <https://www.radiookapi.net/2021/08/09/actualite/societe/nord-kivu-le-journaliste-heritier-magayane-tue-rutshuru>.

<sup>30</sup> 'Ituri: Deux journalistes menacés par des miliciens craignent pour leurs vies', Journaliste en Danger, 1 February 2021, <https://jed-afrique.org/2021/02/01/ituri-deux-journalistes-menaces-par-des-miliciens-craignent-pour-leurs-vies>.



(see 4.3-4.4). Journalists criticising authorities or reporting on corruption are particularly targeted with judicial harassment. On 8 September 2023, renowned journalist Stanis Bujakera Tshiamala, deputy director of news site actualité.cd and correspondent for Jeune Afrique and Reuters, was detained at the Kinshasa Ndjili airport and questioned over the following days about an article, published by Jeune Afrique on 31 August 2023, alleging that a confidential memo by the ANR claims that military intelligence officers were implicated in the kidnapping and murder of Chérubin Okende Senga, a former minister and spokesperson for the political opposition party Ensemble pour la République, on 12 July 2023.<sup>31</sup> Although the article did not name Bujakera as the author, he was charged with ‘spreading false information’ and ‘forgery and falsification of false seals’, among other charges.<sup>32</sup> Two investigations by Reporters without Borders and the Congo Hold-Up media consortium demonstrated that the prosecution’s claims that Bujakera forged and then shared the memo lacked evidence and contained a sham expert report with technically impossible and fallacious findings, while also being full of inconsistencies.<sup>33</sup> Despite this, on 18 March 2024, the court of Kinshasa-Gomba found Bujakera guilty of ‘counterfeiting’, ‘forgery’, ‘propagation of false rumours’ and ‘transmission of an erroneous message’, and sentenced him to six months in prison and a fine of 1 million Congolese francs (approx. US\$360).<sup>34</sup> Previously, in March 2023, the Minister of Defence, Gilbert Kabanda, filed a criminal complaint against Bujakera for ‘publishing false rumours’ over a tweet quoting Kabanda from official minutes of a cabinet meeting.<sup>35</sup> Kabanda later withdrew the complaint, reportedly after the intervention of the Minister of Communication.<sup>36</sup>

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<sup>31</sup> ‘En RDC, le journaliste Stanis Bujakera Tshiamala placé sous mandat d’arrêt provisoire’, Le Monde, 11 September 2023, [https://www.lemonde.fr/afrique/article/2023/09/11/en-rdc-inquietude-apres-l-interpellation-du-journaliste-stanis-bujakera-tshiamala\\_6188864\\_3212.html](https://www.lemonde.fr/afrique/article/2023/09/11/en-rdc-inquietude-apres-l-interpellation-du-journaliste-stanis-bujakera-tshiamala_6188864_3212.html); ‘RDC: l’arrestation du journaliste Stanis Bujakera Tshiamala, “c’est vouloir tuer la liberté d’expression”’, RFI, 14 September 2023, <https://www.rfi.fr/fr/afrique/20230914-rdc-l-arrestation-du-journaliste-stanis-bujakera-tshiamala-c-est-vouloir-tuer-la-libert%C3%A9-d-expression>.

<sup>32</sup> ‘Congolese reporter insulted and his media outlet attacked at second trial hearing’, Reporters without Borders, 20 October 2023, <https://rsf.org/en/congolese-reporter-insulted-and-his-media-outlet-attacked-second-trial-hearing>.

<sup>33</sup> ‘Investigation file on Stanis Bujakera exposes arbitrary nature of Congolese journalist’s detention’, Reporters without Borders, 18 December 2023, <https://rsf.org/en/investigation-file-stanis-bujakera-exposes-arbitrary-nature-congolese-journalist-s-detention>; ‘Pourquoi le dossier d’accusation contre Stanis Bujakera Tshiamala ne tient pas’, Jeune Afrique, 27 November 2023, <https://www.jeuneafrique.com/1508426/politique/pourquoi-le-dossier-daccusation-contre-stanis-bujakera-tshiamala-ne-tient-pas>.

<sup>34</sup> ‘RDC: Stanis Bujakera Tshiamala condamné, mais bientôt libre’, Jeune Afrique, 18 March 2024, <https://www.jeuneafrique.com/1548908/politique/rdc-stanis-bujakera-tshiamala-condamne-mais-bientot-libre>.

<sup>35</sup> ‘Plainte du ministre de la Défense contre le journaliste Bujakera: MILRDC dénonce une tentative de musellement de la presse’, Radio Okapi, 11 March 2023, <https://www.radiookapi.net/2023/03/11/actualite/justice/plainte-du-ministre-de-la-defense-contre-le-journaliste-bujakera-milrdc>.

<sup>36</sup> ‘DRC minister files, withdraws false news complaint against reporter Stanis Bujakera’, Committee to Protect Journalists, 14 March 2023, <https://cpj.org/2023/03/drc-defense-minister-files-withdraws-false-news-complaint-against-reporter-stanis-bujakera/>.

