



MONUSCO

The United Nations Organization Stabilization
Mission in the Democratic Republic of the Congo



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

**REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE ON HUMAN
RIGHTS AND FUNDAMENTAL FREEDOMS DURING THE PRE-ELECTORAL
PERIOD IN THE DEMOCRATIC REPUBLIC OF CONGO**

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LIST OF ACRONYMS

ACHPR	African Charter on Human and Peoples' Rights
AMP	<i>Alliance pour la majorité présidentielle</i>
ANR	<i>Agence nationale de renseignements</i>
CENI	<i>Commission électorale nationale indépendante</i>
DGM	<i>Direction générale de migration</i>
DRC	Democratic Republic of the Congo
FDLR	<i>Forces démocratiques de libération du Rwanda</i>
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
MLC	<i>Mouvement de libération du Congo</i>
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MP	<i>Majorité présidentielle</i>
MSR	<i>Mouvement social pour le renouveau</i>
NGO	Non-governmental organization
PALU	<i>Parti lumumbiste unifié</i>
PNC	<i>Police nationale congolaise</i>
PPRD	<i>Parti du peuple pour la reconstruction et la démocratie</i>
RENADHOC	<i>Réseau national des organisations non gouvernementales des droits de l'homme de la République démocratique du Congo</i>
UDPS	<i>Union pour la démocratie et le progrès social</i>
UNC	<i>Union pour la nation congolaise</i>
UNJHRO	United Nations Joint Human Rights Office

I. Summary

Elections for the Presidency and the National Assembly in the Democratic Republic of the Congo are due to take place on 28 November 2011 and those for the Provincial Assemblies in 2012. This report documents violations of human rights and fundamental freedoms as well as acts of violence perpetrated between November 2010 and September 2011 in the context of the electoral process.

The United Nations Security Council, in its Resolution 1991 of 28 June 2011, urges the Government of the Democratic Republic of the Congo as well as all relevant parties to “*ensure an environment conducive to a free, fair, credible, inclusive, transparent, peaceful, and timely electoral process, which includes (...) freedom of expression, freedom of assembly, equitable access to media including State media, safety for all candidates (...) journalists, human rights defenders and actors from the civil society including women*”. In the same resolution, the Security Council further “*decides that MONUSCO shall support the organization and conduct of elections (...) [inter alia] by monitoring, reporting, and following-up on human rights violations in the context of the elections (...)*.”

During the period under review, the United Nations Joint Human Rights Office (UNJHRO) noted an increase in political activities as well as a concerning number of human rights violations and acts of violence targeting political party members, journalists and human rights defenders. In spite of constitutional guarantees, those seeking to express their opinions and their fundamental freedoms of assembly and association were often subjected to abuse by State agents and saw their right to physical integrity violated. Between 1 November 2010 and 30 September 2011, the UNJHRO documented 188 cases of human rights violations, varying in severity, apparently linked with the electoral process. The situation in the East of the country is of particular concern, as political parties have reportedly been targeted and many of their members have been deprived of their liberty or subjected to ill-treatment and threats. At the same time, some political parties have not imposed sufficient restraint upon their followers, which has contributed to violent acts and the disturbance of public order during political demonstrations.

This report acknowledges progress made in some areas of consolidation of democracy in the Democratic Republic of the Congo and improvement, especially in recent months, in the behavior of some police units tasked with maintaining order during political demonstrations. Nevertheless, most of the violations noted in the report targeted members or supporters of opposition parties, in particular the *Union pour la démocratie et le progrès social* (UDPS) and the *Union pour la nation congolaise* (UNC). Journalists were also harassed or arrested on numerous occasions, most frequently by State intelligence and security actors, apparently for carrying out their functions.

The report also notes worrying trends of manipulation of the State’s police, intelligence and justice sectors by political actors. The report expresses serious concern regarding the current situation and concludes that the continued repression of human rights and fundamental freedoms in the pre-electoral period may increase the likelihood of individuals and political parties resorting to violent means, endanger the democratic process and lead to post-electoral violence.

The UNJHRO urges the Government to intensify its cooperation with civil society, to issue public messages calling for State agents, especially members of the security forces, to promote and respect human rights and to fight impunity of State agents responsible for human rights violations by holding them accountable. The UNJHRO calls upon the international community to step up its efforts to support the Government of the DRC, civil society, and other stakeholders in efforts to train security forces and judicial officers on fundamental freedoms. Political parties must also issue public statements promoting peaceful participation in the electoral process and specifically call upon their supporters, especially youth, to refrain from violence and incitement thereto, and to respect and promote national laws and public order.

II. Introduction

1. On 30 July 2006, the Democratic Republic of the Congo (DRC) held its first democratic elections in more than forty years. With the five-year presidential term coming to an end in 2011, the country is preparing for elections for the Presidency and the National Assembly to be held on 28 November 2011 and for the Provincial Assemblies in 2012. The latter will indirectly elect the members of the Senate.
2. Taking into account the violent events following the 2006 elections, as well as the generally precarious human rights situation in the DRC, the 2011 elections constitute an important challenge for human rights, security and the consolidation of democracy in the country. The United Nations Security Council, in its Resolution 1991 of 28 June 2011¹, urges the Government of the Democratic Republic of the Congo as well as all relevant parties to *”ensure an environment conducive to a free, fair, credible, inclusive, transparent, peaceful, and timely electoral process, which includes (...) freedom of expression, freedom of assembly, equitable access to media including State media, safety for all candidates, (...) journalists human rights defenders and actors from the civil society including women”*. In the same resolution, the Security Council further *“decides that MONUSCO shall support the organization and conduct of elections (...) by monitoring, reporting, and following-up on human rights violations in the context of the elections (...)”*.
3. The objective of the present report of the United Nations Joint Human Rights Office (UNJHRO)² is to analyze the situation of human rights and fundamental freedoms during the run-up to the elections. After providing a brief overview of the general human rights situation, the political landscape and the legal framework, the report analyzes human rights violations against political opponents, journalists and human rights defenders in the electoral context. Trends pertaining to the types of violations, the main risk groups and perpetrators are also identified. The report also draws attention to several acts of violence, or incitation thereto, perpetrated by political parties and their supporters. Finally, the report outlines the activities implemented by the Government of the DRC, the United Nations, and other actors in response to these challenges.
4. This report is based on information documented by the UNJHRO and therefore includes only a portion of human rights violations against political opponents, journalists and human rights defenders which took place during the period under review. The cases mentioned in the report are illustrative of numerous other incidents documented by the UNJHRO. The reporting period is from November 2010 through September 2011, thus covering approximately one year before the scheduled start of the elections.

¹ United Nations Security Council, Resolution S/RES/1991 (2011) adopted at its 6568th meeting, on 28 June 2011.

