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European Inter - University Centre
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**The role of EU in the management of humanitarian crises
in Africa: A critical analysis of the situation of the Eastern
Democratic Republic of Congo (DRC)**

*Thesis Written and publicly defended for the obtention of the
Master Degree in Human Rights and Democratization*

By

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DEDICATIONS

To my parents,

WAKO DJEUGA and ONGOUE ANNE,

For all the support they provide me in my studies, may God be grateful with them.

And

To all the victims of humanitarian Crises in DRC, in Africa and in the world

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ABSTRACT

Following its ambition to become a major actor in the international security and peacebuilding, the European Union has developed in Africa a strong and comprehensive framework for humanitarian crisis management. Taking DRC as the first case of experimentation, EU and its member states have taken the necessary steps to implement the new humanitarianism consisting in managing a crisis by taking in account both humanitarian needs and crisis management and peacebuilding activities. This has led to a strong humanitarian commitment through ECHO, two military interventions and two civilian crisis management missions, in addition to member states bilateral cooperation.

But this strong involvement making EU and member states the first donor of DRC is weakened by a lack of coordination stemming from the difficult dialogue between the community pillar and the common and foreign policy pillar, but also by different views between the European Commission and the European Council. This has led us to two main conclusions.

First the action of EU is weakened because of a lack of coordination within EU and between EU and other actors. This can explain the incoherence between EU actions and the need on the field or the different views and priorities between EU and the member states. Second EU actions are weakened because of bad monitoring of the measures taken to tackle the root causes of the humanitarian situation such as embargo on arms, judicial initiatives. But also lack of proactive measures such as binding mechanisms to prevent Human Rights violations by European multinationals involved in illicit mining trade in the East and to hold them accountable in case of violation.

This study tries to understand through DRC the role of EU as an international actor in humanitarian crisis management in Africa.

LIST OF ACRONYMS

ACP:	African, Caribbean and Pacific
AFDL	Alliance des Forces Démocratique pour la Libération du Congo
AU	African Union
CEI	Commission Électorale Indépendante
CERF	Central Emergency Response Fund
CFSP	Common Foreign & Security Policy
CMCO	Civil and military Cooperation
CMJ	Comité Mixte de la Justice
CNDP	Congrès National pour la Démocratie et le Peuple
CSR	Corporate Social responsibility
DDR	Disarmament, demobilization and reintegration
DFID	Department for international development
DRC	Democratic Republic of Congo
EC	European Community
ECHO	European Commission Humanitarian Office
EDF	European Development Fund
ESDP	European Security and Defense Policy
ESS	European Security Strategy
EU	European Union
EUSR	EU Special Representative
FDLR	Front Démocratique pour la Libération du Rwanda
FHQ	Field Headquarter
GAERC	General Affairs and External Relations Council
HAP	Humanitarian Assistance Plan
HRI	Humanitarian Response Index
IDP	Internal displaced persons
ICC	International Criminal Court
IEMF	Interim Emergency Multi-national Force
JHA	Justice and Home Affairs

LRRD	Linking Relief, rehabilitation and Development
MLC	Mouvement de Libération du Congo
MONUC	Mission de l'Organisation des Nation Unies aux Congo
MONUSCO	Mission de l'ONU pour la stabilisation du Congo
NIP	National Indicative Program
OECD	Organization for Economic Cooperation and Development
OHQ	Operation Headquarters
PNC	Police Nationale Congolaise
RAPPER	Programme de Réhabilitation et d'Appui au Processus de Paix et de Réconciliation
RCD	Rassemblement Congolais pour la Démocratie
REJUSCO	Restauration de la justice à l'Est de la RDC
SALW	Small Arms and Light Weapons
SGBV	Sexual gender Based Violence
SG/HR	Secretary General High Representative
STAREC	Stabilization and Reconstruction Plan for Eastern Congo
SSR	Security sector reform
UPI	Unité de Police Intégrée
UN	United Nations
UNHCR	United Nations High Commission for Refugies
WHO	World Health Organization

GENERAL INTRODUCTION

Since the end of the cold war, the inter-state conflicts have been turned into intra-state ones. There is no longer war between states, but in the contrary a lot of state have faced civil wars, rebel groups insurrections etc... the intensification and multiplicity of these protracted conflicts has progressively challenged the purist traditional humanitarian assistance which consist on saving lives, alleviating suffering and maintaining human dignity¹. Progressively a new humanitarianism has been put in place by the introduction of political concerns in humanitarian fields.

In fact the consequence of what Ernest-Marie Mbonda qualify as "*Uncivilized conflict*"², are too high and dramatic to be bear only by the traditional humanitarian approach. It has been proved that in this chaotic context, humanitarian aid are misused and instrumentalized by the belligerent and leads to attacks against humanitarians. Moreover, the majority of conflicts that occurred in Africa since the beginning of the 1990s are protracted and on-going conflicts, which means the possibility to relapse into a new war is permanent. The main aim of the new humanitarianism is to broaden humanitarian assistance to something more sustainable, so that when providing help to victims, one can solve the conflict definitively. Elsewhere, Kjell-Ake Norquist has even already considered humanitarian action as peacebuilding³.

The conflict that is devastating the Democratic republic of Congo since 1996, can be classifies as one of those complex emergencies presented above with catastrophic humanitarian consequences. Taking in consideration all these changes happening on the field: both the complexity of conflicts and the complexity of humanitarian *per se*, the United Nations Mission in DR Congo (MONUC/MONUSCO)⁴ has set up a three pillar system laying on this new humanitarian approach, this include: Political and diplomatic actions, humanitarian assistance and Military intervention.

Since the success of this UN mission is still debatable, a critical analysis of the composition and the resources of the mission on the field in terms of personnel, peacekeepers, civilian mission support and humanitarian aid shows out an insignificant participation of EU

¹ Pat Gibbons and Brigitte Piquard, "Humanitarianism : Meaning, Actors, and Scope", in *Working in Conflict-Working on Conflict, Humanitarian Dilemmas and Challenges*, under the direction of Pat Gibbons and Brigitte Piquard, University of Deusto, Bilbao, 2006, p. 11-12

² Ernest Marie Mbonda, "*Guerres modernes*" *africaines et responsabilité de la communauté internationale*, Yaoundé, PUCAC, 2007, p. 5

³ Kjell-Ake Norquist, "Humanitarian action as peacebuilding : Some reflections over the East Timor Process", in *Working in Conflict-Working on Conflict, Humanitarian Dilemmas and Challenges*, Op. Cit., p. 199

⁴ In 2009, The United Nations Mission in DRC has changed its name from MONUC to MONUSCO, but in our work since we are working from 2001 to 2011 we will use MONUC referring to the UN mission both before and after 2009.

member states. Bolya Baenga in an article on the role of UN peacekeepers in DRC argued that European Union personnel presence is only 10%⁵. In 2006, concerning the UN humanitarian appeal, Juliette Prodhan, from Oxfam International declared that «*A leur plus grande honte, l'Italie, l'Allemagne et la France n'ont pris aucun ou presque aucun engagement financier en réponse à l'appel de l'ONU, tandis que la contribution de pays comme les USA ou le Japon est ridicule en regard de la taille de leurs économies*»⁶. This seems strange and questionable since not only EU has a strong peacebuilding and humanitarian commitment in DRC, but also together with its member states, it is by far the first donor of the peacebuilding process in DRC. This issue has brought us to search on the European Union contribution in the management of humanitarian crisis in Africa. Therefore the question which will lead us to an investigation is How EU as a main actor of the international community contributes to the humanitarian response in DRC?

I. CONTEXT OF THE STUDY:

As the new Humanitarianism is taking more and more place, EU seems to be among the regional organizations, the first to develop and to implement a broad humanitarian response. Its desire to play a major role in global security and in the promotion of peace and stability has pushed its decision makers to develop a wide framework on conflict prevention and crisis management. Elsewhere the 2003 European Security Strategy (ESS) stresses that the Union “*must be ready to shape events and develop a strategic culture that fosters early, rapid, and when necessary, robust intervention ... and it should be able to sustain several operations simultaneously*”⁷. It appears already clearly that, the humanitarian assistance in EU understanding cannot longer be confine in alleviating sufferings and procuring aid. For EU then actions have to be increased.

As a matter of facts EU has progressively developed its crisis management capacities and henceforth has a broad range of policies and instruments that can positively affect the dynamics of conflict and peace at local, national and regional levels. This includes Humanitarian assistance but also security and peacebuilding instruments through which, EU intends to propose a comprehensive answer to humanitarian crisis. The EU intervention in the Democratic Republic of Congo will be the experimentation of this new dynamic.

⁵ Baenga Bolya, Casques bleus au Congo : « l'ONU n'a pas d'armée... » C'est le vide sidéral..., in <http://www.afrik.com/reactions15977.html>, consulted the 25th April 2010

⁶Oxfam international, *Le financement humanitaire de la RDC reste largement insuffisant alors que près de 100.000 personnes sont mortes de négligence*, 15 mai 2006, in www.oxfaminternational.org, consulté le 23 avril 2010

⁷ Report on the Implementation of the European Strategy - Providing Security in a Changing World - 11 December 2008, <http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/104630.pdf>

Since 2001, the EU has become increasingly involved in the DRC and has considerably contributed to the enhancement of the resolution of this situation. "*From the 'classic' development cooperation and humanitarian relief to innovative ESDP operations such as Artemis in the summer of 2003 and a dedicated security sector reform (SSR) mission, EUSEC*"⁸. The European Union Together with its member states is by far the largest donor in this process.

Participating to the Humanitarian relief through the community pillar since its first war in 1961, EU has involved also the second pillar in 2003 with Operation Artemis. Since then, the European Union has totally broadened its intervention from a simply humanitarian and development relief to a more comprehensive peacebuilding intervention, including: "*humanitarian and development aid, diplomatic and technical support, and two military operations*"⁹. It is also clear that the humanitarian assistance of EU goes beyond a simple distribution of aid.

But this important commitment of the EU occurred in a situation where all the measures taken by the international community seems to be either inefficient or insufficient, where the aid and the actors provided by them suffered of a lack of coordination, and many other question and difficulties concerning the management of the humanitarian crisis. Moreover the EU operates in a field where the general perception concludes to a failure of the entire international community to restore peace security and human dignity. How coordinated, efficient and credible is EU contribution within its own institution and with the other actors on the field? Is it possible also to conclude to a failure of EU in DRC? Therefore it is not only interesting but also important to study the role of EU as part of the international community.

II. DELIMITATION OF THE STUDY

Our scope of study will take in account three main aspects: the spatial delimitation, the temporal delimitation and the material one.