**3.12** On 13 July 2022, ANR officers arrested journalist Joseph Kazadi Kamuanga and his US colleague Nicholas Niarchos in Lubumbashi, Haut-Katanga province, reportedly while they were setting up an interview in the context of their reporting on the link between mining in Katanga and those who profit from mining, such as separatists.<sup>37</sup> Both journalists were transferred the next day to ANR's headquarters in Kinshasa, where they were detained without charges. While Niarchos was released after five days, Kazadi remained in detention until 3 August 2022, with access to his lawyer denied.<sup>38</sup> Journalist Chilassy Bofumbo, who works for Radio Télévision Sarah (RTS) and media outlet Flash Info Plus in Equateur province, was held in detention for seven months on charges of 'contempt of authorities' and 'public insult' among others before a court in Mbandaka acquitted him on 5 July 2022.<sup>39</sup> Police arrested Bofumbo while he was covering a civil society protest against the provincial governor. On the same day that Bofumbo was arrested, RTS stopped broadcasting on orders of the governor.<sup>40</sup>

**3.13** Several journalists in DRC have been subjected to intimidation, including through judicial summons and threats of arrests. For example, prosecutors summoned RFI correspondent Pascal Mulegwa to appear before a court in Kinshasa on 22 December 2020 for criminal defamation as a result of a complaint by former minister José Makila Sumanda over an article by the journalist quoting a CSO report accusing Makila of having embezzled funds to finance his election campaign.<sup>41</sup>

**3.14** Physical attacks of and threats against journalists occur frequently, often but not solely in the context of protests or elections. On 28 June 2023, a dozen Armed Forces of the DRC (FARDC) officers briefly detained and assaulted three journalists. Jeef Ngoyi of Radio Okapi and Marie-Louise Malou Mbela and trainee camera operator Jiresse Nkelani of RTNC were punched and hit with belts as they were covering a land dispute in Kinshasa.<sup>42</sup> Ahead of general elections held on 20 December 2023, several

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<sup>37</sup> 'RDC: deux journalistes dont un Américain arrêtés par les services de renseignement', RFI, 18 July 2022, <https://www.rfi.fr/fr/afrique/20220718-rdc-deux-journalistes-dont-un-am%C3%A9ricain-arr%C3%AAt%C3%A9s-par-les-services-de-renseignement>.

<sup>38</sup> 'RDC: le journaliste Joseph Kazadi libéré après 3 mois de détention au secret', actualité.cd, 5 August 2022, <https://actualite.cd/2022/08/05/rdc-le-journaliste-joseph-kazadi-libere-apres-3-semaines-de-detention-au-secret>.

<sup>39</sup> 'RDC: un des trois journalistes incarcérés depuis 7 mois à la prison de Mbandaka acquitté', actualité.cd, 6 July 2022, <https://actualite.cd/index.php/2022/07/06/rdc-un-des-trois-journalistes-incarceres-depuis-7-mois-la-prison-de-mbandaka-acquitte>; 'DRC: Congolese court asked to jail reporter for three years', Reporters without Borders, 29 June 2022, <https://rsf.org/en/drc-congolese-court-asked-jail-reporter-three-years>.

<sup>40</sup> Ibid.

<sup>41</sup> 'Liberté de la presse en RD Congo: un journaliste de RFI poursuivi pour diffamation par un ancien ministre', France Info, 23 December 2020, [https://www.francetvinfo.fr/monde/afrique/politique-africaine/liberte-de-la-presse-en-rd-congo-un-journaliste-de-rfi-poursuivi-pour-diffamation-par-un-ancien-ministre\\_4230589.html](https://www.francetvinfo.fr/monde/afrique/politique-africaine/liberte-de-la-presse-en-rd-congo-un-journaliste-de-rfi-poursuivi-pour-diffamation-par-un-ancien-ministre_4230589.html).

<sup>42</sup> 'Congolese soldiers arrest, beat 3 journalists covering land dispute', Committee to Protect Journalists, 30 June 2023, <https://cpi.org/2023/06/congolese-soldiers-arrest-beat-3-journalists-covering-land-dispute>.

journalists were threatened or physically attacked, often by politicians or supporters of political parties, while covering political activities.<sup>43</sup>

#### 4. Freedom of expression, media freedom and access to information

- 4.1** Under the 3<sup>rd</sup> UPR cycle, the DRC government received 10 recommendations relating to freedom of expression, media freedom and access to information. The government accepted all these recommendations. For example, it pledged to ‘withdraw all media closure measures and no longer resort to the practice of limiting or cutting off communications systems...’ and ‘adopt two laws on access to information and freedom of the press’. However, as discussed below, the government has partly implemented five recommendations and failed to implement the other five recommendations.
- 4.2** Article 19 of the ICCPR guarantees the right to freedoms of expression and opinion. Article 23 of the 2006 Constitution of DRC, as amended to date, also guarantees the right to freedoms of opinion and expression.<sup>44</sup> Article 24 of the Constitution guarantees freedoms of information and of the press. The two articles contain limitations, based on law, respect of public order and good morals.
- 4.3** On 4 April 2023, the National Assembly adopted Ordinance Law 23/009 of 13 March 2023,<sup>45</sup> replacing the restrictive Law 96/002 of 22 June 1996 on press freedom. Although the new law is a positive step forward from the repressive 1996 Law, it still contains restrictive provisions, including to allow authorities to prosecute journalists. Article 123 stipulates that the publication, dissemination or reproduction of false news is punishable under the Penal Code or the Code of Military Justice if it is made in ‘bad faith’ or has ‘shaken discipline or the morale of the armies or has hindered the war effort of the nation’. The Penal Code will also be used against anyone committing a press offence against magistrates, civil servants and agents vested with public authority, according to article 124.<sup>46</sup> Defamation is criminalised in Penal Code article 74, punishable with a prison sentence ranging from eight days to one year and a fine.