² On 1 February 2008, the MONUC Human Rights Division (HRD) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the DRC were merged creating the United Nations Joint Human Rights Office in the DRC (UNJHRO) which functions according to their respective mandates.

III. Context

5. The run-up to the July 2006 elections was marked by a number of cases of misconduct by national and local authorities, in particular through the use of security forces to obstruct opposition candidates, and by imposing bureaucratic and practical obstacles on their constitutionally guaranteed freedoms of movement and peaceful assembly³. In addition to some violent incidents during the electoral campaign and between the first and the second round of the presidential elections, intense fighting took place after the elections in Kinshasa between Government forces and elements of the former *Mouvement de libération du Congo* (MLC) army assigned to provide security for former Vice President Bemba. These clashes led to the death of reportedly 23 people in August 2006 and to several hundred deaths and extensive property damage in March 2007⁴. However, after these incidents, a working coexistence subsequently emerged in the Parliament between governing and political opposition parties, particularly the *Alliance pour la majorité présidentielle* (AMP) and the MLC of Jean-Pierre Bemba.⁵ On 18 March 2011, the AMP changed its name into the *Majorité présidentielle* (MP), excluding several party members of the former AMP in the process.
6. Currently, the MP holds the majority of seats in the National Assembly. The MP is a coalition including the *Parti du peuple pour la reconstruction et la démocratie* (PPRD) of President Joseph Kabila, the *Parti lumumbiste unifié* (PALU) of Prime Minister Adolphe Muzito and the *Mouvement social pour le renouveau* (MSR) as its most important parties. In the National Assembly, the main opposition party is the MLC. Two of the main opposition parties are currently not represented in Parliament: the *Union pour la démocratie et le progrès social* (UDPS) of former Prime Minister Etienne Tshisekedi, which boycotted the 2006 elections, and the *Union pour la nation congolaise* (UNC), which was founded in 2009 by Vital Kamerhe, president of the party. Joseph Kabila, Vital Kamerhe and Etienne Tshisekedi are predicted to be the main contenders for the next Presidency. Jean-Pierre Bemba was the candidate first put forward by the MLC, but has not been able to register himself as a candidate as he is currently on trial at the International Criminal Court.⁶
7. On 5 January 2011, the Congolese parliament amended the 2006 Constitution, changing the Presidential electoral system from a two-round voting system to a first-past-the-post voting method, which limits the presidential elections to a single round of voting. The candidate with the relative majority of the votes in the first round will now automatically be elected President.⁷ This revision caused tensions between the majority and the opposition. The opposition boycotted the vote and several human rights defenders, politicians and other citizens denouncing the amendment were threatened. For instance, on 1 and 2 February 2011,

³ 22nd Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), S/2006/759, para. 6.

⁴ S/2006/759, para. 13; Twenty-fourth Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo S/2007/671, para 2.

⁵ S/2006/759, para. 6; S/2007/671, para. 4.

⁶ Jean-Pierre Bemba is tried for war crimes and crimes against humanity allegedly committed during the armed conflict in the Central African Republic. He submitted a request for a provisional release to be able to register himself in the DRC as a candidate for the presidential elections, which was refused by the ICC (ICC-01/05-01/08-1691-RED).

⁷ Article 71 of the Constitution.

the president and vice-president of the *Association africaine de défense des droits de l'homme* (ASADHO) were threatened with death after having organized a press conference during which they denounced the reforms. On 7 February 2011, the Minister of Justice and Human Rights wrote a letter to the Attorney General requesting him to open investigations on the threats against the ASADHO members.

8. With Organic Law N° 10/013 of 28 July 2010, the *Commission électorale nationale indépendante* (CENI) was created. Besides being responsible for contributing to the further development of the electoral legal framework, defining the electoral circumscriptions and organizing the elections, the CENI is charged with monitoring the campaigns and the electoral process. On 30 April 2011, the CENI announced that the presidential and parliamentary elections are scheduled for 28 November 2011. On 25 June 2011, the President promulgated the new electoral law.⁸ According to this law, the campaign activities may begin on 28 October 2011. Many parties and candidates had already commenced campaign activities before this date.
9. In the DRC, a wide number of print and electronic media are available, at least in urban centres. Many are associated with political parties or backed by politicians. Preparations for the elections have taken place against a backdrop of limited freedom of expression and freedom of association. UN and NGO actors have also raised concern over the precarious human rights situation journalists and human rights defenders face in the DRC.⁹ As the latest reports of the United Nations High Commissioner for Human Rights and of the seven United Nations experts on the situation in the DRC noted, journalists and human rights defenders reporting on human rights face the risk of being killed and are regularly tortured, threatened or arbitrarily arrested and detained.¹⁰ Suspending media outlets has been noted as a recurrent method used by the State to restrict freedom of expression.¹¹
10. Providing support and security to the electoral process will present an important challenge. Despite an increasing trend of prosecutions against soldiers and law enforcement agents for abusing their power or committing human rights violations, and a modest increase in the monthly pay of National Congolese Police (PNC) agents, progress remained limited in building accountable and professional national security forces. Although the organic laws on the new organizational structure of the Armed Forces of the Democratic Republic of the Congo (FARDC) and PNC have been promulgated on 11 August 2011, soldiers and police continue to be heavily underpaid and poorly trained and equipped.

⁸ *Loi n°11/003 du 25 juin 2011 modifiant la loi n°06/006 du 9 mars 2006 portant organisation des élections présidentielle, législatives, provinciales, urbaines, municipales et locales.*

⁹ Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/HRC/13/22/Add.2, para. 93; Amnesty International, Democratic Republic of the Congo: Human rights concerns in the run up to the Presidential elections, 7 February 2011, AFR 62/002/2011.

¹⁰ Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo, A/HRC/16/27, para. 38-46; Third joint report of seven United Nations experts on the situation in the Democratic Republic of the Congo, A/HRC/16/68, para. 11.

¹¹ This happened for instance on 27 July 2010, when armed men in civilian clothes entered the broadcasting centre of the channels *Canal Congo Télévision* and *Canal Kin Télévision* in Kinshasa and cut off the signals of both stations. The channels are owned by Jean-Pierre Bemba and were cut after broadcasting an MLC press conference denouncing the poor management of public affairs. The signal of these channels was restored on 28 July 2010.