A- Spatial delimitation

Although in general the whole country is unstable, our work will dwell on the region of eastern DRC in the North and South Kivu where there is a fragile security situation. This is an area of 256 000 km², it ranges from the Congo Basin, the tropical climate, and foothills of

⁸ Hans Hoebeke, Stéphanie Carette and Koen Vlassenroot, « EU Support To The Democratic Republic Of Congo », *rapport du Centre d'analyse stratégique in www.strategie.gouv.fr*, 2007, p. 2

⁹ Idem

the plateau Rwanda-Burundi, much more temperate and cold. To the north, the volcanic chain Virunga rising to over 4000 m altitude, to the west, the Congo forests provide an environment where crops are abundant, but mostly of mineral wealth unmatched: copper, gold, coltan, natural gas and oil in lakes Kivu and Tanganyika. And it is also where the situation on the humanitarian and security level is gradually deteriorated.

B- Temporal Delimitation

Our Study will go round as from 2001 when the EU started its involvement in DRC to nowadays 2011. So considering a period of 10 years of involvement we will evaluate the action of EU. We will therefore focus more on the years 2003 with Artemis operation, 2006 with EU's support to the elections process and the last two years with the Security sector reform support.

C- Material Delimitation

Our Study aims to analyze the main mechanism used to manage the crisis in DRC. It will therefore consider the three recent EU documents providing the framework of the European security and peace involvement in Africa, these are: The "**Cotonou Agreement**" (2000); "**The European Security Strategy**" (2003) adopted by the Council and "**The EU and Africa: towards a strategic partnership**" (2005) adopted by the Council, on the basis of a Commission draft. But we will also use some international documents as the Geneva Conventions and UN resolutions to see how EU has participated or not to the global commitment in DRC. At the same time this work will take its knowledge in the academic fields of: International Humanitarian Assistance, International Humanitarian Law, and International Criminal Law.

III. DEFINITION OF CONCEPTS

Before the development of our topic, it is important to clarify some concept that we will use:

A- European Union (EU)

There is an important literature on the description, the explanation and the function of the structures of European Union. But strangely it is hard to find in any book a settled definition of what EU is. In fact, due to the worldwide action and presence of EU, it seems useless to define it anymore, it seems understandable for everybody. But the complexity of EU can lead to a misunderstanding of its action. Therefore there is a need to define it.

One can find on its website that the European Union (EU) is an organisation of currently 27 members that have delegated some of their sovereignty in order to gain strength and world influence none of them could have on their own. Pooling sovereignty means, in practice, that the member states delegate some of their decision-making powers to shared institutions they have created, so that decisions on specific matters of joint interest can be made democratically at European level. The decision making process is strongly complex and combines a lot of institutions¹⁰, among them: the European Council, the European Commission and the European parliament. Moreover, the treaty of Maastricht of February 1992 has added to the original economic objective of EU a political aspect and has set up three main pillars: European Community (EC) the first; Common Foreign & Security Policy (CFSP) the second; and Justice and Home Affairs (JHA) the third. This structure complicates more the comprehension of this institution.

Due to complex structure and the high number of its institutions many authors have tried to simplify EU by agreeing on a common definition. For them EU should be define as its main institutions and the Member states. Fernanda Ferria for example defines it as jointly the Commission, and the member state¹¹. This idea is supported By Giji Gya in an article on the role of EU in Darfur Crisis¹², where he considers EU as both the Commission and the Council and the member state as complementary actors.

In this work we will look at the role of EU in Africa and we will focus on the first two pillars (Community action and the Common Foreign and Security Policy (CFSP)), through whom the EU has been increasingly active in the DRC over the last years¹³. Therefore, when speaking about EU we will consider the actions of the Commission and the council as the main actors and the member state as complementary actors.

B- Humanitarian crisis

The concept of humanitarian crisis is obviously one of the most used but also misused of this last decades. Because of the increasing conflict situation around the world and mainly in Africa, it has been so common to hear about the issue of humanitarian, more often put together with “catastroph”, “crisis”, “assistance”, etc. This overuse of the concept has led to a difficult common definition. However several authors have drawn up some indicators to

¹⁰ Ibid, p. 14

¹¹ Fernanda Ferria, « La gestion des crises en Afrique subsaharienne, le rôle de l'union Européenne », in *Occasional paper of the Institute for Security Studies (ISS)*, n° 55, novembre 2004, p. 39

¹² Giji Gya, “The EU’s role in the Darfur crisis from 2003 until today”, in *The Gap between Narratives and Practices. Darfur: Responses from the Arab world* undertaken by FRIDE from October 2008 to March 2010, 22 p. 8

¹³ Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot, *Op. Cit.*, p. 4

define it. Ernest-Marie Mbonda in his manual *l'Action Humanitaire en Afrique* tries to insist on some key elements that characterize a humanitarian crisis, among them we can find: many hundreds of dead people, of wounded and displaced etc.¹⁴ Doing the same, Martin Binder in an article *on Humanitarian Crises and the International Politics of Selectivity*, has clearly defined “*a humanitarian crisis operationally as a profound social crisis that is characterized by high numbers of casualties, large-scale internal and external displacement, and widespread hunger and disease*”¹⁵. Given these definitions, it seems clear that a crisis can be qualified as a humanitarian crisis when there is at the same time, a large scale of dead people, and a high number of displaced persons, hunger and a critical health situation. Despite these indicators chosen as criteria to determine a humanitarian crisis, many authors still distinguish a long term humanitarian crisis and a short term humanitarian crisis depending on the degree of suffering and its consequences. If the short term humanitarian situation is a punctual crisis that occurred and can be solved by the affected state with appropriate means, the long term one is more destructive and is beyond the only capacity of the affected state. Coraline Barré will define it as « *une situation dans un pays, une région ou une société où l'autorité est totalement ou presque totalement détruite, anéantie, en raison d'un conflit interne ou externe, et qui nécessite une réponse internationale allant au-delà du mandat ou des capacités d'une seule agence ou programme des Nations-Unies* »¹⁶. Therefore managing such complex situation becomes really a challenge and asks not only many actors but also many expertises. In this work we will consider the situation in DRC as a long term humanitarian crisis.

C- Management of humanitarian crisis

But again the management of humanitarian crisis is not the most shared thing. From academics, to humanitarian actors, and from political actors to military, everybody has his own conception on how to manage and monitor a humanitarian crisis. Hence the most complicated task is to have a common framework on crisis response. For example there has been for ages a permanent conflict between military and humanitarian actors on the field. Many humanitarian actors are not eager to work with soldiers on a humanitarian field; they don't even consider military as part of humanitarian activities.

¹⁴ Ernest-Marie Mbonda, *L'action humanitaire en Afrique : lieux et enjeux*, Paris, Archives contemporaines et AUF, 2008

¹⁵ Martin Binder, “Humanitarian Crises and the International Politics of Selectivity”, in *Hum Rights Review*, Springer Science and Business Media B.V., February 2009, p. 332

¹⁶ Coraline Barré, *Les Réfugiés comme enjeu de sécurité*, Diplôme de Sciences Po Grenoble, in www.memoireonline.com, soutenu en 2007, consulté le 9 mars 2011

However, as it is a well explored world it is possible to find through the literature a sort of common sense on it. If for those who belong to the “purist” approach of humanitarian action the management of a crisis consist only in alleviating people sufferings without any other commitment, there is today a more progressive approach to which this work subscribe. In this sense, Xavier Zeebroek has identified three pillars important for the management of a humanitarian crisis: a military pillar, a political and diplomatic pillar and the humanitarian pillar¹⁷. This idea is presented by Geert van Dok, Christian Varga and Romain Schroeder¹⁸, as the new humanitarianism aiming at answering to the crisis with a global and sustainable strategy. According to these authors, humanitarian program should also consider:

- *Ending armed conflict and improving security;*
- *Advancing the status of human rights and strengthening the rule of law;*
- *Strengthening the principles of Good Governance;*
- *Democratizing societies and enhancing their egalitarian elements;*
- *Reducing a society’s susceptibility to ecological crises;*
- *Achieving sustainable improvement in the economic status of people in Need”¹⁹.*

Therefore it is clear that the management of humanitarian crisis cannot be longer consider only as the alleviation of suffering as it was some years ago by some NGOs.

IV. INTEREST OF THE STUDY

This analysis is motivated by two main interests: a social interest and a scientific one:

A- Social Interest:

Our work tends to interest both the humanitarian actors on the field and the civil population beneficiary of the aid. First, EU actors on the field, mainly the staff of ECHO and other EU personnel involved in Security sector reform in DRC can profit from this study. So, through an evaluation of their work we could help them to improve their capacity on the field. This will probably have an impact on innocent population who will by the fact of a better management of the inhuman situation in which they are, be relieved of their suffering.

B- Scientific Interest :

This work lies in its capacity to evaluate: mechanisms and policies of the EU to respond to a complex humanitarian crisis, through a general autopsy of institutions and

¹⁷ Xavier Zeebroek, « Relations entre humanitaires et militaires en RDC et au Burundi : Je t’aide, moi non plus », in *les humanitaire en guerre, sécurité des travailleurs humanitaires en mission en RDC et au Burundi*, Xavier Zeebroek (sous la dir.), Coédition GRIP- édition complexe, Bruxelles, 2004, p. 121

¹⁸ Geert van Dok, Christian Varga, Caritas Switzerland and Romain Schroeder, Caritas Luxembourg

¹⁹ Geert van Dok, Christian Varga, Romain Schroeder, *Humanitarian Challenges The Political Dilemmas of Emergency Aid*, Caritas Luxembourg et Caritas Suisse, 2005, p. 77

political mechanisms of action and coordination on the field. Many works have already been done on the role of EU in Africa in general and in DRC in particular, but in a fragmented way. That means from different aspect either concerning the humanitarian Aid, or the security reform support or the military intervention. The particularity of this study is to analyze the involvement of EU in DRC in a comprehensive way. Therefore it is a critical approach of the EU humanitarian crisis management in Africa, taking in account the humanitarian aspect the diplomatic and political one and the military intervention. At last, acknowledging that humanitarian aid and crisis management are not the same thing, but are crucial for a better management of a humanitarian crisis, we want to analyze how EU has used these two pillars in DRC and what EU has overlooked in its intervention in Congo. So in conclusion we want to show how the action and the inaction of EU have influenced the situation in Congo. The previous researches on this topic have separately analyzed EU humanitarian aid and crisis management support. Unlike these studies, our work intends to put together the two items as a whole, and evaluate the efficiency and efficacy of EU framework in humanitarian crisis.

V. REVIEW OF LITERATURE

Many authors have written on the role of EU in Africa in general but also in DR Congo in particular. Some of them have been decisive in the choice and the inspiration of this research. Their point of view, shortcomings and critics have led us to see the subject to a specific angle. In this part we are going to present the main authors that have influenced our thoughts.