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<sup>43</sup> ‘JED s’inquiète de la multiplication des actes d’intolérance contre les journalistes à l’approche des élections’, actualite.cd, 1 August 2023, <https://actualite.cd/2023/08/01/jed-sinquiete-de-la-multiplication-des-actes-dintolerance-contre-les-journalistes>; ‘Reporters must be able to cover DRC presidential election freely and safely’, Reporters without Borders, 20 December 2023, <https://rsf.org/en/reporters-must-be-able-cover-drc-presidential-election-freely-and-safely>.

<sup>44</sup> As modified by law 11/002 of 20 January 2011 on revision of certain articles of the Constitution of the Democratic Republic of Congo of 19 February 2006.

<sup>45</sup> Ordinance-Law 23/009 of 13 March 2023, establishing terms and conditions for the exercise of freedom of the press, broadcast information by radio and television, the written press or any other means of communication in DRC. ‘La RDC se dote d’une nouvelle loi sur la Presse’, Ministère de la Communication et Médias, 3 April 2023, <https://communication.gouv.cd/actualites/42/la-rdc-se-dote-dune-nouvelle-loi-sur-la-presse>.

<sup>46</sup> Article 76 of DRC’s Penal Code punishes slanderous denunciation – written or verbally – of magistrates and public officials with a prison sentence of up to five years and a fine.

Article 199 bis criminalises the dissemination of false rumours, punishable with a prison sentence of two months to three years and a fine.

- 4.4** The Digital Code,<sup>47</sup> which was adopted alongside the new Press Law, stipulates in article 360 a prison sentence for up to six months and a fine up to 1 million Congolese francs (approx. US\$400) for people, including journalists convicted of initiating or relaying false information via social media networks or IT systems. Additionally, according to articles 358 and 359, initiating electronic communication that ‘constrains, intimidates, harasses or provokes emotional distress in a person’ with the aim of ‘encouraging behaviour that is hateful, tribal and hostile to good morals and patriotic values’ or when the sender should have known it would ‘gravely affect’ the ‘tranquillity of the targeted person’ can lead to a prison sentence of up to two years and a fine of 10 million francs (approx. US\$4,000).
- 4.5** Authorities censor content at times. On 9 November 2021, DRC’s National Commission for Censorship of Songs and Performances issued a ban on the broadcasting of seven songs, using a 1996 decree<sup>48</sup> that gives it power to ban songs that violate law, security, public order, or good morals before they are released.<sup>49</sup> The banned songs included ‘Nini to salite’ (What have we not done) by Musique populaire de la revolution and Bob Elvis’ ‘La lettre à ya tshitshi’, which both criticise social injustice and the administration of President Tshisekedi.<sup>50</sup>
- 4.6** In some provinces, local authorities have arbitrarily banned or suspended media outlets or radio programmes from broadcasting. According to JED, at least 118 radio stations or programmes were banned under Tshisekedi’s first term.<sup>51</sup> On 15 November 2021, the Equateur provincial Minister of Media and Communication issued an order suspending RTS, owned by a former governor of the province, for 60 days on accusations of ‘inciting the population to civil disobedience’ and regularly ‘broadcasting hateful, xenophobic and inflammatory speeches’.<sup>52</sup> On 18 November 2021, police officers besieged the RTS headquarters, shutting it down and forcing its staff out.<sup>53</sup> In January 2022, the suspension was extended indefinitely.<sup>54</sup> Following a court order to reopen the radio station on 6 June 2023, police officers were ordered

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<sup>47</sup> Ordinance-Law 23/010 of 23 March 2023 on the Digital Code.

<sup>48</sup> Decree 003 of 21 February 1996.

<sup>49</sup> ‘DRC: Ban on songs criticizing the government highlights urgent need to repeal censorship law’, Amnesty International, 11 November 2021, <https://www.amnesty.org/en/latest/news/2021/11/drc-ban-on-songs-criticizing-the-government-highlights-urgent-need-to-repeal-censorship-law>.

<sup>50</sup> ‘Nini to salite’ du groupe MPR parmi les chansons interdite de diffusion par la commission de censure de la RDC’, BBC Afrique, 10 November 2021, <https://www.bbc.com/afrique/monde-59237547>.

<sup>51</sup> ‘Les pages sombre de la liberté de la presse en RDC. Rapport 2023.’, Journaliste en Danger, November 2023, <https://jed-afrique.org/wp-content/uploads/2023/11/Rapport-2023-FINAL-002.pdf>, p. 23.

<sup>52</sup> ‘Le radio Sarah de Mbandaka muselée’, La Tempête des Tropiques, 22 November 2021, <http://www.latempete.info/?p=49715>.

<sup>54</sup> ‘Governor of Equateur province defies court order allowing Radio Télévision Sarah to reopen’, Committee to Protect Journalists, 13 June 2023, <https://cpj.org/2023/06/governor-of-drcs-equateur-province-defies-court-order-allowing-radio-television-sarah-to-reopen>.

by authorities to block access to RTS premises, defying the court order.<sup>55</sup> According to RSF, RTS was only able to resume broadcasting in November 2023.<sup>56</sup> Other radio stations that were arbitrarily suspended include Radio Tokomi Wapi in Lomami province in January 2023<sup>57</sup> and radio stations Radio Télévision Losanganya and Radio Télé Gran Ram-tam Sankuru in Lodja, Sankuru province, in October 2022.<sup>58</sup>

**4.7** In eastern DRC, armed rebel groups have also banned and suspended radio stations and programmes in areas under their occupation, while threatening journalists and media outlets into submission. On 14 July 2023, M23 banned Sauti Ya Wahami (The Voice of the Displaced)<sup>59</sup> from being broadcast on four private broadcasters based in Rutshuru in North Kivu for 60 days in ‘the interest of consolidation of peace, the communion of communities and promoting living together’.<sup>60</sup> In addition, M23 ordered the media outlets to indefinitely cease retransmitting programmes of Kinsasha-based radio station Top Congo FM.<sup>61</sup> On 10 August 2023, the radio stations of the broadcasters were authorised to resume broadcasting of Sauti Ya Wahami.<sup>62</sup> Previously in February 2023, M23 had prohibited the broadcasting of Sauti Ya Wahami and retransmission of Top Congo FM for 60 days, while ordering media outlets to broadcast Maisha ya Kwetu (Life at Home), led by an M23 member.<sup>63</sup> Meanwhile, the High Council for Broadcasting and Communication has threatened legal proceedings against media complying with M23 orders and relaying M23 information.<sup>64</sup>

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<sup>55</sup> Ibid.