IV. Legal framework

A. Primacy of international law

11. Article 215 of the Congolese Constitution recognizes the primacy of international law, which means that any national provision contrary to international treaties ratified by the DRC should be deprived of any effect. The International Covenant on Civil and Political Rights (ICCPR), ratified by the DRC (then the Republic of Zaire) in 1976, and the African Charter on Human and Peoples' Rights (ACHPR), ratified by the DRC (then the Republic of Zaire) in 1987, therefore form an integral part of the Congolese legal order. This report will hereafter discuss the provisions of these treaties which protect fundamental human rights along with Congolese law.¹²

B. Fundamental freedoms

1. Freedom of expression

12. Freedom of expression is essential during an electoral period, as people can only effectively exercise their right to vote if they can make informed decisions. Freedom of expression is integral to the enjoyment of the rights to freedom of assembly and association and the exercise of the right to vote¹³. In order to make decisions, it is important to be free to receive and seek opinions or information.¹⁴ These liberties are protected by both the ICCPR and the ACHPR.¹⁵
13. Any restriction on the freedom of expression of political ideas thus has to be rigorously scrutinized.¹⁶ According to the ICCPR¹⁷, limitations to freedom of expression are only permissible if necessary and proportionate on the grounds of protecting the rights and reputation of others, public security or public order, or public health or morals¹⁸. The UN Human Rights Committee has extensively dealt with the limitative areas of restrictions on the right to freedom of expression in the context of elections.¹⁹
14. Freedom of expression is also guaranteed by the Congolese Constitution.²⁰ Moreover, the Constitution contains an obligation for the State to foster a pluralist media environment.²¹ Consequently, the DRC has effectively set up the *Conseil Supérieur de l'Audiovisuel et de la*

¹² For a full list of human rights treaties signed and ratified by the DRC, see: http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/CD/A_HRC_WG6_6_COD_2_E.pdf.

¹³ CCPR/C/GC/34, para. 4

¹⁴ UN Human Rights Committee, General Comment No. 34: article 19: Freedoms of opinion and expression (CCPR/C/GC/34), para. 13.

¹⁵ Article 19 ICCPR and article 9 ACHPR.

¹⁶ UN Human Rights Committee, General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25), para. 8 (CCPR/C/21/Rev.1/Add.7).

¹⁷ Article 19.3.b) ICCPR

¹⁸ *Ibid.*

¹⁹ CCPR/C/GC/34, para. 37.

²⁰ Article 23 of the Constitution.

²¹ Article 24 of the Constitution.

Communication in August 2011.²² This Council replaces the *Haute Autorité des Médias* and has the duty to guarantee freedom of the press, journalistic deontology and the equitable access of political parties to the media. The Council also has a regulatory function through which it can define limits of freedom of expression and address potential issues such as incitement to hatred or to ethnic violence. Freedom of the press is moreover specifically guaranteed by Law No. 96-002 of 22 June 1996, which spells out the modalities of the exercise of such freedom.²³

15. Congolese legislation also includes a potential impediment to freedom of expression, especially for journalists and human rights defenders in *Ordonnance-loi* No. 300, which outlaws insults against the Head of State and dated 16 December 1963.²⁴

2. Freedom of association

16. Freedom of association is, like freedom of peaceful assembly, closely intertwined with freedom of expression, since restricting opportunities to associate tends to impede opportunity to express, receive and seek for ideas and information. The freedom to create or be part of associations, such as political parties, is laid down in both the ICCPR and the ACHPR.²⁵ The Congolese authorities are therefore not allowed to restrict this fundamental freedom, except on the limited grounds permitted by these treaties, i.e. if the restrictions are necessary in a democratic society.²⁶
17. Freedom of association and political pluralism are fundamental principles of the Congolese legal and political systems. They are enshrined in Article 6 of the Constitution, which grants every Congolese citizen the right to create or be affiliated to a political party. Political opposition parties are specifically recognized and protected in Congolese law.²⁷ This right to create or be affiliated with a political party is further detailed in Law No. 04/002 of 15 March 2004²⁸ on the organization and functioning of political parties. Requests for the registration of a political party have to be addressed to the Minister of Interior and Security. Within 30 working days of the registration of the request, the Minister either has to register the party or request that the file is completed with the elements required according to the law. If no response has been given within this delay, the party is automatically registered.²⁹
18. Law No. 004/2001 of 20 July 2001 on non-profit organizations and institutions (“*établissements d’utilité publique*”)³⁰ governs the exercise of the right to freedom of

²² *Loi n°11/001 du 11 janvier 2011 portant composition, attribution et fonctionnement du Conseil Supérieur de l’Audiovisuel et de la Communication; Ordonnance présidentielle* No. 11/054 of 12 August 2011.

²³ The law has been completed by a deontological ethics code for Congolese journalists which provides professional obligations for exercising the freedom of expression for journalists.

²⁴ *Ordonnance-loi n°300 du 16 décembre 1963 sur la répression des offenses envers le chef de l’Etat.*

²⁵ Article 22 ICCPR and article 10 ACHPR.

²⁶ *Ibid.*

²⁷ Article 8 of the Congolese Constitution sets out the rights of opposition parties, later defined in Law No. 07/008 on the status of the political opposition.

²⁸ *Loi n°04/002 du 15 mars 2004 portant organisation et fonctionnement des partis politiques.*

²⁹ Article 14 of Law No 004/002.

³⁰ *Loi n°004/2001 du 20 juillet 2001 portant dispositions générales applicables aux associations sans but lucratif et aux établissements d’utilité publique.*

association for non-governmental organizations (NGOs), including those working for the promotion and protection of human rights, in the DRC.

3. Right to peaceful assembly

19. The right to peaceful assembly is enshrined in article 21 of the ICCPR and article 11 of the ACHPR. These articles grant the right to assemble in private or in public.
20. The Congolese Constitution also guarantees the right to organize or participate in peaceful meetings (“réunions”) or demonstrations (“manifestations”).³¹ The specific rules relating to these public assemblies are laid down in the *Décret-loi* 196 of 29 January 1999. This law required an authorization prior to the meeting or demonstration. However, the 2006 Constitution changed this into a system of mere prior notification.³² This new regime was endorsed by the Ministry of Interior and Security in a circular note No. 002/2006 of 29 June 2006. Under the new regime, requests for meetings or public demonstrations have to be submitted to the authorities at least three days beforehand. During the official electoral campaign period, however, requests for political meetings and demonstrations have to be submitted only 24 hours before.³³ Authorities can cancel the meeting, modify the itinerary or postpone the date of the meeting or demonstration for security or public order considerations.

4. Right to life and physical integrity

21. Right to life and physical integrity are both guaranteed by the ICCPR and the ACHPR.³⁴ The right to physical integrity is guaranteed in several provisions of these treaties, notably those prohibiting torture and cruel, inhuman or degrading treatment and those protecting life and security of person. International human rights law prohibits extrajudicial, summary or arbitrary executions, imposes the obligation on the State to protect the physical integrity of all persons and regulates the use of force whenever necessary.³⁵ According to the United Nations Code of Conduct for Law Enforcement Officials³⁶ and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials³⁷, the police is only allowed to use force when strictly necessary and to the extent required. The use of firearms against persons

³¹ Articles 25 and 26 of the Constitution.