Our first author is **Gorm Rye Olsen**²⁰, who in his article tries to show in which framework EU intervene in African crisis. For him the ambition of EU to be a wide international actor has brought the member state to include Africa in the Common foreign policy agenda. Therefore since the 1990s EU has tried to contribute to the resolution of the growing of instability in African countries through several agreements on peace and conflict resolution. But for him if this involvement was high at the beginning through a significant humanitarian and development aid, today European Union has reduced its help because of a limited impact of the aid in African crisis, which is a “disillusion”. If the Financial aid appears inefficient, the military intervention could be a possibility to stop conflict and then contribute to a better crisis management making EU an important and capital actor at the international level.

²⁰ Gorm Rye Olsen, “The EU and conflict management in African Emergencies”, in *International peacekeeping*, vol 9, N° 3, Published by Frank Kass, London, Autumn 2002, pp. 87-1002

If this article written in 2000 was predicting the “not-so-distant future”²¹ of the shift of EU policy from a more important humanitarian and development aid to a new emphasis on military intervention, the majority of the articles which were written after focus on this military aspect. **Elizabeth Deheza** in an article on “*EU crisis management in Africa, The time for a “real adventure” has come*”²² try to demonstrate through an analysis of the different missions EU has carry out since 2003 that “*even though, these missions demonstrated that the EU can successfully carry out military operations outside Europe and achieve “limited success”, they also provided a clear understanding of the EU’s aspirations and the problems it faces in relation to force generation, capabilities, and political will among EU Member States*”²³. The conclusion of her article is more doubtful concerning the current state of EU military capacities in crisis management. So for her the reality is that these missions cannot serve as a model case for future EU missions causes as the Union is not yet capable to provide such capacities.

Less critical is the work done by **Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot**²⁴. They try to prove that increasingly there is a large degree of convergence in strategic vision and objectives between the first and the second EU pillars in Brussels about the DRC. They demonstrate how EU has supported DRC since 2001 through some important key sectors for the management of a crisis, Rule of law, Elections and Democracy, Humanitarian assistance, military and diplomacy. But they came to the same conclusions with Elizabeth Deheza and Gorm Rye Olsen concerning the financial support and the lack of coordination between EU institutions on the field. For our authors there is still a sort of “*formal coordination structure between the pillars, on the field, (but) no coordination structure exists and an informal cooperation has taken place*”²⁵. This is also the cause of the lack of sufficient financial means.

This idea is support by **Simon Duke and Aurélie Courtier**²⁶, in their work on EU peace-building. This article tries to present EU peace-building policy as a comprehensive framework where all the aspect of the management of crisis is taken in account. Defining peace-building as a wide mechanism to respond to humanitarian crisis, our authors develop all the aspect of the EU intervention on a humanitarian area. So through the two first pillars EU

²¹ Ibid, p. 13

²² Elizabeth Deheza, “EU crisis management in Africa, The time for a “real adventure” has come”, in *Biuletyn Opinie*, No 30, Warsaw, October 2009, 11 pages

²³ Ibid., p 2

²⁴ Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot, Op. Cit.,

²⁵ Idem

²⁶ Simon Duke and Aurélie Courtier, *EU peacebuilding: concepts, players and instruments*, Working paper N° 33, Katholieke Universiteit Leuven, December 2009, 38p.

has a wider answer to a humanitarian crisis. Therefore through the treaty of EU and the other mechanisms EU consider: humanitarian and development aid, Rule of Law and democracy, Human Rights, military intervention and security sector and administrative reform. But the distinction between short-term actions under the direction of the second pillar and Long-term actions held by the first pillar, explain why some actions seem to be unaccomplished or not taken in consideration.

The last authors that have inspired our reflection are **Jan Wouters and Nicolas Hachez** in their article on Business and Human Rights in EU External Relations²⁷. In this study they examine the place of Human Rights and Business in EU external Policy. The negative impact of enterprises on human rights where they operate has gained enormous prominence during the last decade, spurred on by globalization. It appears that European Union is the seat of many of these multinational corporations operating abroad and mainly in Africa and in Democratic Republic of Congo. Therefore according to our authors, EU as one of the most influential political and economic powers in the world, and as a self-declared moral leader in the field of human rights, is bound to pave the way for others, and possesses particular leverage to do so in the framework of its dense network of external relations. Writing this briefing paper for the EU commission, our authors noticed that EU regulation regarding Human Rights and Business is weak and insufficient. As result of his research, he concludes that *“it is doubtful that EU external policies, coupled with the EU's CSR policy, will significantly impact corporate respect for human rights”*²⁸. Therefore there is a need to adopt a binding framework on Business and Human Rights; this could contribute to a more comprehensive framework on crisis management since European companies are accused to fuel conflict and humanitarian crisis.

VI. PROBLEMATIC:

The literature of EU support to DRC shows that, the European Union has considerably development large range of instrument and policies to the reestablishment of human dignity, peace and security in DRC. But there is no doubt today that the international community in general where EU is a major actor has failed in DRC because the humanitarian situation is still dramatic and the security is still very fragile in the East. Therefore the following question seems evident:

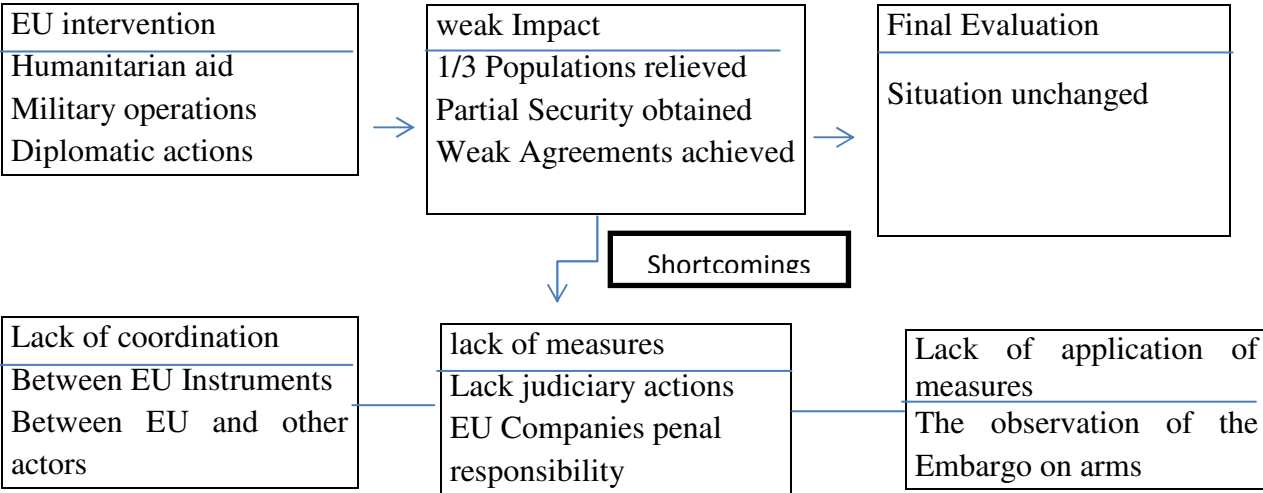
²⁷Jan Wouters And Nicolas Hachez, “Business and Human Rights in EU external relations - Making the EU a leader at home and Internationally, In *Directorate-General For External Policies Of The Union Directorate B-Policy Department*, Expo/B/Droi/2009/2 April 2009

²⁸ Idem

What are the impact of the mechanisms and strategies used by EU in the management of the crisis in DRC? Why EU endeavors have not lead to a better management of DRC humanitarian situation? In other words, given the situation for nearly 15 years in the DRC can we say that the mechanisms used by the EU are effective, relevant and sufficient?

VII. HYPOTHESIS:

Our hypothesis is that despite all the mechanisms and the real engagement of the European Union in DRC, the situation has not changed because in one hand EU framework for humanitarian crisis management in DRC suffered from a lack of coordination within EU institutions on the field, its mechanism and policies, the member states and the other actors. And in the other hand EU as key player has either failed to respect its commitment towards DRC (monitoring of the influence of European companies in the fueling of the conflict, monitoring of the arms embargo against DRC) or has not done a lot to make its action more efficient (the justice reform)



VIII. METHODOLOGICAL FRAMEWORK:

A- Research method:

The **strategic method** of Michel Crozier and Erhard Friedberg is generally used when there are many actors with different interests on the field. Therefore it is important to

analyze their coordination and their political influence etc.²⁹ Our study will use it to see the interaction and challenges between the EU institutions and between EU and the other actors on the field such as UN in the military intervention, the Security Sector Reform and the Elections reform.

Easton in its **systemic method**³⁰ has developed the capacity to understand system of functioning of organizations; how to evaluate the impact of policies in a social environment. We could exploit this method in our work to see how the impact of EU policies in Congo and the interdependence between EU policies and other actors on the field.

B- The technics of research:

Many field technics are required for this work. In fact we could use the enquiry method or the investigation on the field to collect data and information on the ground to conduct to research but because of the incapacity to go on the field in DRC, due to geographical distance and lack of financial means, we will focus only on report made by the ECHO, the council common positions and many other organizations report on the field.

The main research technic of our work is the documentary research, which will help us to understand through previous research, the impact of the EU in the DRC situation and to understand the juridical framework of the European intervention in DR Congo.

IX. PLAN OF THE DISSERTATION

This work sets itself in a first time to study all the mechanisms established by EU in the DRC and their impact in the overall management of the crisis. In a second stage will see the issue of the brakes of these policies by showing the failure of the EU in the key elements that have aggravated the situation in DRC.

²⁹ Michel Crozier et Erhard Friedberg, « *l'acteur et le système* », seuil, collection point, Série Politique, Paris, 1977,

³⁰ See Raymond Quivy et Luc Van Campenhout, *Manuel de recherche en sciences sociales*, Paris, Dunod 3eme édition, 2006, 288 p.

FIRST PART:
**ANALYSIS OF THE CURRENT EU HUMANITARIAN
CRISIS MANAGEMENT IN DRC**

With a high level of mortality and displaced persons, an ongoing conflict and an unprecedented number of refugees, DRC is certainly the most critical humanitarian situation of this decade. Operating as humanitarian actor, soldier or even journalist in such context is taking a risk of insecurity and protection. Because of the limited capacities of the State to response to this critical situation, the international intervention is the main manager of the situation.

European Union through the humanitarian office of the Commission, the European delegation and the member states are by far the first donors of the humanitarian demand in DRC. This humanitarian response has progressively increased from a simple humanitarian assistance and bilateral relations to a more comprehensive crisis management and peacebuilding process. The EU action includes: the humanitarian aid itself, the military intervention and the diplomatic and good governance support.