<sup>56</sup> ‘Authorities in northwest DRC urged to safeguard press freedom after attacks on journalists’, Reporters without Borders, 23 February 2024, <https://rsf.org/en/authorities-northwest-drc-urged-safeguard-press-freedom-after-attacks-journalists>.

<sup>57</sup> ‘Lomami: La radio du député Eliezer Ntambwe fermée pour “incitation au tribalisme, à la révolte et la désobéissance populaire”’, Actu30.cd, 9 January 2023, <https://actu30.cd/2023/01/lomami-la-radio-du-depute-eliezer-ntambwe-fermee-pour-incitation-au-tribalisme-a-la-revolte-et-la-desobeissance-populaire>.

<sup>58</sup> ‘Sankuru: OLPA stupéfait après la suspension de deux radios à Lodja’, Observatoire de la Liberté de la Presse en Afrique, 27 October 2022, <https://olpa-rdc.org/sankuru-olpa-stupefait-apres-la-suspension-de-deux-radios-a-lodja>.

<sup>59</sup> Sauti Ya Wahami is a Swahili-language radio programme produced and hosted by dozens of journalists, mainly internally displaced people, from Goma, which lies outside the M23-occupied areas.

<sup>60</sup> ‘M23 rebels ban radio show by displaced Congolese journalists’, Committee to Protect Journalists, 19 July 2023, <https://cpj.org/2023/07/m23-rebels-ban-radio-show-by-displaced-congolese-journalists>.

<sup>61</sup> Ibid.

<sup>62</sup> ‘Displaced reporters censored again in areas held by M23 rebels in eastern DRC’, Reporters without Borders, 19 July 2023, <https://rsf.org/en/displaced-reporters-censored-again-areas-held-m23-rebels-eastern-drc>.

<sup>63</sup> ‘All parties to North-Kivu conflict asked to respect journalists’ work’, Reporters without Borders, 15 March 2023, <https://rsf.org/en/all-parties-nord-kivu-conflict-asked-respect-journalists-work>; ‘Nord-Kivu: OLPA préoccupée par les pressions sur les médias de Rutshuru’, Observatoire de la Liberté de la Presse en Afrique, 27 October 2022, <https://olpa-rdc.org/nord-kivu-olpa-preoccupe-par-les-pressions-sur-les-medias-de-rutshuru>.

<sup>64</sup> ‘RDC: Le CSAC condamne l’interdiction du M23 aux médias locaux de Rutshuru de relayer les programmes de Top Congo’, 7sur7.cd, 16 February 2023, <https://7sur7.cd/index.php/2023/02/16/rdc-le-csac-condamne-linterdiction-du-m23-aux-medias-locaux-de-rutshuru-de-relayer-les>.

**4.8** In September 2015, DRC's Senate adopted a draft law on access to information and sent it to the National Assembly.<sup>65</sup> However, no further steps were taken to validate the draft law before the legislature ended. Nor was it taken up again by the National Assembly that followed.<sup>66</sup>

## **5. Freedom of peaceful assembly**

**5.1** During DRC's examination under the 3<sup>rd</sup> UPR cycle, the government received and accepted 11 recommendations on the right to freedom of peaceful assembly. Among other recommendations, the government committed to 'end the use of violence and disproportionate force against opposition supporters, and release those who have been arbitrarily arrested and detained while exercising their right to demonstrate peacefully'. However, as evidenced below, the government has not implemented nine recommendations.

**5.2** Articles 25 and 26 of the 2006 Constitution guarantee the right to freedom of peaceful assembly subject to 'respect for the law, public order and good morals'.<sup>67</sup> Article 21 of the ICCPR also guarantees this right. Under the Constitution, organisers of assemblies are required to inform the competent authorities beforehand in writing. Despite this constitutional provision, in practice a system of prior authorisation is in force, applying article 4 of Decree-Law 196 of 29 January 1999 regulating public assemblies and meetings.<sup>68</sup> A draft law establishing measures for the application of freedom of peaceful assembly, still falling short of international standards, was adopted by Members of Parliament and the Senate in October 2015 but never promulgated by the President.<sup>69</sup>

**5.3** The right to freedom of assembly is severely limited in the provinces of Ituri and North Kivu in eastern DRC. Under the state of siege imposed since May 2021, military and police authorities have cracked down on protests, including through the use of live ammunition, and prosecuted protesters in military courts. On 25 February 2022, the Military Court in Goma convicted Claude Lwaboshi Buhazi, Faustin Ombeni Tulinabo and Serge Mikindo Waso of the Jicho la Raiya (The Eye of the Citizens) social movement to two years in prison for 'harmful accusations' and 'slandorous denunciation'. The three activists were arrested on 18 February 2021 while planning

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<sup>65</sup> 'Le Sénat vote la loi sur l'accès à l'information', 7sur7.cd, 29 October 2015, <https://7sur7.cd/le-senat-vote-la-loi-sur-lacces-a-linformation>.