³² Article 26 of the Constitution.

³³ Article 29 of the *loi n°06/006 du 9 mars 2006 portant organisation des élections présidentielle, législatives, provinciales, urbaines, municipales et locales*.

³⁴ Articles 6, 7 and 9 ICCPR; Article 4, 5 and 6 ACHPR.

³⁵ Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions on election-related violence and killings, A/HRC/14/24/Add.7, 18 May 2010; Human Rights Committee, General Comment No. 6: Article 6 (The Right to Life), in *Compilation of general comments and general recommendations adopted by human rights treaty bodies*, HRI/GEN/1/Rev.9 (Volume I), page 176; Human Rights Committee, Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), HRI/GEN/1/Rev.9 (Volume I), page 200.

³⁶ United Nations Code of Conduct for Law Enforcement Officials, A/RES/34/169 of 17 December 1979.

³⁷ United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990.

can only be justified in cases of self-defense or defense of others against serious and imminent threats³⁸.

22. The rights to life and physical integrity are enshrined in the constitutional law.³⁹ The use of force by the PNC is regulated by the *Décret-loi* No. 002-2002 of 26 January 2002⁴⁰. According to its provisions, the police is only entitled to use weapons or firearms in case of absolute necessity.⁴¹ In order to disperse crowds with firearms, they are equally required to request prior authorization to the competent authority.⁴²

5. Right to liberty and security of person

23. According to the ICCPR and the ACHPR, all persons have the right to liberty.⁴³ This entails that people can only be arrested in accordance with procedures established by law. Moreover, the individuals concerned have to be informed of the reasons for their arrest and promptly have to be brought before a judge. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.
24. The Constitution guarantees this right in conformity with international standards and further specifies that everyone who is arrested has the right to immediately contact his family or counselor. Moreover, they are to be brought before the competent judicial authority within 48 hours or have to be released.⁴⁴

V. **Human rights violations**

A. *Political opposition*

1. Freedom of expression

25. During the period under review, the UNJHRO recorded numerous incidents involving alleged threats against political opposition members, contributing to a general climate of intimidation and limitation of freedom of expression. In the 2006 and 2011 electoral periods, the *Ordonnance-loi* No. 300, which outlaws insults against the Head of State, has been used by the authorities to arrest and prosecute people who publicly criticize the President.⁴⁵ On several occasions in Maniema and Bas-Congo, civilians were threatened, beaten or arrested by PNC agents for merely wearing T-shirts of opposition parties. A recurrent way of intimidating people from exercising their freedom of expression is to summon them to the National Intelligence Agency (ANR) offices. For example, on 12 July 2011, in Bukavu, South Kivu province, a UNC member was summoned by the ANR reportedly after having declared that the '*Cinq chantiers*', the Government's reconstruction program, had not yet

³⁸ *Ibid.*

³⁹ Article 16 of the Constitution.

⁴⁰ *Décret-loi n° 002-2002 portant institution, organisation et fonctionnement de la police nationale congolaise.*

⁴¹ Article 10 *Décret-loi* No. 002-2002. Although the principle of necessity is well-defined in this law, the principle of proportionality of the response is not explicitly laid down.

⁴² *Ibid.*

⁴³ Article 9 ICCPR and article 6 ACHPR.

⁴⁴ Articles 17 and 18 of the Constitution.

⁴⁵ For an abusive application of this law, see paras. 29 and 46.

been implemented efficiently. State agents have also used force to repress freedom of expression. When, on 10 August 2011, for instance, a UDPS militant shouted anti-PPRD slogans during a PPRD event in Matadi, Bas-Congo, he was allegedly severely beaten by an FARDC soldier. More recently, on 12 September 2011, in Lubumbashi, Katanga, four UNC militants were discussing the political situation in a barbershop, when they were arrested by the owner, who happened to be an FARDC soldier, and detained in the *cachot* of camp Major Vangu, where they were allegedly beaten and subjected to ill-treatment.

26. Freedom of expression is furthermore often infringed upon by authorities abusing their administrative prerogatives. For instance, on 12 April 2011, the mayor of Mbuji-Mayi, Kasai Oriental, prohibited a press conference organized by the *Mouvement des patriotes pour la démocratie*. The decision was made after the mayor was informed that a party member had requested MONUSCO to provide protection. In another case, in Mbanza-Ngungu, Bas-Congo, on 29 June 2011, local authorities allegedly instructed the PNC to prevent a meeting of the *Alliance des bâtisseurs du Kongo*, as the meeting was considered to be “inopportune”.
27. The aforementioned examples demonstrate that freedom of expression is often infringed by violating other civil and political rights, for instance by subjecting someone to ill-treatment for his political opinions or by denying the right to peaceful assembly. This report will hereafter discuss violations of these fundamental rights affecting the freedom of expression.

2. Right to liberty and security of person

28. Unlawfully depriving political opponents of their liberty in the DRC is a recurrent and common way of limiting their freedom of expression. Between 1 November 2010 and 30 September 2011, the UNJHRO registered 35 cases of arbitrary and illegal detention of political opponents. An emblematic case in this respect occurred on 18 March 2011, in Bukavu, South Kivu, when a militant of the MLC was arrested reportedly for possessing a journal questioning the nationality of Joseph Kabila. He was subsequently charged with defamation of the Head of State, undermining State security and selling objects going against the interest of the State. He is still in detention. In another example, on 12 June 2011, in Mbanza-Ngungu, Bas-Congo, five members of Bundu Dia Mayala⁴⁶ were allegedly arbitrarily arrested in their local headquarters by order of the district’s police commander. During the operation, the political posters on their building were removed. The victims were reportedly released later the same day.
29. The PNC, ANR or other authorities often cite motives related to State security or defamation of the Head of State in an attempt to justify arbitrary arrests and detentions, such as in the aforementioned case in Bukavu⁴⁷. In Wendji Secli (30 km of Mbandaka), Equateur province, a member of the MLC was reportedly arrested on 29 January 2011 for having mobilized the population to demonstrate in support of the visit of the former Governor, also an MLC member. The motive mentioned by the PNC was incitation to disobey the authorities. On 11 March 2011, the PNC arrested two members of the UDPS in Kinshasa for undermining State security, reportedly after they had bought a newspaper and copied an article questioning the nationality of President Joseph Kabila. The UDPS members were released in the beginning

⁴⁶ This politico-religious movement in the Bas-Congo province was founded in March 2009. See para. 34.

⁴⁷ Para. 25.

of June 2011. In another instance, on 9 July 2011, in Kananga, Kasai Occidental province, a UDPS party member was arrested by the ANR for alleged defamation of the Head of State, reportedly after stating that the incumbent President was enrolled on the electoral roles of both Kinshasa and Lubumbashi. The victim was released after the intervention of the UNJHRO.