This first part consists on the analysis of the EU support in DRC from 2001 to 2011, taking therefore ten years of action and support. Divided in two chapters, the first chapter will present the humanitarian context in which EU intervened and the tools and policies on which EU lies to intervene. The second chapter will focus on the military and humanitarian actions in one hand and the diplomatic and good governance process activities in the other hand. The analysis of this involvement will lead us to the conclusion that despite the strong commitment of EU in DRC the results are still weak because EU actions are more motivated by EU own interests than DRC situation.

CHAPTER I: EU INTERVENTION FRAMEWORK AND POLICY TOWARDS THE CRISIS IN NORTH KIVU

While the debatable issue of military presence on humanitarian fields is still ongoing, the EU seems to have a reconciled answer to it. In fact, even if many European NGOs are not in favor of a military and political combination with humanitarian actions, the European framework for crisis management from the treaty of Lisbon to the particular EU-Africa agreements put together humanitarian action and security defense as a comprehensive tool to crisis prevention and management.

The Democratic Republic of Congo has been the first to experiment the EU humanitarian and military capacity in Africa. In this regard, *“in the DRC can we see the EU’s determined efforts to use the inter-institutional framework devised at Maastricht and the inter-pillar coordination required to make full use of the toolbox available to help transition in the DRC through civilian and military crisis management instruments coupled with humanitarian assistance and longer-term development policies.”*³¹

The chapter will analyze the humanitarian aid first as the oldest action of EU in DRC and the military intervention as the new successful EU activity in African humanitarian crisis management.

Section I: EU and The situation in the DRC at the time of the interventions

The complexity of Congolese Conflict has brought to a permanent relapse in the conflict and can be easily qualified as a protracted conflict. Both the security and the humanitarian context are fragile. In this section we are going to present the conflict context and the humanitarian context it has led to and the humanitarian and security needs that are required on the field

Paragraph 1: The Conflict situation from 1996 to 2011

In general view, since its independence the Congolese population has hardly known peace times. But in theory, one can identify three main conflicts that are at the origin of the most dramatic humanitarian situation of this decade.

³¹ Gerard Quille, Giovanni Gasparini, Roberto Menotto, Nicoletta Pirozzi, *Developing EU Civil- Military Coordination. The role of the New Civilian Military Cell*, Joint Report by ISIS Europe and CeMiSS, Brussels 2006

The first conflict started with the 1996 Banyamulenge rebellion that put an end to the Mobutu reign. Feeling threatened by the Hutu militias settled in the Kivus after the Rwandan genocide, the Congolese Tutsis (locally called 'Banyamulenge', meaning sons of Mulenge) formed the Alliance of Democratic Forces for the Liberation of Congo (AFDL) with Ugandan and Rwandan backing and ousted the dictator Mobutu Sese Seko who had run the country since 1965³². The second conflict which took place from 1997 to 2003 that one would call "*the first African wide war*" because of the number of countries that were involved: is directly tie to the first one and will be a catastrophe. Six out of the ten neighboring countries of the DRC got involved either directly or by proxy. Those who were the backer (Rwanda and Uganda) of Laurent Desiré Kabila just turn against him. Many rebels group also took part in hostilities being support by neighboring State. The most known are : Congrès National pour la Démocratie et le Peuple (CNDP) of Laurent NKunda; MLC (Mouvement de Liberation du Congo), Front Démocratique pour la Libération du Rwanda (FDLR), Rassemblement Congolais pour la Démocratie (RCD). If it is easy to identify the rebels group that make the life impossible in the East of Congo it is not that easy for the state because they always deny their involvement into the conflict. Even the UN *Resolution 1234* on the cease fire was unable to identify those States: « *the Security Council deplores the continuing fighting and the presence of forces of foreign States in the Democratic Republic of the Congo in a manner inconsistent with the principles of the Charter of the United Nations, and calls upon those States to bring to an end the presence of these uninvited forces and to take immediate steps to that end* ». But after the Lusaka peace agreement it was clear that Angola, Namibia, Zimbabwe, Rwanda and Uganda were part of the conflict. The last conflict, which is still ongoing in the East, started in 2008 after the 2006 elections that were supposed to close and consolidate a long peace process.

Paragraph II: The emergency context and humanitarian needs in DRC

At the Humanitarian level, the consequence of this entire instable situation on the population is without any precedent. According to the international Rescue Committee 2008 report: "*45 000 décès par mois sont dus aux divers conflits armés, aux maladies et à la malnutrition, on atteindrait le chiffre extravagant de 5,4 millions de morts excédentaires depuis 1998. Près de la moitié des victimes seraient des enfants de moins de cinq ans. Comparé au taux de mortalité moyen en Afrique sub-saharienne, celui de la RDC serait ainsi*

³² Thierry Vircoulon, "North Kivu: Back to the quagmire?" in *Institute for Security Studies (ISS) opinion*, November 2008, p. 1

de 57 % plus élevé.”³³ And according to Cornelis Nlandu-Tsasa, more than 3 million of internal displaced persons (IDPs) - in which 800.000 IDPs from Nord and South Kivu provinces - have abandoned their cities and villages burned by conflict and insecurity and have lost everything. This brings DRC at the fourth level of countries with the highest number of displaced persons in the world³⁴.

Given the size of the country and different conflict dynamics, priority needs may vary from one area to another and from sector to another. In the north and South Kivu, “*protection is an over-riding problem; mortality and morbidity rates are high, food security, water and sanitation and shelter needs, which are always important during population displacement, are constant features in Eastern DRC*”³⁵.

Apart from this humanitarian situation, the Congolese State has been deeply destroyed, all the pillars of a State have collapsed: two coup d'état in 4 years, the judicial system has completely disappear in the eastern part of DRC, less than 60% of the 180 tribunals were available, the army and the police completely disorganized, the economy has deeply been touched.

The international community since 1999 has been constantly working for the resolution of both the conflict and the humanitarian situation stemming from it. Three main actors can be identified in the management of this situation: UN the first and most important actor, international actors as EU, USAID, international and Local NGOs; and last the Congolese State. Our work will focus on the role of EU as one of the main actors of this humanitarian situation.

Section II: EU humanitarian and crisis management framework in DRC

There has been an evolution, in the relationship between EU and DRC since the years 2000s. At the aftermath of the decolonization both the bilateral relation between DRC and EU member state and the relation between EU and DRC were based on Economic partnership; humanitarian assistance and development aid. But in 1992, accusing president Mobutu of bad governance and corruption, EU as a whole decided to suspend any relation with DRC which was at that time the so-called Zaïre. “*Humanitarian and emergency aid however has continued, through ECHO, which established offices in the Eastern provinces of*

³³ Dr. Benjamin Coghlan et alii, « *Mortality in the Democratic Republic of Congo: an ongoing crisis* », IRC et Burnet Institute, janvier 2008, 26 pages

³⁴ Cornelis Nlandu-Tsasa, *La RDC, quatrième pays au monde ayant le plus grand nombre de déplacés*, in <http://lesignaldupcontinent.over-blog.com/article-16644959.html>, consulted 10 May 2010.

³⁵ Humanitarian Implementation Plan (HIP), *Democratic Republic of Congo*, in ECHO/WWD/BUD/2011/01000, 2011

*the DRC*³⁶. The restoration of the relation between DRC and EU happened in 2002 and include a large range of instrument and aspect. From the simple humanitarian assistance to the military intervention, EU has exploited both the EU-Africa common framework and its own crisis management instruments to contribute to the management of the humanitarian situation in DRC.

Paragraph I: The EU policies towards Africa

In this subsection we are going to present the Africa policy of the EU which consists of two separate policy fields - development assistance and the CFSP. Acknowledging the difference between the humanitarian assistance and the crisis management process, we are going to show how in Africa, EU has tried to develop a policy which take in account the two field as a more comprehensive framework simply because these policies are becoming more and more interlinked.

Many agreements have been signed between African Countries and EU, concerning the humanitarian relief, the development aid or the economic partnership. In this context we will highlight the most important: The Cotonou Agreement (2000) and “The EU and Africa: towards a strategic partnership” (2005).

1. The Cotonou Agreement

The Cotonou Agreement is a Partnership agreement concluded between the 79 countries Members of the African, Caribbean and Pacific Group of States of the One Part, and the European Community and Its Member States, of the Other Part³⁷, based on the eradication of poverty, sustainable development and the progressive integration of the developing countries into the global economy³⁸. While the economic and financial partnership is in the heart of this agreement its main aim is to promote a culture of Human Rights, Democracy and Rule of Law in the ACP countries. But the agreement also provides a space for development and humanitarian aid for emergencies situations that could happen to ACP countries.

The Article 11 of the Agreement focuses on the peace policies and conflicts prevention and resolution. The parties agree to develop regional and national capacities to prevent violent conflicts and to deal directly with the root cause of the conflict. The article also implies to concentrate on mediation, negotiation, reconciliation demobilization and reinsertion of ex-combatant as measure to resolve conflict. In the paragraph 4 of the article 11

³⁶ Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot, Op. Cit., p. 6

³⁷ This agreement was signed in Cotonou on 23 June 2000 (OJ L 317, 15 December 2000, p. 3) and Revised in Luxemburg on 25 June 2005 (OJ L 209, 11 August 2005, p. 26).

³⁸ Cotonou Agreement, art.19.

the agreement says that in case of violent conflict the parties should take all the necessary means to stop it and to avoid an intensification of the violence. This article is already the basis of peacemaking, peacekeeping and peacebuilding actions in the EU and Africa common framework.

Before these statements on crisis management, it was already enshrined in the art. 9(2) that the cooperation is based on Human Rights, Democracy and the Rule of Law as essential elements. The parties insist on the fact that all the relations and cooperation should keep in mind the importance of Human Rights Democracy and Rule of Law.

The articles 72 and 73 concern the humanitarian aid and emergencies situations. The agreement provides all the possible means to alleviate the situation of victims of natural disasters or conflicts. The instruments go from the prevention to the crisis relief and post crisis reconstruction.

2. The EU and Africa: towards a strategic partnership

The EU and Africa new strategic partnership aims to reinforce the relationship between the two actors after the first Africa-EU Summit in Cairo in 2000 based on the institutionalization of their dialogue. Considering all the changes that happened and the exponential speed of the evolution of the two parties, the partnership wants to deal with four main aspects: “*peace and security, governance and human rights, trade and regional integration and key development issues*”³⁹. Those items can constitute a comprehensive framework within which specific strategies will have to be put. Concerning peace and security, AU and EU intend to collaborate to address not only problems and crisis in Africa, but the common threats to the two continents. This lies on sharing information and strategies between EU and AU, but also enhancing and supporting African peacemaking, peacekeeping and peacebuilding mechanisms in order to allow African crisis management capacity and ownership. This strategic partnership also includes the fight against illicit proliferation, accumulation and trafficking of Small Arms and Light Weapons (SALW) and their ammunition.