<sup>66</sup> 'Democratic Republic of Congo', Platform to Protect Whistleblowers in Africa, 2021, <https://www.pplaaf.org/country/drc.html>.

<sup>67</sup> As modified by law 11/002 of 20 January 2011 on revision of certain articles of the Constitution of the Democratic Republic of Congo of 18 February 2006.

<sup>68</sup> This 1999 law precedes the 2006 Constitution. See <https://www.leganet.cd/Legislation/Droit%20Public/Ordre/DL.29.01.1999.htm>.

<sup>69</sup> 'Legal analysis of DRC legislation on the right to the freedom of peaceful assembly', Amnesty International, 12 October 2018, <https://www.amnesty.org/en/documents/afr62/9190/2018/en>.

to protest against illegal road taxation and alleged mismanagement of the Kirotshe health district.<sup>70</sup>

- 5.4** On 30 August 2023, security forces used live ammunition and brutal force against protesters in Goma, North Kivu, killing over 50 people.<sup>71</sup> Military officers had been deployed early in the morning to prevent the protest, organised by the mystic religious sect Natural Judaic and Messianic Faith Towards the Nations, to demand the departure of the United Nations peacekeeping force in DRC, MONUSCO, and soldiers from the East African Community Regional Force.<sup>72</sup> The mayor of Goma had banned the protest. Initially, authorities accused the protesters of being the instigators of violence, with 143 of those arrested appearing before the military court of Goma on 1 September 2023.<sup>73</sup> A few days later, Deputy Prime Minister and Minister of the Interior and Security Peter Kazadi announced the release of all those arrested.<sup>74</sup> On 2 October 2023, the military court convicted four military officers of murder.<sup>75</sup>
- 5.5** Outside of the areas under the state of siege, local authorities have also arbitrarily banned protests and used violence to disperse and detain protesters, particularly with civil society and opposition protests. On 20 May 2023 in Kinshasa, security forces violently dispersed a peaceful protest organised by a coalition of opposition parties against the high cost of living, injuring at least 30 people. Although the protest was authorised, police arrested dozens of people. Anti-riot police reportedly fired teargas at protesters and beat and arrested people violently.<sup>76</sup> On 3 February 2024 in Kinshasa, security forces in plain clothes arrested four LUCHA activists along with three others during a protest organised by Dynamique des mouvements citoyens

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<sup>70</sup> RDC: condamnation des trois membres du mouvement citoyen Jicho La Raia', Fédération Internationale pour les Droits Humains, 17 March 2022, <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/rdc-condamnation-de-trois-membres-du-mouvement-citoyen-jicho-la-raiya>.

<sup>71</sup> 'Au moins 48 civils morts dans la répression d'une manifestation anti-ONU à Goma', Le Figaro, 31 August 2023, <https://www.lefigaro.fr/flash-actu/rdc-au-moins-48-civils-morts-dans-la-repression-d-une-manifestation-anti-onu-a-goma-20230831>; 'Trois semaines après la tuerie de Goma, les familles enterrent leurs morts', Voice of America, 19 September 2023, <https://www.voafrique.com/a/trois-semaines-apr%C3%A8s-la-tuerie-de-goma-les-familles-enterrent-leurs-morts/7274235.html>.

<sup>72</sup> 'RDC: réactions à la répression violente d'une manifestation contre l'ONU', Africanews, 2 September 2023, <https://fr.africanews.com/2023/09/02/rdc-reactions-a-la-repression-violente-d-une-manifestation-contre-lonu>.

<sup>73</sup> 'RDC: des militaires devant la justice après la répression sanglante d'une manifestation à Goma', Le Monde, 6 September 2023, [https://www.lemonde.fr/afrique/article/2023/09/06/rdc-des-militaires-devant-la-justice-apres-la-repression-sanglante-d-une-manifestation-a-goma\\_6188072\\_3212.html](https://www.lemonde.fr/afrique/article/2023/09/06/rdc-des-militaires-devant-la-justice-apres-la-repression-sanglante-d-une-manifestation-a-goma_6188072_3212.html).

<sup>74</sup> Ibid.

<sup>75</sup> 'Est de la RDC: quatre officiers condamnés suite à la violente répression d'une manifestation à Goma', RFI, 3 October 2023, <https://www.rfi.fr/fr/afrique/20231003-est-de-la-rdc-quatre-officiers-condamn%C3%A9s-suite-%C3%A0-la-violente-r%C3%A9pression-d-une-manifestation-%C3%A0-goma>.

<sup>76</sup> 'En RD Congo, une marche de l'opposition "contre la vie chère" dispersée par la police', France 24, 20 May 2023, <https://www.france24.com/fr/afrique/20230520-en-rd-congo-une-marche-de-l-opposition-contre-la-vie-ch%C3%A8re-dispers%C3%A9e-par-la-police>.

congolais to mark the 600<sup>th</sup> day of occupation of Bunagana, North Kivu, by M23 (see 3.4).<sup>77</sup>

## 6. Recommendations to the Government of DRC

CIVICUS and LDGL call on the DRC government to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In the light of this, the following recommendations are made:

### 6.1 Freedom of association

- Revise the draft law modifying and complementing law 004/2001 of 20 July 2001 on general provisions applicable to non-profit organisations and public utility institutions, in conformity with the Constitution of DRC and international human rights instruments ratified by DRC.
- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit freedom of association.
- Open the political space for dialogue between all social and development actors and take into account the views of stakeholders, including CSOs, HRDs and journalists, in adopting and implementing national programmes and policies for the benefit of all citizens.