30. Once a person is arrested, his/her right to have an independent judge decide over the lawfulness of detention is regularly violated. The 48-hour limit to an arrest without a warrant is often not respected, nor the right of pre-trial detainees to have their detention regularly reviewed by a *chambre du conseil*. For example, on 16 August 2011, in Moanda, Bas-Congo, a UDPS militant was arrested after allegedly having destroyed an effigy of the Head of State. His detention was never reviewed by a judge and he was only released after being acquitted on 9 September 2011. In other instances, judges issued arrest warrants or confirmed arrests that appeared to be politically motivated, such as for example in the aforementioned cases in Kinshasa and Bukavu.
31. Frequent reports are made to the UNJHRO on political interference in trials against members of the political opposition. On 13 January 2011 for instance, the president of the *Démocratie chrétienne* political party was arrested in Moanda, Bas-Congo, and sentenced to five months imprisonment for assault and contempt of an agent of the *Direction générale de migration* (DGM). When he was acquitted on appeal by the *Tribunal de grande instance* in Boma (210 km west of Matadi), the judges were allegedly threatened and intimidated with disciplinary measures.
32. Victims of arbitrary arrest face increased chances of having their physical integrity violated. In Kamina (about 600 km north-west of Lubumbashi), Katanga, for instance, militants of the UDPS were arrested on 11 and 12 February 2011 and subjected to ill-treatment by agents of the ANR. Reports indicated that four women, UDPS members, were criticizing the ‘*Cinq chantiers*’ – the Government’s reconstruction program – when they were arrested and brought to the ANR office. Three of them were released the same day after allegedly paying 100,000 Congolese Francs. The husband of the woman who could not afford to pay was arrested on 12 February 2011 and reportedly released the next day after a payment to the ANR agents. Three other UDPS members were also arrested by the ANR agents on 12 February 2011, when they were inquiring about the woman who was still in detention. They were allegedly severely beaten by ANR agents and released later on the same day. One of them had to be transferred to a local clinic to receive medical care.

3. Freedom of association

33. During the period under review, freedom of association was generally impeded through a climate of intimidation in some areas, such as in Kasai Oriental, and in Maniema⁴⁸. Political opponents have, for instance, also been intimidated in Luebo and Mweka, Kasai Occidental province.

⁴⁸ See paras. 38 and 43.

34. On 23 May 2011, the Minister of Interior and Security prohibited the functioning of the Bundu Dia Mayala movement⁴⁹, considered to be highly popular in the Bas-Congo, as a political party. However, according to the Law No. 04/002 of 15 March 2004 on the organization and functioning of political parties, in this case only the *Tribunal de grande instance* would be competent to ban the movement as a political party⁵⁰. In Bas-Congo province, several human rights violations against members of this movement, including arbitrary arrests and ill-treatment, have been documented by the UNJHRO.⁵¹ The Bundu Dia Mayala movement was created in March 2009 following the qualification of Bundu Dia Kongo (BDK) as an *association de malfaiteurs*⁵² by the Court of Appeals of Matadi on 30 August 2008⁵³. This qualification was following violent confrontation between armed elements of the BDK and security forces in 2007 and 2008.
35. Freedom of association is moreover often unlawfully restricted by violating other rights. For instance, on 26 February 2011, in Ariwara, Ituri District, Orientale province, the UNC coordinator was arrested when he was reportedly conducting recruitment activities for his party. In another example, on 29 June 2011, in Tshimbulu, Kasai Occidental province, a UDPS member was severely beaten in his house by a group of PNC agents. They then allegedly arrested him, along with his daughter and daughter-in-law. Once in jail, the agents reportedly told the victims that such ill-treatment would continue as long as the UDPS member did not change his party allegiance. The victims were liberated on 7 July 2011.

4. Freedom of peaceful assembly

36. Although the 2006 Constitution has introduced a system of prior notification, administrative authorities still request authorizations for many of the demonstrations or meetings organized. Thereby, they often abuse their power by prohibiting those demonstrations which are contrary to their interests. In this way, freedoms of expression and of peaceful assembly are unlawfully restricted. The practice also impedes free association, for instance by blocking recruitment activities and other initiatives of political opposition parties. Between 1 November 2010 and 30 September 2011, the UNJHRO recorded 24 incidents concerning freedom to assemble peacefully.
37. An emblematic incident occurred in December 2010, when Vital Kamerhe arrived in Goma, North Kivu. This was the first stop on his tour in the north-eastern provinces to rally support for his party. Upon arrival, he was welcomed by a large crowd, which was dispersed by riot police, reportedly by shooting in the air. Medical sources confirmed having treated 13 victims for subsequent injuries, including one child of 11 years and an 80 year-old woman. Local authorities also prevented him from holding a public meeting in the city. One day later, his planned public meetings in Bukavu, South Kivu, were banned by the local authorities. Subsequently, he decided to cancel his visits to Uvira, Kindu and Kisangani and returned to Kinshasa. However, during his second tour in the eastern provinces in June 2011, public

⁴⁹ This was further to a similar decision by the Minister of Interior and Security taken in February 2010.

⁵⁰ Art 14, 28 and 29 of the Law No. 04/002 of 15 March 2004. The period during which the Minister may object to their request for registration as a political party had expired.

⁵¹ E.g. see para 28.

⁵² ‘*Criminal conspiracy*’.

⁵³ *Cour d’appel de Matadi RPA n° 1228 du 30 août 2008*.

meetings and demonstrations were not prohibited and took place without any restrictions or incidents.