Concerning Human Rights and good governance, the promotion of democratic governance and human rights constitutes a central feature of the Africa-EU dialogue and partnership. With regard to human rights, Africa and the EU will work together both in conflict time and in peace time to protect and promote the human rights of all people in Africa and Europe. The challenge includes the promotion of good governance, accountability,

³⁹ Joint Africa-EU Strategy, <<http://www.eu2007.pt/NR/rdonlyres/D449546C-BF42-4CB3-B566->>

transparence in fund management, security sector reform, corporate social responsibility and fighting against corruption.

To summarize, the common framework of Africa and EU include numerous instruments forming comprehensive framework to manage crisis with humanitarian consequences. All these instruments give the capability to EU to react and contribute to African crisis in a global way taking in account both the humanitarian aspect and the peacebuilding and transition process aspect.

In addition to this, many EU member states have also bilateral relationship with DRC which gives them the capacity to contribute to the humanitarian situation in DRC. *“These include Belgium, (the former colonial power); France and to a lesser degree the United Kingdom and Portugal (through the prism of its political interests in Angola). Other EU member states, such as the Netherlands, have become increasingly involved in the region”*⁴⁰.

Paragraph II: EU policies toward DRC

In the 2003 European Security Strategy, the conflict of DRC already appears as one of the challenges of EU as an international peace builder. In fact the ESS already considers the conflict in DRC and in great lakes in general as a very direct or indirect radical threat to European interest and should be tackled⁴¹. But above this general document designing the European strategy on security, there are some main specific document defining clearly the interest of EU on the humanitarian situation in DRC and highlighting how EU intend to respond to the situation. Again it appears that EU intends to answer at the same time to the humanitarian consequences of the crisis and to participate to the reconstruction of the state through peacebuilding and transitional process.

1. The EU humanitarian strategy in DRC

The humanitarian aspect is the most ancient EU commitment in DRC since 1992. But if this support was not comprised in a global framework because of the rupture of relation between EU and DRC, it is in 1999 with the signing of the Lusaka agreement that EU clearly reaffirmed officially its concern to the humanitarian situation in DRC and takes the engagement to participate to the relief of populations. So, through an official Declaration on the 26 November 1999 the Presidency on behalf of the EU and its member states reaffirmed

⁴⁰ Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot, Op. Cit., p. 13

⁴¹ European Security Strategy - Brussels, 12 December 2003. <<http://ue.eu.int/uedocs/cmsUpload/78367.pdf>>

their commitment to the Lusaka agreement which offers the only realistic prospect of lasting peace and security in the Great Lakes region. The EU underlined its readiness to provide full political, diplomatic and resource support for the implementation of the Lusaka agreement. Among the important needs it was clear that the humanitarian situation was dramatic that is why “*the EU affirmed its readiness to provide humanitarian assistance to all those in need in the DRC and to make available development assistance once peace is established and mechanisms are in place to allow effective implementation of assistance*”⁴².

Moreover at the restoration of the EU/DRC relation in DRC the Commission and the DRC government have signed a National Indicative Programme (NIP) titled “*Programme de Rehabilitation et d'Appui au Processus de Paix et de Reconciliation*” (RAPPER), where the Union priorities were clearly orientated toward humanitarian aid with a financial support of up to 40-50 million euros per year for the humanitarian aid, health, infrastructural and urban development through offices of ECHO established in the eastern part of the DRC⁴³. The European Development Fund (EDF), which is the main funding instrument for Community development assistance to the African, Caribbean and Pacific States (ACP) and the Overseas Countries and Territories (OCT), has progressively contribute to finance the EU policies in DRC mainly concerning poverty alleviation, transport management, health, urban development and water supply.

At last EU has used DRC humanitarian field to experiment its Linking Relief, Rehabilitation and Development (LRRD) strategy which was successful especially concerning health⁴⁴. Other long term policies of the EU towards DRC were in the framework of the Cotonou agreement, among others, which aimed at providing of development and humanitarian aid.

It is clear that the EU policies toward DRC give a real importance to the humanitarian aid but according to Louis Michel the European Commissioner for Development and Humanitarian Aid, this support can only be efficient if all sides find a diplomatic and political solution and agree on a lasting peace first⁴⁵. That is the reason why the Union has also taken several measures concerning the crisis management aspect.

⁴² Declaration by the Presidency on behalf of the European Union on the Democratic Republic of Congo, 26 November 1999

⁴³ Burmaa Nyamaa, Inga Munteanu, “Peace building in the Democratic Republic of Congo”, *Master Thesis of Public Administration*, supervised by Prof. Søren Villadsen, Roskilde University Centre, Spring 2008, p. 40

⁴⁴ République Démocratique du Congo et Communauté Européenne, *Stratégie de coopération et programme indicative*, 2003-2004, p. 22-23.

⁴⁵ Eastern Congo crisis: Commissioner Louis Michel on humanitarian mission to North Kivu, in <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1947&format=HTML&aged=0&language=EN&guiLanguage=en>, IP/08/1947, Brussels, 11 December 2008

2. EU commitment to DRC crisis management challenges

Without waiting the renewal of the diplomatic relation with DRC government, EU has been ready to participate to the effectiveness of the Lusaka agreement which was the key for the return of stability in DRC.

Analyzing the EU presidency declaration on the Lusaka agreement of 1999 and its declaration on the EU support for the implementation of the Lusaka agreement and peace process in DRC of 2003, one can point out four main commitments as EU policy for the management of the crisis in DRC.

First, the support to the peacekeeping mission, previously the UN liaison officers, appears for EU as a priority for the implementation of new signed agreement. For an amount of up to 1.2 million Euros the Union has provided a financial and practical assistance for the deployment of the Joint Military Commission observers.

Secondly, the EU has “*stressed the necessity of ensuring a peaceful and permanent disarmament, demobilization and reintegration (DDR) of the militia groups currently operating in the region, with a view to promote justice, national reconciliation and respect of human rights*”⁴⁶.

Thirdly, EU has taken diplomatic measures to support the National dialogue in DRC and the international conference in Great lakes. For the Union the dialogue and the mediation are the easier way to implement to cease-fire. This will certainly motivate the appointment through the council common action 2003/447/PESC of the special representative for the Great Lakes Aldo Ajello.

Last, supporting the Lusaka agreement the EU expressed its concern at the use of natural resources of the DRC to fund military operations in the region and calls on all the parties to ensure that all their commercial dealings are legal under the relevant domestic and international law⁴⁷. In fact EU was already expressing its commitment toward the need of legal exploitation of natural resources in DRC.

In addition these main points identified in the EU support to the Lusaka agreement in the early 1999, EU has defined a strong strategy on arms control in DRC. Following the UN arms embargo EU has adopted several common positions establishing an arms embargo on DRC. EU has also taken measures for justice reform, Security Sector Reform and democratic transition in DRC playing therefore a major role of peace builder.

⁴⁶ Declaration by the Presidency on behalf of the European Union on the Democratic Republic of Congo, 26 November 1999

⁴⁷ Idem

In conclusion of this Chapter, we can say that the European Union as an international actor has developed progressively a wide range of policies and instruments both in relation with African Union and African countries which have facilitated the development of specific policies toward DRC. In fact the dramatic humanitarian consequence of the North and South Kivu need a comprehensive and complete response taking in account the humanitarian challenges but also the root cause of the conflict, the peacebuilding and institutions building process.

At this stage two questions will guide our analysis. First, does EU have respected its engagement toward Africa and particularly DRC? Do all these measures and policies have been implemented in DRC? Second, what evaluation can be done of this policy? Is it suitable to DRC? Is it enough? How is it implemented?

All these questions will help us to evaluate EU global support to DRC, observing how the Union has harmonized the humanitarian and the crisis management actions.

CHAPTER II: THE EU RESPONSE TO THE DRC HUMANITARIAN CRISIS

Taking in consideration the restarting of the relationship between DRC and EU on 21st January 2002, with the signature of the National Indicative Program (NIP), one can say that EU re-involvement in DRC has been lasted approximately 10 years. EU intends to be a major actor in humanitarian relief, peacebuilding and international security, its actions through the world can prove it. But in reality, DRC is one of the countries in which EU has invested and consecrates a great attention.

Therefore it appears important to see how the different instruments, policies and actors of the EU have been used to contribute to the relief, the rehabilitation and the development in DRC but also the security and the reestablishment of peace in the Eastern region.

This chapter will analyze deeply the EU response in DRC, from the simple humanitarian action to the first military operation outside Europe. Taking the example of DRC we will try to explain that even if EU action in DRC seems more complete with both the humanitarian aid and the crisis management instrument, the genesis and the motivation of its actions pursue first its own interest.

Section I: The European Union Humanitarian assistance in DRC

The humanitarian assistance is the only action that EU has always carried in DRC, despite the interruption of the diplomatic relations that means the relief aid in DRC is the first and most important assistant the populations in DRC need. Present in DRC before 1992, both the commission through it humanitarian office and the member states humanitarian divisions shows that the traditional objective of EU is to participate to the alleviation of Congolese situation and save their lives from the consequence of the conflict. Under the Community pillar EU has invested a lot and financed many humanitarian organizations which are partners of programs mainly UN and European NGOs. In this section we are going to present the EU humanitarian response in DRC through the action of ECHO and the member states and the humanitarian challenges that they have faced.

Paragraph I: ECHO and the member state as the first donors in DRC

Everybody agree to say that the EU commission through ECHO together with the member state is the first donors in the humanitarian relief in DRC. In this humanitarian space, where the humanitarian aid is still insufficient, the role of EU is crucial and central.

1. ECHO and the support of the Humanitarian field in Eastern DRC

Based on its mandate which is “*to save and preserve life during emergencies and their immediate aftermath and natural disasters that have entailed major loss of life, physical, psychological or social suffering or material damage*”⁴⁸, ECHO has despite the rupture of the relation between EU and the ex-Zaire, continued to provide Humanitarian and emergency aid to civilian affected by the successive crisis. In fact, ECHO presence in DRC lasts since the exodus of refugees from Rwanda in 1994. The complexity of the situation has pushed the commission humanitarian delegation to establish offices in the Eastern provinces of the DRC⁴⁹ mainly in Goma, Bukavu, Bunia and in the capital Kinshassa. The Humanitarian Aid Office of the European Commission has been working in collaboration with international actors especially European NGOs and government agencies. From 1997 to 2004, the total amount of humanitarian aid of ECHO in the DRC was evaluated at a total of 162 million of Euro⁵⁰ in 2004, 45.4 million of Euro in 2006, 49.5 million of Euros in 2007 and with its contributions of €50 million in 2008 alone; ECHO is one of the largest donors to the humanitarian crisis in eastern DRC.