### 6.2 Protection of human rights defenders

- Amend Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC and guarantee a favourable environment for their work, in accordance with the UN Declaration on the Protection of Human Rights Defenders.
- Immediately and unconditionally release all HRDs and journalists still in detention and drop all charges against them.

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<sup>77</sup> 'Que reproche-t-on aux activists arrêtés en RDC?', Jeune Afrique, 5 February 2024, <https://www.jeuneafrique.com/1533495/politique/que-reproche-t-on-aux-activistes-arretes-en-rdc>; 'DR Congo's arrests of activists invokes déjà vu of growing repression', Amnesty International, 16 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/dr-congos-arrest-of-activists-invokes-deja-vu-of-growing-repression/>.



- Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work, conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment.

### **6.3 Freedom of expression, media freedom and access to information**

- Review Ordinance Law 23/009 of 13 March 2023 on Press Freedom and Ordinance-Law 23/010 of 23 March 2023 on the Digital Code in order to bring them into line with best practices and international standards in the area of freedom of expression.
- Decriminalise all press offences and revise criminal provisions on defamation and insult in the Penal Code, in conformity with ICCPR article 19.
- Reinstate all media outlets that have unwarrantedly been closed.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive.
- Take steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Adopt a law on access to information in order to promote the full exercise of the rights to freedoms of expression and opinion.

### **6.4 Freedom of peaceful assembly**

- Adopt best practices on freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, which calls for simple processes for the notification of assemblies being held rather than permission being required, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.
- Amend the draft law on the measures of application of freedom of assembly and align it with the Constitution and ICCPR article 21.
- Unconditionally and immediately release all protesters, HRDs and journalists detained for exercising their right to freedom of peaceful assembly and review their cases to prevent further harassment.

- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces in the context of protests.
- Review and if necessary update human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Publicly condemn at the highest levels all instances of the use of excessive and brutal force by security forces in response to protests, launch formal investigations into such instances and bring the perpetrators to justice.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to freedom of peaceful assembly by state authorities.

### **6.5 Access to UN Special Procedures mandate holders**

- Extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and 3) Special Rapporteur on the situation of human rights defenders.

### **6.6 State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

## 7. Annex: Assessment of implementation of civic space recommendations under the 3<sup>rd</sup> cycle

| Recommendation   | Position | Theme                            | Evaluation - level of implementation  |
|--|----------|----------------------------------|---|
| 119.36 Expedite parliamentary approval of draft legislation for the promotion and protection of human rights (South Africa)  | Accepted | HRDs and journalists             | <u>Not implemented</u><br>The government has not adopted a law on the promotion and protection of human rights in DRC. However, there remains a need for the DRC to adopt a national human rights policy which does not yet exist.  |
| 119.89 End the use of violence and disproportionate force against opposition supporters, and release those who have been arbitrarily arrested and detained while exercising their right to demonstrate peacefully (Zambia) | Accepted | Peaceful Assembly                | <u>Not implemented</u> <ul style="list-style-type: none"> <li>- Authorities often arbitrarily ban protest and use violence to disperse and detain protesters, in particular civil society protests and opposition protests (see 5.4)</li> <li>- The right to freedom of assembly is severely limited under the Stage of Siege in the provinces of Ituri and North Kivu (see 5.3)</li> <li>- Certain political actors, such as Salomon Kalonda, remain in prison.</li> </ul> |
| 119.90 Lift media restrictions implemented over the electoral period, and bring to justice those responsible for threats against journalists, the political opposition and human rights defenders (Australia)              | Accepted | Expression, HRDs and journalists | <u>Not implemented</u><br>In practice, restrictions against the media remain, including the arbitrary suspensions of media (see 4.6) while HRDs and journalists are still regularly subjected to threats (see 3.5 and 3.13)   |
| 119.91 Ensure that members of political parties, journalists and human rights defenders can carry out their activities without intimidation, reprisal or harassment (Canada)   | Accepted | HRDs and journalists             | <u>Not implemented</u><br>Despite the promulgation of Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC (see 3.3) and the Ordinance Law 23/009 of 13 March 2023, the new Press Law (see 4.3), HRDs and journalists continue to be subjected to threats,  |

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|  |          |  | <p>intimidation and reprisals (see 3.4, 3.5, 3.8, 3.12, 3.13).</p> <p>It is important that law enforcement and security agents change their behavior towards HRDs and journalists. An education campaign is essential.</p>  |
| 119.92 Ensure protection of human rights defenders and journalists, with emphasis on freedom of expression and assembly (Czechia)  | Accepted | HRDs and journalists                       | <p><u>Not implemented</u></p> <p>Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC contains certain shortfalls, which could increase the risks to HRDs and facilitate their criminalisation (see 3.3).</p>   |
| 119.93 Fully protect everyone's rights to freedom of expression, assembly and association (Estonia)  | Accepted | Expression, peaceful assembly, association | <p><u>Not implemented</u></p> <p>Despite legal advances such as the promulgation of Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC (see 3.3) and the Ordinance Law 23/009 of 13 March 2023, the new Press Law (see 4.3), in practice violations of freedom of expression and peaceful assembly are recurrent (see 4.3-4.8 and 5.2-5.4).</p>   |
| 119.94 Take the legislative measures necessary to ensure that any restrictions on the exercise of freedom of expression comply with the requirements set out in the International Covenant on Civil and Political Rights and ensure their effective implementation (Republic of Moldova) | Accepted | Expression                                 | <p><u>Partially implemented</u></p> <p>The new Press law, Ordinance Law 23/009 of 13 March 2023, and the new Digital Code still contain certain restrictive provisions, including provisions allowing authorities to prosecute journalists (see 4.3-4.4).</p> <p>The process of adopting this law was not participatory or inclusive; hence the specific needs of journalists, HRDs and opposition political actors were not taken into account when the new law was adopted.</p> |
| 119.95 Adopt two laws on access to information and freedom of the press (France)   | Accepted | Expression                                 | <p><u>Partially implemented</u></p> <p>A new Press law, Ordinance Law 23/009 of 13 March 2023, was</p>  |