38. The right to assemble peacefully was furthermore allegedly infringed in Kasai Oriental, on 22 December 2010, where UDPS members and sympathizers who had planned to gather for a church service and a peaceful demonstration in support of Etienne Tshisekedi were dispersed by the PNC in Ndesha and Katoka. The organizations had reportedly informed the authorities beforehand. On 11 April 2011, in Kasongo, Maniema, a civilian was allegedly shot by PNC agents. This happened as the PNC tried to prevent the population from welcoming a UNC delegation coming from Bukavu. Eight other civilians were beaten and arrested by the PNC during the incident. On 1 September 2011, in Mbuji-Mayi, Kasai Oriental, the PNC and the FARDC violently dispersed a demonstration of the UDPS calling on the CENI for more transparency in the elections process. They allegedly used tear gas and shot several rounds in the air and at the crowd. During the operation, approximately 35 civilians were reportedly arrested, among whom at least two people sustained injuries as a result of ill-treatment in the detention facility of the special services of the *inspection provinciale* of the police. The victims were released later the same day.
39. During some political demonstrations, militants or spoilers were observed in the crowd with improvised weapons, such as stones and, according to police sources, machetes and Molotov cocktails. This occurred for instance on 1 September 2011, in Kinshasa, during a demonstration of the UDPS in front of the CENI headquarters. During the demonstration, members of the PPRD youth wing mixed with demonstrators, allegedly to provoke disturbances and damages for which UDPS would bear responsibility. In this respect, the obligation of all parties to refrain from violence or incitation thereto must be stressed as an important element of promoting freedom of peaceful assembly. On several occasions, local authorities announced a near-complete ban of public meetings. Since 18 June 2011, for instance, in Lubumbashi, Katanga, the city mayor prohibited all demonstrations, citing security reasons, except those to promote enrollment of voters on the electoral rolls. Public meetings were thus prohibited when Etienne Tshisekedi arrived in Lubumbashi, Katanga, on 29 July 2011 to rally support for his candidacy for the Presidency. The prohibition was apparently not enforced during his visit to the city, during which public meetings took place without any incidents. The ban, however, was not yet formally lifted at the time of this writing. A general ban of public demonstrations was also announced for example in Walendu-Tatsi, Orientale, on 17 January 2011, also allegedly for security reasons and in Mbuji-Mayi, Kasai Oriental, in September 2011.

5. Right to life and to physical integrity

40. Since November 2010, at least four people have been killed during political demonstrations, and numerous people have been injured. In order to disperse demonstrators, the PNC has regularly used tear gas and shot live ammunition in the air. On 4 July 2011, in Kinshasa, for example, a UDPS demonstrator reportedly died during the dispersal by the PNC of a demonstration in front of the CENI headquarters, as a consequence of inhaling tear gas. Moreover, on several occasions, people were killed or wounded as a result of clashes between demonstrators and militants from opposing parties. The PNC in the capital has since

made some progress in improving its crowd-control techniques, which may have resulted in less escalation of violence, fewer wounded and less property damage.

41. Between November 2010 and September 2011, the UNJHRO documented eight cases of physical assault linked to the elections, excluding incidents involving journalists. For instance, on 16 April 2011, in Diagbe, Orientale, a civilian was beaten by PNC agents during a meeting organized by the local authorities. He was assaulted after asking how the security situation in the region affected the registration of voters. Allegedly this question was considered to be unpatriotic. In another instance, on 10 August 2011, in Matadi, Bas-Congo, a UDPS militant was severely beaten by an FARDC soldier for having shouted anti-PPRD slogans during a PPRD rally.
42. A high number of threats were also reported during the same period, many of which were anonymous. Death threats are violations of the right to life, whereas threats to physical integrity constitute violations of the right to physical integrity.⁵⁴ For example, on 21 January 2011, in Kinshasa, a member of the UDPS received threats after participating in a radio broadcast on corruption. On 23 February 2011, in Kolwezi, Katanga, a politician expressed his concern about the fact that the local authorities allegedly do not respect the rules on peaceful assembly during a sensibilization session organized by the UNJHRO. The following day, he received threats by phone allegedly from a senior official of the local administration. On 19 July 2011, in Kisangani, Orientale, soldiers of the Republican Guard who had organized a roadblock allegedly threatened the local population that a new war would surely break out if they did not vote for President Joseph Kabila in the upcoming elections.

6. Right to property

43. On several occasions, the right to property was violated by State actors in incidents linked to the elections. For example, the ANR seized electoral campaign material of the UNC in Maniema in February 2011. Several infringements on the right to property were committed together with other rights violations, such as threats and intimidation. In the night of 1 to 2 March 2011, for example, a UNC member's house was set ablaze in Kindu, Maniema. A letter was also found in the house allegedly threatening with death a possible candidate to become the UNC's national president. In the night of 5 to 6 September 2011, in Kinshasa, an office of the PPRD was burnt down. Thereafter, PPRD demonstrators, allegedly assisted by an unknown number of PNC agents, in Kinshasa, ransacked the headquarters of the UDPS. In the same night, the offices of *Radio Lisanga Television* (RLTV), an opposition-owned broadcasting station supporting Etienne Tshisekedi, were burnt down.
44. During the period under review, Congolese citizens were on several occasions forced to pay illegal fines to the PNC or FARDC if they failed to present their voter's cards. Moreover, reports have been made of combatants of the Democratic Forces for the Liberation of Rwanda (FDLR) locally destroying voters' cards to prevent people from going to vote. This happened for example in September 2011 in Bukumbirwa and Pitakongo, North Kivu, where FDLR combatants openly declared their wish to destabilize the electoral process in this area.

⁵⁴ On the basis of the information collected, it is not always possible to ascertain the precise content and nature of the threats. Moreover, given the often anonymous nature of the threats, it is often impossible to determine direct State involvement.

B. Journalists and human rights defenders

45. During the period under review, journalists and human rights defenders have been the victims of human rights violations on numerous occasions, including for their activities related to the upcoming elections. On 9 July 2011, the Minister of Communication and Media, Lambert Mende, prohibited the broadcast of RLTV⁵⁵. The decision was taken in violation of the law and the competence of the *Haute Autorité des Médias* and the *Tribunal de grande instance* on the matter⁵⁶. On 15 July 2011, the Minister authorized the reestablishment of the signal after meeting the managers of the station.
46. Journalists and human rights defenders are also being targeted on the basis of the aforementioned defamation laws⁵⁷. In Uvira, South Kivu, for example, a journalist of a local radio station was illegally arrested by the ANR on 17 December 2010. He was accused of having insulted the President during a radio show during which, among other topics, they discussed the latest speech of the President. The other participants in this radio debate, an opposition member and another journalist (who is also the president of a human rights organization) went into hiding after they received an invitation of the ANR to present themselves at their office. The same week, another journalist was severely beaten in Uvira by ANR agents following his participation in this radio debate and consequently fell unconscious.
47. In another development, on 18 March 2011, the ANR attempted to arrest a journalist in Lubumbashi, Katanga. He was also threatened by ANR agents who refused to give him the reason for their intervention. The journalist was working for a private television station that had one month earlier broadcasted interviews with members of the opposition who were reportedly very critical towards the current government. Again, motives related to state security or defamation have been used as a pretext to arrest journalists and human rights defenders, sometimes with the collaboration of judicial authorities. In Gemena, Equateur, for example, the president of an NGO active in the field of social and economic rights, denouncing illegal exploitation of resources facilitated by the provincial authorities, was thus detained on 28 January 2011 with an arrest warrant stating ‘incitation to rebellion’ as a motive.
48. On 1 April 2011, in Kasongo, Maniema, the director of a community radio station was illegally detained by the DGM for allegedly having violated the electoral law after interviewing the national president of the UNC. He was released following UNJHRO’s intervention. The victim reportedly also received death threats from a senior official within the provincial administration.
49. On several occasions, journalists were prevented to enjoy their freedom to gather information, protected by international human rights law. In this respect, for example, on 4 July 2011, in Kinshasa, during a demonstration of the UDPS in front of the CENI headquarters, a journalist and his cameraman were reportedly harassed for filming the police intervention to break up the demonstration. They were allegedly put in a four-wheel drive,

⁵⁵ See para. 43.