The priorities of ECHO has continuously increased on the field and evaluated according to the humanitarian needs. In fact ECHO does not operate on the field directly but it collaborate with a large network of organization which it finances according to a humanitarian plan it has defined in advance taking in account the needs on the field and the neglected areas.

An analysis of the ECHO Humanitarian Implementation Plan (HIP) 2010 shows that “*DG ECHO's envisaged response was focus on the problems caused by displacements on the one hand, and on the other hand on protection-related issues resulting from human rights violations and atrocities committed against the civilian population*”⁵¹. So the protection and the IDPs camp assistance seem to be one of the priorities of the office. A part from these two aspects ECHO has always been supported sectorial activities such as food security, Water sanitation and hygiene (WASH), health care and livelihood. For example in 2008, health services have been a key focus; the European Commission has funded 35 health zones in eastern DRC providing access to primary care services for 2.5 million people. In addition,

⁴⁸ Article 2 of the Council Regulation 1257/96

⁴⁹ Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot, *Op. Cit.*, p. 7

⁵⁰ Richard Youngs, “A New Approach in the Great Lakes? Europe's Evolving Conflict-Resolution Strategies”, In *Journal of Contemporary African Studies*, N° 22, Carfax Publishing Taylor h. Francis Group, 3 Sept. 2004, p. 17

⁵¹ Humanitarian Implementation Plan (HIP), *Op. Cit.*, p. 4

over 450,000 children were vaccinated against measles and over 122,500 people provided with improved access to clean water⁵².

The commission has progressively noticed that the overall protection response is clearly insufficient despite the extreme magnitude of the needs, so, ECHO have decided these last years to focus its attention on Protection which is widely recognized as the main humanitarian need in DRC⁵³. In this regard the support of ECHO tends to take in account the protection aspect in all sectors. The main partners of ECHO are therefore ICRC, UNHCR, UNICEF, OCHA and international NGOs. Each of these agencies has a crucial role in protection related to children, refugees, IDPs, gender based violence and civilian in general. In the health sector the main objective is to support Sexual gender Based Violence (SGBV) which touched women, men children, old people and all the society both physically and psychologically.

The European Commission also operates a dedicated humanitarian air service called ECHO Flight which operates in DRC and Kenya. Its task is to transport humanitarian personnel and supplies to dozens of remote locations that may otherwise be cut off from the outside world.

2. The member states and the role of the bilateral cooperation in the humanitarian relief

A certain number of EU member states have a longstanding presence in the DRC. Among them: Belgium, (the former colonial power); France which had good relationship with the former president Mobutu in the framework of francophony and to a lesser degree the United Kingdom and Portugal (through the prism of its political interests in Angola). Other EU member states, such as the Netherlands, have become increasingly involved in the region for the last years⁵⁴. In fact, the engagement of the member state was limited to the humanitarian aid for a long time, at least until 2003 when it has taken to the crisis management aspect with the Artemis operation. In this part we will focus on UK, Belgium and France as there are the most ancient and the most important EU actors in DRC.

Concerning UK for instance, the Department for international development (DFID) is one of the biggest English instrument for development and humanitarian aid in DRC. It has started in 2001, and with a contribution of approximately “£100 million per

⁵²Cf. Aid in action, Democratic Republic of Congo, http://ec.europa.eu/echo/aid/sub_saharian/rdc_en.htm, consulted the 13 may 2011

⁵³ Paul Bonard, Ricardo Solé, Silvia Hidalgo and Soledad Posada, *Evaluation of DG ECHO's Actions in the Democratic Republic of the Congo*, Final Report, October 2010, p. 16

⁵⁴ Hans Hoebeke, Stéphanie Carette and Koen Vlassenroot, Op. Cit. 13

*year the country programme is expected to reach £130 million in 2001-11*⁵⁵. The main areas of UK involvement are Humanitarian assistance and Community reconstruction. In fact, through its DFID early programme, UK was almost wholly humanitarian, but in the last three to four years it has significantly increased in size and diversity. It now includes a range of developmental activities such as: reforms to police services, public financial management and the strengthening of peace, security, democracy and accountability. The UK aid takes in account some important humanitarian needs such as: water supplies malaria, basic health services and gets more children into school and builds and renovates roads. Globally on a total of £109.1 million of UK aid for DRC spent in 2009-2010, 38% have consecrated to Humanitarian assistance⁵⁶.

Another country which is really tied to DRC by historical link is Belgium, the former colonial power. In fact due to its historical relationship with DRC, Belgium tries to impose itself as the leader of the donors both at the humanitarian level and at the political level. At the relief level, pursuing and enlarging the field of humanitarian actions towards the most vulnerable victims of the crisis (mostly women and children) and more particularly on territories victims of war, in order to facilitate access to conflict zones is the main aim. According to the Minister of the Cooperation to development Olivier Chastel, the Belgium support in DRC is more focus on the health system and epidemy through the funding of NGOs and Belgium cooperation projects, and the funding of the World Health Organization (WHO) and UNICEF. This Humanitarian aid is provided, through multilateral organizations and NGOs. In 2004, its contributions to the global appeal for DRC has reached 9 million USD, representing 8 % of the total funds. After the implementation of the humanitarian reform in 2005, the two main funds (Pool fund and CERF) have played a crucial role in the funding of the humanitarian needs. The contribution of Belgium to the Central Emergency Response Fund (CERF) in 2010 was up to 6 million euros. The use of the multilateral and NGOs canal, gives to Belgium the capability of being flexible in its action based on the link between emergency and development⁵⁷.

The third main EU state donor in DRC is France which has played a real important role in the stabilization of the country. The French support to DRC last since the Mobutu

⁵⁵ DFID in the Democratic Republic of Congo, in <http://ukindrc.fco.gov.uk/en/about-us/working-with-congo/development1/>, consulted the 12th of May 2011

⁵⁶ Department for international development, Democratic Republic of Congo, in <http://www.dfid.gov.uk/Where-we-work/Africa-West--Central/Congo-Democratic-Republic>, consulted the 12th of May 2011

⁵⁷ « Annexe D : Le programme d'aide de la Belgique à la RDC », Revue de l'OCDE sur le développement, 2005/4 no 6, p. 285-295

dictatorship. The humanitarian assistance strategy of the French government in DRC is undermine to direct effects of the ongoing crisis in conflicted areas and contribute to rehabilitation and protection in post conflict areas. This aid is mostly focus on food assistance and food security. In 2008 for example the food aid emergency was 7, 5 millions of Euros and in the first semester of 2009 it was 3 million of Euros. This aid is mostly given through French NGOs, UN agencies and bilateral cooperation⁵⁸.

Apart from these major EU actors many others are getting progressively involved in EU humanitarian assistance in DRC. Netherlands, Sweden and Norway can be presented as emergent European states in the humanitarian support in DRC.

The final analysis we can make on the member state actions in DRC toward the humanitarian assistance, is that European governments are investing a lot of money and energy to contribute to the commission actions. This involvement includes both emergency aid and rehabilitation activities. But this participation can raise many questions regarding to humanitarian action itself: First How are all these state actions coordinated with commission activities and strategy? Second does this participation of political actors in the humanitarian field is in accordance with the humanitarian principles?

Paragraph II: EU Humanitarian challenges in DRC

The Humanitarian operation in DRC is one of the most complexes in the world because of the diversity and multiplicity of the humanitarian actors but also because of the complexity of the situation itself. Coming from different background (aid workers, military, political actors, journalist) and having different interest and objectives they are facing a daily coordination problem. In DRC two main challenges are current in the Humanitarian sphere: the question of the politicization of aid and the question of coordination between actors, hence the humanitarian reform implemented in 2006. It is therefore important to see how EU, through its policies and in the practice deal with this challenges in the Eastern DRC.

1. EU: Politicization of aid or more comprehensive response?

Regarding the politicization of aid, the introduction of political actors into the humanitarian area in DRC has had many consequences on the humanitarian principles. In fact the ongoing debate on whether humanitarian assistance should remain a pure action of alleviating sufferings and providing assistance or should be more comprehensive and take into

⁵⁸ French embassy in DRC, "Fiche sur l'action humanitaire", in <http://www.ambafrance-cd.org/spip.php?article26>, consulted the 12th of May 2011.

account crisis management aspect is a concrete issue in DRC. EU is a good example of an actor who is using both humanitarian means and political capacities to answer to the Congolese crisis. This might bring one to question its actions. Both the EC and the member state are aid providers in North and South Kivus, and some NGOs sometimes perceive their actions as politically interested. The last report of the Humanitarian Response Index⁵⁹ (HRI) team on the Politicization of aid has proved that on an echelon of 10 points the European commission and a group of state in which one can find UK, Ireland and Germany have 5, 88 points and are under the average - 5,89 points - and according to the interviewed NGOs “*ce groupe de donateurs a obtenu des résultats à peine meilleurs que la moyenne CAD, ce qui signifie qu'ils sont peut-être perçus de manière quelque peu négative par les organismes humanitaires que ces pays financent*”⁶⁰. In fact most of the donors are either state or intergovernmental organizations and despite their good will to remain independent there are seen as political actors. For many humanitarian actors their funds are inadequate and even disproportionate because the interest here is not to finance humanitarian needs but to go where the camera are. This is why in DRC the eastern provinces receive more aid than the rest of the country⁶¹.

Another consequence of the influence of political actors in the humanitarian sphere is the risk of dependence of the aid and this could violate the Good humanitarian Donorship and the humanitarian principles which lay on independence. In DRC and mainly in the East, concerning the provenance of the aid, “*the United Kingdom (UK) has provided 11.5 percent, the European Commission (EC) 11.5 percent, Sweden 6.6 percent and 4.5 percent has come from the Central Emergency Response Fund (CERF). Continued dependence on three major emergency donors – the US, the EC and the UK – creates uncertainty*”⁶². There are less and less private donors and the humanitarian assistance totally depends on them which are dangerous for the future of the aid.

The last aspect is that more than just financing the relief and the emergency, the Commission and the member state also take in account activities that are considered as politically relevant such as human rights, security sector reform and government capacities. This might be identified as the politicization of the humanitarian intervention. The

⁵⁹ The HRI is a year report, published by DARA – a non-lucrative organization, independent and international which works for the amelioration of the quality of the impact of humanitarian interventions and development.