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|   |          |   | adopted in 2023 (see 4.3) but the draft law on access to information has not yet been adopted (see 4.8).  |
| 119.96 Ensure journalists, opposition leaders, human rights defenders and other civil society actors are able to freely exercise their rights to freedom of expression, association and peaceful assembly without fear of harassment, intimidation or reprisals (Ireland) | Accepted | HRDs and journalists                        | <p><u>Not implemented</u></p> <p>Despite the promulgation of Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC (see 3.3) and the Ordinance Law 23/009 of 13 March 2023, the new Press Law (see 4.3), HRDs and journalists continue to be subjected to threats, intimidation and reprisals (see 3.4, 3.5, 3.8, 3.12, 3.13).</p> <p>It is important that law enforcement and security agents change their behavior towards HRDs and journalists. An education campaign is essential.</p>   |
| 119.97 Step up efforts to guarantee freedom of expression, assembly and association and adopt effective measures to ensure the protection of human rights defenders and journalists (Italy)   | Accepted | Expression, Peaceful assembly, association, | <p><u>Not implemented</u></p> <p>Despite legal advances such as the promulgation of Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC (see 3.3) and the Ordinance Law 23/009 of 13 March 2023, the new Press Law (see 4.3), in practice violations of freedom of expression and peaceful assembly are recurrent (see 4.3-4.8 and 5.2-5.4).</p> <p>Some efforts are being made, but it is important to continue to engage in debates and dialogue with the authorities in order to change perceptions of the social mission of the work of HRDs and journalists. It is also important to popularize the law protecting HRDs and journalists among officials and law enforcement agents.</p> |
| 119.98 Adopt a clear legal framework on the right to assembly, in order to avoid violations of freedom of expression  | Accepted | Peaceful Assembly                           | <p><u>Not implemented</u></p> <p>A draft law establishing measures for the application of the freedom of peaceful</p>   |

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| and peaceful assembly, such as criminalizing peaceful protesters (Germany)  |          |                                  | assembly, still falling short of international standards, has not yet been promulgated (see 5.2). Violations to the freedom of peaceful assembly include arbitrary bans, disproportionate use of force against protesters and the detention of protesters, in particular when the protest is organized by civil society or opposition (see 5.4).  |
| 119.99 Ensure that media broadcasters remain free of political pressure, and protect journalists, including by prompt, effective investigations into concerns about their safety (United Kingdom of Great Britain and Northern Ireland) | Accepted | HRDs and journalists, expression | <u>Not implemented</u><br>Investigations into cases of threats against journalists have not been carried out or have not been independent. Threats continue from law enforcement and security forces. Media outlets have been arbitrarily suspended or banned (see 4.6).  |
| 119.100 Adopt legislation recognizing and effectively protecting the work of human rights defenders, and ensure exhaustive and independent investigations into the allegations of human rights violations against them (Uruguay)        | Accepted | HRDs and journalists             | <u>Partially implemented</u><br>Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC was adopted in June 2023 (see 3.3) but arrests and threats against HRDs continue (see 3.4-3.7).<br><br>The implementation of this law is not yet effective in the country. The authorities and law enforcement must change their practices and attitudes towards HRDs and journalists. |
| 119.101 Adopt the law on the protection and responsibility of human rights defenders (Burkina Faso)   | Accepted | HRDs and journalists             | <u>Implemented</u><br>Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC was adopted in June 2023 (see 3.3).  |
| 119.102 Adopt the law on human rights defenders (France)  | Accepted | HRDs and journalists             | <u>Implemented</u><br>Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC was adopted in June 2023 (see 3.3)<br>All that remains is the popularisation of the law by CSOs and facilitating its   |

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|  |          |  | appropriation by officials and law enforcement and security agents, including by HRDs for a better change in the behavior of protection stakeholders.   |
| 119.103 Take concrete steps to create and maintain a safe and enabling environment for all human rights defenders (Norway)   | Accepted | HRDs and journalists   | <u>Not implemented</u><br>Arrests and threats against HRDs continue (see 3.4-3.7), which does not guarantee a safe and enabling environment.  |
| 119.104 Review the draft non-governmental organization and human rights defenders' bills to ensure that they do not lead to restrictions on civil society (Sweden)   | Accepted | HRDs and journalists, Association DDH et journalistes, association | <u>Partially implemented</u><br>The draft law modifying and complementing Law 004/2001 has not evolved since its initiation (see 2.4). Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC was adopted in June 2023 (see 3.3).   |
| 119.105 Guarantee the constitutional right of each citizen to participate in public affairs and to demonstrate peacefully by adopting by the end of 2019 a law guaranteeing the right to demonstrate, in accordance with international standards (Belgium) | Accepted | Peaceful Assembly  | <u>Not implemented</u><br>A draft law establishing measures for the application of the freedom of peaceful assembly, still falling short of international standards, has not yet been promulgated (see 5.2). Violations to the freedom of peaceful assembly include arbitrary bans, disproportionate use of force against protesters and the detention of protesters, in particular when the protest is organized by civil society or opposition (see 5.4). |
| 119.106 Adopt concrete measures to ensure full respect of freedom of assembly, association and expression (Spain)  | Accepted | Peaceful Assembly, Expression, association                         | <u>Not implemented</u><br>Despite legal advances such as the promulgation of Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC (see 3.3) and the Ordinance Law 23/009 of 13 March 2023, the new Press Law (see 4.3), in practice violations of freedom of expression and peaceful assembly are recurrent (see 4.3-4.8 and 5.2-5.4).  |
| 119.107 Consider initiating a new legal framework in accordance  | Accepted | Peaceful Assembly  | <u>Not implemented</u>  |