⁵⁶ Supreme Court, 30 June 2008, R.CONST.059/TSR.

⁵⁷ See para. 15.

driven away and had their camera and other valuables taken before being released. During another UDPS demonstration in Kinshasa on 1 September 2011, PNC agents allegedly beat at least two journalists and stole their camera, a watch and money. During clashes between UPDS and PPRD supporters in Kinshasa, on 29 September 2011, a cameraman of *Radio France Outre-mer* was allegedly severely beaten by PPRD militants.

50. Human rights defenders were notably targeted in connection with the revision of the electoral provisions in the Constitution. On 8 January 2011, for example, in Lubumbashi, Katanga, two human rights activists working for two NGOs were threatened with arrest by two non-identified security elements in plain clothes. According to the alleged perpetrators, the two victims were insulting the President when discussing the aforementioned constitutional revision. Two prominent members of a national human rights organization in Kinshasa received death threats on 1 and 2 February 2011. These threats followed a press conference organized by the victims during which they denounced the constitutional revision and the intolerance vis-à-vis the political opposition.

VI. Measures taken by the Congolese State to improve promotion and protection of human rights in the context of elections

51. On the legislative level, the State has enacted several laws aiming to improve the protection of fundamental freedoms, such as the law creating the *Conseil Supérieur de l'Audiovisuel et de la Communication* and the law explicitly penalizing torture⁵⁸. Other critical laws are still under the parliament's consideration. They include the draft law on the promotion and protection of human right defenders, which aims, *inter alia*, at making prosecution of crimes against human rights defenders, and the draft law concerning the establishment of a human rights commission in accordance with the Paris Principles⁵⁹. The Minister of Justice and Human Rights has also established a protection cell for human rights defenders by a Ministerial Decision of 13 June 2011.
52. The Government has stated its intention to improve its working relationship with civil society and has therefore created the *Entité de liaison des droits de l'homme*⁶⁰ under the leadership of the Ministry of Justice and Human Rights. Within this entity, public institutions and civil society are brought together to discuss the monitoring of human rights violations and the challenges encountered. However, the United Nations High Commissioner for Human Rights noted, in January 2011, that this entity was not yet functioning properly.⁶¹ The Minister of Justice and Human Rights has further established decentralized *Entités de liaison* on the provincial level.⁶² As a concretization of this cooperation between the Government and civil society, a free phone line is being set up by the *Réseau national des ONG des droits de l'homme de la République démocratique du Congo* (RENADHOC), a network of national

⁵⁸ *Loi du 19 Juillet 2011 portant criminalisation de la torture.*

⁵⁹ UN General Assembly resolution A/RES/48/134 of 20 December 1993, Principles relating to the Status of National Institutions (Paris Principles).

⁶⁰ *Décret n° 09/35 du 12 août 2009 portant création, organisation et fonctionnement de l'Entité de liaison des Droits de l'Homme en République Démocratique du Congo.*

⁶¹ A/HRC/16/27, para. 53.

⁶² Decision of the Minister of Justice and Human Rights n°040/CAB/MIN/J&DH/2011 of 12 February 2011.

human rights NGOs, with the support of the Government, where human rights violations can be reported and transferred to the competent authorities.

53. The CENI has taken several commendable initiatives to improve political dialogue. For instance, the CENI has drafted a code of conduct in cooperation with MONUSCO and with the Electoral Institute for Southern Africa (EISA). Supported by MONUSCO and non-governmental partners, the CENI organized a second meeting of the Forum of Political Parties in Kinshasa, on 8 September 2011. During this meeting, almost all of the 200 political parties present signed the Code of Conduct.
54. The CENI was asked in April 2011 by political stakeholders to sponsor a mediation committee consisting of eminent Congolese in order to address *inter alia* political disputes between parties and to foster political dialogue. Since, no progress has been noted towards its establishment.

VII. Activities of the UNJHRO

55. Over the course of the past months, various sections of MONUSCO have been conducting advocacy and organizing fora, as part of UN efforts to prevent electoral violence and ensure an environment conducive to free and fair elections. The Special Representative of the UN Secretary-General in the DRC has extended his good offices to the parties involved in the electoral process.
56. As part of these efforts, the UNJHRO seeks to integrate human rights principles throughout the electoral process and is organizing activities around three broad axes: prevention, strengthening of monitoring activities and supporting mechanisms of peaceful conflict resolution. The common approach of the UNJHRO throughout these axes is to increase the demand by citizens, for their rights to be respected, and to reinforce the capacity of State institutions, to do so, with particular attention to women's participation.

A. Prevention of human rights violations related to the elections

57. The UNJHRO, in conjunction with various MONUSCO substantive sections, seeks to prevent human rights violations, first by identifying target groups in each province that could be instrumentalized by political parties, such as demobilized combatants and youth groups. Workshops are also organized at the provincial level to reach officials, political parties and the media.
58. In cooperation with UNPOL and EUPOL, in the framework of training on crowd control techniques, the UNJHRO has trained policemen and officers of the rapid intervention teams on public liberties. In April 2011, for instance, the UNJHRO trained commanders of the Rapid Intervention Police (PIR) of Kinshasa. Between June and October 2011, the UNJHRO trained all battalions of the PIR in Kinshasa on human rights related to the elections and will have contributed to the training of a total of 2,500 police agents. Noting the considerable improvement in some crowd-control interventions made by the PNC in recent months, these trainings seem to have contributed to raising awareness of PNC agents and in strengthening their capacities in appropriately responding to demonstrations.

59. The units trained by MONUSCO need to be provided with essential non-lethal equipment. However, no pledges towards this purchase have been received at the time of writing of this report. Despite the visible progress and strengthened capacity of the PIR units undergoing this process, it should be emphasized that of the 36,000 Police agents deployed in Kinshasa, only 6,000 will have undergone training once the above process is completed. MONUSCO will continue specialized training of PNC agents at the provincial level on security for the general elections, with a focus on information gathering and protection of polling stations. Some 11,099 police agents, including 707 women, have been trained and further training is ongoing.
60. The UNJHRO has contributed to MONUSCO's efforts to organize seminars at the provincial level with NGOs, State institutions and political parties to strengthen understanding of and respect for fundamental freedoms. A practical guide and training modules on the subject have been developed. Moreover, roundtables have been held by the UNJHRO together with judicial and military authorities, human rights defenders and journalists to improve their protection before, during and after the elections.