⁶⁰ Dara, L'index de réponse Humanitaire 2010, Les problèmes liés à la politisation, Résumé analytique, in http://daraint.org/wp-content/uploads/2010/12/HRI-2010-EXE-SUM_fr.pdf, Décembre 2010, p. 14

⁶¹ Dara, “*Crisis reports, Democratic Republic of the Congo*”, in http://daraint.org/wp-content/uploads/2010/12/DRC-Crisis-Report_HRI-2010.pdf, consulted 21 May 2011, p. 7

⁶² Idem

consequence is that the NGOs that are financed by the above donors most of the time don't appreciate it.

But if for certain organizations this appear as a possible politicization of humanitarian assistance, of ECHO and the EU member states, for Louis Michel the EU commissioner for Humanitarian aid, it is a more comprehensive furniture of aid lying on "Linking Relief with Rehabilitation and Development (LRRD)"⁶³. This consists on giving the capacity to the affected population to be autonomous while providing emergency. In DRC, Health, Nutrition/Food Security, Justice and Human Rights are the main sectors where possible LRRD activities have already taken place or could take place in the future. And the main program in which they could be financed is the Stabilization and Reconstruction Plan for Eastern Congo (STAREC)⁶⁴. At the end it is a challenge for EU to provide the humanitarian aid in this innovative way taking at the same moment relief which is humanitarian assistance and rehabilitation and development process which is more crisis management.

2. Compatibility between humanitarian needs in DRC and EU support

The humanitarian situation of DRC stems from a protracted and ongoing conflict, which needs an adequate answer. Responding to the humanitarian consequences of such conflict requires long-term programs able to address first the root causes of the situation, the emergency and rehabilitation phase. It is thus clear that short terms activities are inadequate or non-coherent with the situation.

EU as a global actor lies on the community pillar to provide humanitarian support, and even if the activities under the first pillar are long-term actions, some actions are short terms actions⁶⁵. Humanitarian aid for example refers primarily to short-term assistance and relief to the victims of natural disasters or armed conflict outside the EU, but can also be used to foster the conditions for re-establishing peace or avoid relapse into conflict⁶⁶. Disaster relief and emergency assistance are almost by definition short-term. EU-funded operations generally last for less than six months. Therefore, using this tool as a short terms instrument in a context where long terms actions are needed can raise the question of coherence and adequacy between the EU instruments and the humanitarian situation in DRC. In this regard, *"a good example of short-term funding is provided by ECHO. The sum it allocated for*

⁶³ Louis Michel, « Bilan et résultats de la Commission Barroso 2004-2009 dans le domaine de l'aide Humanitaire », in *Héritage*, 2009, p. 2

⁶⁴ Humanitarian Implementation Plan (HIP), *Op. Cit.*, p. 5

⁶⁵ Simon Duke and Aurélie Courtier, *Op. Cit.*, p. 19

⁶⁶ *Ibid.*, p. 25

*truckling water in South Kivu (eight million euros over 13 years) could have rehabilitated sustainable water supply systems for all urban areas of the province*⁶⁷. In fact many long terms project are financed in the scope of development and rehabilitation, but the long terms humanitarian needs are less considered or humanitarian needs are healed partially. This raises the question of coherence between the short term instrument used by EU and the humanitarian situation on the field: does EU humanitarian instruments are adequate to the needs? How can one propose short term funding for situation that needs long terms consideration?

Section II: EU and the crisis management in Congo

As demonstrated above, EU interventions in humanitarian crisis are no longer limited to simple humanitarian aid. The development of the Common Foreign and Security Policy (CFSP) and European Security and Defense Policy (ESDP) has been extended to EU external action in humanitarian crisis. Regarding Africa for example, *“the Cotonou Agreement calls for an integrated use of political, development and humanitarian instruments in dealing with ACP countries in conflict”*⁶⁸. In fact the development and humanitarian activities lay on the community pillar and the defense and crisis management aspect on both the community pillar and the CFSP pillar. This tendency to link development and the CFSP may be understood in the context of the structural management reforms of the EC’s external assistance. In this section we will show how EU has used the first two pillars to manage the crisis both militarily and politically.

Paragraph 1: The military intervention in DRC

DRC was the first country where EU conducted a military operation out of Europe and without the support of NATO. In fact the military intervention under the scope of the second pillar was conducted in the logic to contribute to stabilization and security in DRC while the aid is provided. If these military operations were successful, there is no doubt that some key questions could be raise up, concerning first the coherence with humanitarian objectives but also concerning the real will of EU to support Africa or to look to its own security interest. In fact for some critical observers the Congo operation was just an attempt by the European powers to prove that they could still cooperate and that the CFSP/ESPD was

⁶⁷ Dara, *“Crisis reports, Democratic Republic of the Congo”*, Op. Cit., p. 7

⁶⁸ Sophie da Câmara Santa Clara Gomes, Terhi Lehtinen, Andrew Sherriff, Jean Bossuyt, *“The EU’s Response to Conflict Affected Countries, Operational Guidance for the Implementation of the Cotonou Agreement”*, in *European Centre For Development Policy Management discussion Paper No. 31*, July 2001, p. 20

still alive⁶⁹. In this paragraph we will analyze the two main military interventions and see how they have collaborated to the management of the crisis in DRC.

1. Artemis operation: the first EU military intervention in Africa

In Ituri, following the retreat of the Ugandan army in May 2003, the humanitarian and security situation in Ituri district (North-Eastern DRC) fundamentally degraded and has led to a dramatic fighting between Hema and Lendu militia. The small contingent of MONUC troops had neither the resources, nor the mandate to stabilize the situation and was overwhelmed by the increase of violence. “*Gross atrocities, including ritual cannibalism, have been conducted on a massive scale. An estimated 50,000 men, women and children have been killed since 1999*”⁷⁰. The Ituri region became then a violent area with unprecedented humanitarian consequences and this had pushed some humanitarian organizations particularly Human Right Watch, Oxfam, Ocha and Echo to lobby and advocate alongside UN, international medias and powerful states for the adoption of a resolution allowing an international military intervention in eastern DRC⁷¹.

The operation, meant to restore order and to stop the massacres in Bunia, was launched on 12 June 2003, following the UN Security Council Resolution 1484 of 30 May 2003: it was an Interim Emergency Multi-national Force (IEMF) called Operation Artemis. The mandate allowed for the IEMF to: “*contribute to the stabilization of the security conditions and the improvement of the humanitarian situation in Bunia, to ensure the protection of the airport and the internally displaced persons in the camps in Bunia and, if the situation required it, to contribute to the safety of the civilian population, United Nations personnel and the humanitarian presence in the town*”⁷². The mission was launched on 12 June 2003 and ended on 1 September of the same year, handing back full responsibility to MONUC. The Operation Artemis was a success story both for Congolese populations and EU decision makers. But the analysis of this operation from its conception to its results on the

⁶⁹ Trevor Salmon, ‘The European Security and Defence Policy: Build on Rock or Sand?’, *European Foreign Affairs Review*, Vol.10, 2005, pp.375–9; Anand Menon, ‘From crisis to catharsis: ESDP after Iraq’, *International Affairs*, Vol.80, No.4, 2005, pp.631–48; confidential interviews, Council Secretariat, Brussels, Dec. 2005

⁷⁰ Stale Ulriksen, Catriona Gourlay And Catriona Mace, “Operation Artemis: The Shape of Things to Come?”, in *International Peacekeeping*, Vol.11, No.3, Autumn 2004, p. 510

⁷¹ Felix Nkundagabenzi, « L’opération Artemis : de la prévention des conflits à la gestion militaire des crises » ; in Xavier Zeebroek (sous la dir.), *les humanitaires en guerre : Sécurité des travailleurs humanitaires en Mission en RDC et au Burundi*, Op. Cit., p. 179

⁷² SC Resolution 1484 (2003), in <http://www.consilium.europa.eu/uedocs/cmsUpload/UNresolution1484.pdf> , consulted the 25th May 2011

field raises a lot of questions. We will take here only two aspects: the genesis of the operation and its results.

Concerning the genesis of Artemis, it is still debatable if it was really an EU initiative or a French mission on the cover of EU in one hand and in the other hand it is hard to know if the objectives pursued by this intervention were the stabilization of Ituri or the affirmation of EU defense capacities worldwide.

First, concerning the origin, The Secretary-General Kofi Annan appealed to the international community and all states with relevant capabilities to ‘make every effort to quickly address’ the situation in Bunia. On 13 May, Kofi Annan confirmed that France had agreed to participate in a force to stabilize the situation⁷³. But France would not intervene alone, and not without a clear and robust mandate. The appeal was also addressed to the European Union, via the Secretary General/High Representative, Javier Solana who confirms EU participation to support the Peace Process in DRC⁷⁴. But if EU agreement to this peace support was clear, in return it was by no means clear that the EU would be prepared to mount a military crisis management operation in response to the UNSG’s appeal. Meanwhile, the French focused on persuading colleagues in the EU Political and Security Committee (PSC) that the mission was feasible and would strengthen the ESDP. In fact it was the French government that took the lead in formulating an EU response, proposing that the EU provide the force in the form of an autonomous operation, with France acting as framework nation. The approbation of Solana the 19th of May was a big step for the French lobbying. France started the operational planning at least a month before the EU Council formally launched Operation Artemis on 12 June. When the mission was launched the contingent was constituted and commanded mainly by France (serving as a framework nation), but the personnel came from Belgium, Germany, Sweden, the UK, and the non EU-state members of Brazil, Canada, and South Africa⁷⁵. All in all, there were 1,800 troops, French provided around 1000 paratroopers. Given all this, there is an attempt to say that Operation Artemis was operation with the cover of EU. In fact in her article on EU crisis management, Fernanda Ferria tries to proof that France has preferred to intervene in the framework of EU because of the still debatable consequences of operation *Turquoise* in Rwanda in 1994⁷⁶.

⁷³ ‘Violence Continues in Northeast DR of Congo as Rebels Vie for Bunia – UN’, UN News Service, 13 May 2003.

⁷⁴ Common Position 2003/319/CFSP See Official Journal of the European Union, L115, 9 May 2003, pp.87–9

⁷⁵ Opérations de paix, « Artémis Force internationale de maintien de la paix en Ituri », in <http://www.operationspaix.net/-Artemis->, consulted the 25th May 2011.

⁷⁶ Fernanda Ferria, Op. Cit., p. 51

Whether it was a French operation or not we can't confirm but the other European states like UK, Sweden and Germany have participated to the expedition and the mission was identified as a European military intervention. But once again some critics come out concerning Operation Artemis: was it a real will of EU to participate to the peace process in Ituri or just a political action to consolidate EDSP out of Europe?