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| with international law and standards, including the International Covenant on Civil and Political Rights and the African Commission on Human and Peoples' Rights, on the right to freedom of peaceful assembly (Ghana).                      |          |  | A draft law establishing measures for the application of the freedom of peaceful assembly, still falling short of international standards, has not yet been promulgated (see 5.2). Violations to the freedom of peaceful assembly include arbitrary bans, disproportionate use of force against protesters and the detention of protesters, in particular when the protest is organized by civil society or opposition (see 5.4).  |
| 119.108 Protect the rights of journalists and human rights defenders as well as those of political opponents by improving the legislative framework related to the freedom of expression, association and assembly (Luxembourg).             | Accepted | HRDs and journalists, expression, association, peaceful assembly | <u>Partially implemented</u><br>Despite legal advances such as the promulgation of Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC (see 3.3) and the Ordinance Law 23/009 of 13 March 2023, the new Press Law (see 4.3), in practice violations of freedom of expression and peaceful assembly are recurrent (see 4.3-4.8 and 5.2-5.4).<br><br>There is a need to harmonise regulations so that the protection of these rights is global and complete. On the other hand, authorities and law enforcement and security forces must be trained in human rights and their implementation during peacekeeping or public security operations. |
| 119.109 Take the necessary steps to ensure that laws and regulations are in full accordance with the Democratic Republic of the Congo's international obligations with respect to freedom of assembly, association and expression (Maldives) | Accepted | Peaceful assembly, association, expression                       | <u>Not implemented</u><br>Laws exist but are not fully conform international standards: for example the Ordinance Law 23/009 of 13 March 2023, the new Press Law, and the Digital Code (see 4.3-4.4).  |
| 119.110 Continue reforms aimed at building a strong civil society,   | Accepted | Expression, HRDs and journalists                                 | <u>Partially implemented</u>   |



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| enjoying independent, pluralistic media with free access to public information and legal protection of journalists and human rights defenders (Poland)  |          |                      | <p>Law 23/027 on the Protection and Responsibility of Human Rights Defenders in DRC was adopted in June 2023 (see 3.3)</p> <p>Ordinance Law 23/009 of 13 March 2023, the new Press Law (see 4.3) was adopted.</p> <p>No advances were made regarding the legal protection of civil society, nor regarding the draft law on access to information (see 4.8).</p>  |
| 119.111 Adopt and promulgate the law fixing the implementation measures of the freedom to demonstrate, to ensure the freedoms of assembly and association in accordance with the Constitution and international obligations (Sweden)                          | Accepted | Peaceful Assembly    | <p><u>Not implemented</u></p> <p>A draft law establishing measures for the application of the freedom of peaceful assembly, still falling short of international standards, has not yet been promulgated (see 5.2). Violations to the freedom of peaceful assembly include arbitrary bans, disproportionate use of force against protesters and the detention of protesters, in particular when the protest is organized by civil society or opposition (see 5.4).</p> |
| 119.112 Withdraw all media closure measures and no longer resort to the practice of limiting or cutting off communications systems (such as the Internet and short messaging services), including during moments of tension or popular mobilization (Belgium) | Accepted | Expression           | <p><u>Partially implemented</u></p> <p>Authorities have not resorted to internet restrictions.</p> <p>Several media outlets have been arbitrarily banned or suspended (see 4.6).</p>   |
| 119.126 Investigate, prosecute and convict persons responsible for harassment, threats or intimidation against journalists and human rights defenders (Republic of Moldova)   | Accepted | HRDs and journalists | <p><u>Not implemented</u></p> <p>Investigations have not been carried out into all the cases of arrests, intimidation, killings of HRDs and journalists.</p>   |
| 119.138 Ensure that perpetrators of violations of international   | Accepted | HRDs and journalists | <p><u>Not implemented</u></p> <p>There have been cases in which perpetrators have been</p>   |

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| <p>humanitarian law and human rights violations, including against journalists, online media professionals, bloggers and human rights defenders, are brought to justice (Austria)</p>                                |                 |                          | <p>condemned, but in most cases, there has not been independent and credible investigation.</p>   |
| <p>119.263 Take steps to promulgate legislation aimed at promoting and protecting all forms of human rights, including rights to peaceful demonstration and the rights of indigenous pygmy people (Sierra Leone)</p> | <p>Accepted</p> | <p>Peaceful Assembly</p> | <p><u>Partially implemented</u><br/> The law protecting the indigenous pygmy people was adopted in 2022.</p> <p>A draft law establishing measures for the application of the freedom of peaceful assembly, still falling short of international standards, has not yet been promulgated (see 5.2). Violations to the freedom of peaceful assembly include arbitrary bans, disproportionate use of force against protesters and the detention of protesters, in particular when the protest is organized by civil society or opposition (see 5.4).</p> |