B. Reinforcement of monitoring and the implementation of an early warning system

61. Existing monitoring mechanisms identifying human rights incidents at a provincial level have been reinforced in coordination with national human rights organizations, in order to enhance early warning process/mechanisms and strengthen advocacy for promotion and protection of human rights in the context of elections. In cooperation with the Public Information Division of the MONUSCO, the monitoring of the media has been strengthened in order to identify incitation to violence or hate speech at an early stage. Finally, trials involving leaders of political opposition members will be closely monitored to address concerns related to the use of the judiciary as a political tool.

C. Support of peaceful conflict resolution mechanisms

62. The UNJHRO is supporting the judicial system in the handling of election related cases, with a view for capacity-building. In this respect, the UNJHRO is preparing a practical guide on elections-related offences for the judiciary. The UNJHRO is developing training sessions and materials for lawyers of the different political parties on electoral law and civil and political rights.

VIII. Conclusions and recommendations

63. The pre-electoral period has been marked by numerous politically-motivated human rights violations, varying in severity. As elections approach and political activities intensify, there is a significant risk for an increase in human rights violations and violent acts to take place. Between 1 November 2010 and 30 September 2011, most human rights violations related to the electoral context and documented by the UNJHRO were against members of the UNC and the UDPS. Forty-six and 41 of the 188 human rights violations documented during the period concerned members of the UNC and UDPS respectively. The number of reported violations affecting UDPS members appears to be rising rapidly, likely linked with an increase in political demonstrations organized by UDPS. Most of the violations of civil and

political rights of UNC members were committed in the eastern provinces, where Vital Kamerhe has significant support. Incidents involving the UNC occurred notably in Maniema (26 violations) and in Orientale (9 violations). Almost a third of the incidents against UDPS members took place in Kasai Occidental, where Etienne Tshisekedi was born, and another third in Kinshasa, where he is considered to be highly popular. Moreover, almost all of the violations against the third most targeted movement, the Bundu Dia Mayala, took place in Bas-Congo. Therefore, a trend seems to be emerging wherein parties are targeted more often in regions where they have significant numbers of followers and are predicted to be the biggest threat against the ruling majority and the President.

64. Freedom of expression, the rights to liberty, physical integrity and peaceful assembly are most commonly affected. In respectively 82 and 42 violations out of 188 documented violations⁶³, the direct involvement of the PNC or the ANR has been confirmed. In addition, as the elections approach and political tension rises, the UNJHRO is concerned that the manipulation of members of the law enforcement sector may pave the way for a further proliferation of arbitrary arrests and other human rights violations.
65. The manipulation of security forces by political authorities was most visible at the local and provincial levels, for example, by using their influence and prerogatives to illegally restrict the right to peaceful assembly. Security agents responsible for the human rights violations in this report appeared at times to be overzealous, acting on behalf of local or provincial authorities, or both. It is difficult to ascertain whether security forces involved in the human rights violations described were acting on instructions of national authorities or as part of a coordinated effort to curb fundamental freedoms.
66. At the same time, a recent positive trend is noted regarding the supervision of demonstrations by the PNC, especially in Kinshasa, in spite of reports of violence committed by supporters of political parties, in particular the UDPS.
67. The overall situation of journalists and human rights defenders remains very concerning. There tends to be a general climate of hostility vis-à-vis journalists and human rights defenders, and the UNJHRO has documented numerous incidents against them associated with particular political events, such as after the constitutional revision or during demonstrations. Therefore, there is a strong risk that violations against them considerably increase as the elections approach and political activities intensify. With the recent nomination of the members of the *Conseil Supérieur de l'Audiovisuel et de la Communication*, the new institution should now have the capacity to carry out its responsibilities, including ensuring the freedom and protection of the press.
68. In addition to recalling the existing recommendations made by the United Nations Human Rights Council, the United Nations High Commissioner for Human Rights and the UN Group of experts⁶⁴, the UNJHRO urges:

⁶³ Between 1 November 2010 and 30 September 2011.

⁶⁴ See in particular the Report of the Human Rights Division of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo on the human rights situation in the Democratic Republic

The Government:

- To publicly reiterate the “zero-tolerance” policy against violations of civil and political rights, particularly during the electoral period ;
- To take appropriate and public disciplinary action against civil servants and members of the security services who commit or attempt to commit human rights violations or use their position of authority to intimidate the candidates or the voters, for political gain, or encourage or incite violence as a means of manipulation ;
- To clarify the charges brought against people in pre-trial detention and to release those held solely for their opinion or their association or affiliation to a political party, including human rights defenders and journalists ;
- To support the mandate and the functioning of the *Conseil Supérieur de l’Audiovisuel et de la Communication* ;
- To prevent human rights violations committed by the PNC and ANR agents by increasing and supporting human rights-based training in cooperation with the international community and strengthening oversight mechanisms and disciplinary action ;
- To not prohibit or impede any political demonstrations and other public expression of political opinions that are peaceful and do not incite to violence ;
- To work closely with civil society on efforts to prevent violence and combat impunity ;

The CENI:

- To further promote and enforce compliance with the Code of Conduct on electoral deontology and increase collaborative efforts to monitor and ensure that the elections are free and fair ;
- To ensure the proper functioning of the CENI-sponsored mediation committee ;

The PNC and security services:

- To ensure that their agents operate in accordance with international standards and relevant national laws pertaining to the use of force, in order to prevent violence ;
- To organize trainings on human rights and laws applicable to their agents ;
- To ensure the free access of the UNJHRO to places of detention ;

Political parties:

- To sign the Code of Conduct, if not yet done ;

of the Congo (January–June 2007); reports of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo (A/HRC/10/58, A/HRC/13/64 and A/HRC/16/27); the reports of seven United Nations experts on the situation in the Democratic Republic of the Congo (A/HRC/10/59, A/HRC/16/3/63, A/HRC/16/68); the report of the [Special Rapporteur on extrajudicial, summary or arbitrary executions – Mission to the Democratic Republic of the Congo \(5 – 15 October 2009\) \(A/HRC/14/24/Add.3\)](#); the report of the Special Rapporteur on the situation of human rights defenders – Mission to the Democratic Republic of the Congo (21 May – 3 June 2009) (A/HRC/13/22/Add.2).

- To respect and publicly promote respect by their adherents of the Code of Conduct, national laws and public order ;
- To refrain from and strongly condemn incitement to violence and manipulation, especially of youth groups ;

The international community:

- To support trainings on law enforcement and human rights standards for the PNC and security services ;
- To step up their efforts in providing non-lethal equipment to the PNC for crowd control activities ;
- To support the Government, the CENI, national NGOs, and international organizations in their efforts to promote free and fair elections and the monitoring thereof.