For Catherine Gegout Artemis was just an "apparent" 'European' interest in humanitarian intervention. The intervention was less to reestablish peace in Congo and bring protection to the Congolese people than the will to prove to other powers the existence and efficacy of the EU as a viable, unitary and proactive international actor to other powers⁷⁷. This can explain why most EU states, with the exception of Sweden, the United Kingdom, and, to a lesser extent, Belgium, were not willing to take any serious military risks in the DRC, and they kept their troops at a distance from the violence. Elsewhere, EU future military commitment in DRC will be weaker a part from the military intervention to secure the election process EU didn't conduct other military operation in DRC, and didn't even answer to UN secretary General to intervene in the East in 2008⁷⁸. To summarize, we can see that some evidence can show that the genesis of Artemis was a political action with either French to conduct a new operation in Africa but with the umbrella of EU or the will of EU decision makers to proof EU CFSP/ESDP efficacy or both.

Now concerning the results of Artemis, the EU special representative Aldo Ajello qualifies it as a success. Two main items can be point out:

- *"It had a positive impact on the DRC peace process. The conflict in Ituri (which indirectly involved the major national and regional protagonists in the DRC conflict) risked derailing the peace process. The timing of this operation was crucial since the Transition was launched on 30 June 2003.*
- *It allowed MONUC the necessary breathing space to critically augment its capacity on the ground and its mandate and thus maintain the UN's credibility in the peace process (particularly important in the context of Rwanda 1994)"⁷⁹.*

Despite these results, they are some shortcomings that can once again questioned the ESDP as a real crisis management instrument or an instrument at the service of EU political interests. Everybody agrees on the fact that the first limit of Artemis was its limitation in the

⁷⁷ Catherine Gegout, "The West, Realism and Intervention in the Democratic Republic of Congo (1996–2006)", in *International Peacekeeping*, Vol.16, No.2, April 2009, p. 239

⁷⁸ A. Menon, "Empowering paradise? The ESDP at ten", in *International Affairs*, N° 85, 2009, pp. 128-129

⁷⁹ Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot, *Op. Cit.*, p. 9

time and in space. It was a short-term action, with limited effect. First, the Operation was limited to the town of Bunia, and at the end of the Operation the violence was still going on in the neighborhood of the city. In fact only few kilometers outside Bunia large scale massacres continued. Second, the DDR Process was not a success, because instead of leaving Bunia as a ‘weapons-free’ zone they left it as a ‘weapons-invisible’ zone⁸⁰. So, despite the success of the operation and its good results, the fact that the operation was limited and had limited effect can raise question concerning its real will to act for the population, since the only conditions for the participation to this mission was the limited mandate in time and space.

2. EUFOR DRC: EU and UN proof of collaboration?

After the “success” of Artemis in 2003, UN has renewed its appeal to EU forces to secure the electoral process in DRC. So, in April 2006, following the UN Resolution 1671 and the Council’s adoption of a Joint Action 2006/319/CFSP⁸¹, the EU deployed a new military mission in Congo to assist MONUC troops during the first free Congolese presidential and parliamentary elections scheduled for 30 July of the same year. The tasks for this new mission were to support MONUC to stabilize the situation; to protect the civilians under immediate threat and the airport in Kinshasa; to secure freedom of movement of the personnel; and to extract individuals in danger⁸². 21 EU Member States, Turkey, and Switzerland contributed to the operation, which involved around 2,300 troops. The four largest contingents came from France (1,090), Germany (730), Poland (130), and Spain (130). Unlike the Artemis Operation, the Mission this Time was led by Germany as framework Nation. In fact only France, UK and Germany offer the HQ facilities to lead a multinational force. Since both the UK and France were not available, only Germany was able to perform this task.

Once again the results of the mission were satisfying for the commanders of the Mission and for the EU special representative Solana. “*EUFOR RD Congo was able to fulfill its tasks stated in the UN mandate, especially in one particular event in which, an effective joint action between the EU and UN troops succeeded to rescue some diplomats trapped in the middle of a fire fighting*”⁸³. The mission was quickly deployed and had a good

⁸⁰ Claudia Morsut, “Effective Multilateralism? EU–UN Cooperation in the DRC, 2003–2006”, in *International Peacekeeping*, Vol.16, No.2, April 2009, p. 264

⁸¹ Council Joint Action 2006/319/CFSP, consulted the 3 of July 2011 on, <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:116:0098:0101:EN:PDF>,

⁸² UN Security Council Resolution 1671, 25 April 2006. <http://www.grandslacs.net/doc/3999.pdf>

⁸³ Ehrhart H.G., “EUFOR RD Congo: a preliminary assessment”, *European Security Review*, N° 32, March 2007, p. 9, in http://www.isis-europe.org/pdf/2007_esr_46_esr32final.pdf, consulted 26th May 2011

collaboration with UN. But just like Artemis, the same critics appear concerning the motivation of the mission, its results and this time some facts can confirm the critics that were already addressed to Artemis. In fact, even Germany has accepted to lead the mission, it wasn't willingly. In Berlin, there was some uneasiness on different aspects of the operation, reflecting general political considerations of deploying the German armed forces for foreign operations as well as about the possible agenda of some leading EU states towards the DRC and Central Africa⁸⁴. And this lack of Germany to lead the mission has been observed the entire mission particularly on the issue concerning a possible extension of the mission and also its geographic scope. In fact, France and Belgium wished to extend the mission in precaution of a possible riot after the mission withdrawal but Germany was against. Concerning the possible action of the mission wider than only in Kinshasa Germany prefer to stay in capital.

Given this, it is possible to say as for Artemis, that the second EU military intervention was less for the peace enforcement than the opportunity for countries such as France and Belgium to secure their influence on the regional government and to pursue their own economic interests. Elsewhere one colonel stated, "*Sometimes it feels as if we were conducting missions to satisfy our consciences rather than achieve a certain effect on the ground*"⁸⁵.

Summing up, these military interventions in DRC, one can say that the EU military actions were balanced between a real crisis management will and a political ambition of some member states to affirm the influence in the region. The consequence therefore is that the effects are limited in time and space and doesn't contribute consistently to the peace process as a comprehensive objective. The fact that the Eastern part of the country is a forgotten and without any intervention even if an appeal from the UN secretary General has been done to EU in December 2008 shows that the needs on the ground and the ESDP objectives differs.

Paragraph 2: EU diplomatic an transition support in DRC

If the military interventions were ambiguous, the diplomatic and civilian actions were less polemical and are part of one the oldest EU instruments in DRC. In fact at the beginning of the second war, EU has preferred to contribute to the peace process first through diplomatic means and this not only in DRC but in the entire Great Lakes region. This

⁸⁴ Hans Hoebeke, Stéphanie Carette and Koen Vlassenroot, Op. Cit., p. 13

⁸⁵ Giegerich B., *European Military Crisis Management. Connecting ambition and reality*, International Institute for Strategic Studies, Adelphi Paper 397, p. 27

diplomatic and mediation action have progressively evaluate to a wider transition support and capacity building through electoral process support and civilian mission for structural reform.

1. Mediation and Diplomacy

EU has started taking diplomatic initiatives at the beginning of the Congolese Crisis. The support of the commission and the CFSP to the peace process and the actions of member states governments have played a main role to avoid the fueling of the conflict.

In fact, even before the signature of the Lusaka Agreement, EU has charged on 25 March 1996 Aldo Ajello to be the EU Special Representative (EUSR) for the African Great Lakes Region with the mission to back up the different efforts by creating the necessary conditions for solving the crisis. This includes support to the UN and the African Union (AU) and also to keep up a regular contact with the regional governments⁸⁶. Ambassador Roeland van de Geer, a Dutch diplomat with considerable Africa experience, succeeded him in February 2007. With the increase of the European involvement in the DRC and the launching of the ESDP operations, the mission of the EUSR has also been extended. He plays central role of coordination between the SG/HR and the EUPOL and EUSEC Heads of Mission. Through the EUSR, the SG/HR gives guidance to the Head of Mission. In turn, through him, the Head of Mission reports back to the SG/HR. The EUSR also provides the Police Head of Mission with local political guidance and ensures coordination with other EU actors as well as relations with host state authorities⁸⁷. Qualified as “*cavalier de la paix*” he is playing a focal role of coordination between all the EU actors but also between the Great Lakes government that are opposed to each other. Because of this influence and success his mandate has been extended many times.

Reinforcing this support to the diplomatic pillar that has started in 1996, the EU supported the implementation of the Lusaka ceasefire agreement financially in 1999⁸⁸. Progressively DRC became part of EU foreign policy and in November 2001, the High Representative for the EU, Javier Solana, the External Relations Commissioner, Chris Patten, and the Belgian foreign affairs minister, Louis Michel, who was President in Office of the EU’s General Affairs Council at the time, visited the DRC.

⁸⁶ Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot, Op. Cit., p. 8

⁸⁷ Idem

⁸⁸ See the common position, concerning the support of EU to the Lusaka cease-fire agreement and the peace process in DRC, 2003/205/CFSP, 8 MAY 2003.

Beside this diplomatic role played by the EUSR, many member states have played a mediation role alongside one of the Great Lakes president. For example to avoid the Kinshasa Battle, UK and US has favored a peaceful transition between Mobutu and Kabila.

2. Transition and Capacity building: Democracy support and security sector reform

EU has multiplied and financed around the country, several activities of peacebuilding consisting to rebuild the Congolese state and to give it autonomy.

A) Support to democracy

The EU crisis management also takes in consideration post-conflict activities such as Human Rights and promotion of democracy, government capacity building and Security Sector Reform. EU has financed many programs which aim to give to Congolese their autonomy.

Concerning democracy, EU has support many good governance program promoting Human Rights, freedom and liberties. But the biggest investment of EU was the 2006 electoral process which in fact constituted the hope for a real opportunity of peace in DRC. Immediately after the signing of the Pretoria Agreement, the EU General Affairs and External Relations Council (GAERC) decided⁸⁹ to accompany the Transition process towards free and transparent elections according to the modalities fixed by the Pretoria Agreement. At the end of 2004 and in July 2005, a total of 149 million Euros were granted for the election process: 125 million Euros for the electoral process and the remaining 24 million Euros for security measures⁹⁰. All in all EU was the first donor of this electoral process and even provide a technical support to the *Commission Electorale Indépendante* (CEI), the national organ in charge of the organization of elections. In fact the European Commission decided to send an electoral mission to the DRC which was first deployed for the constitutional referendum in December 2005 and after for the legislative, provincial and presidential elections in 2006. With a total of 286 observers originating from the Member States and from Norway, Switzerland and Canada, this mission was the largest electoral observation asset ever deployed by the EU in Africa⁹¹.

One of the biggest programs funded by EU is Stabilization and Reconstruction Plan for Eastern Congo (STAREC) which is designed to improve security and support restoration of state authority in former conflict zones, while facilitating the return of IDPs and refugees, and initiating socio-economic recovery and reconstruction. The EC 2011 Humanitarian

⁸⁹ Council Decision of 27 January 2003.

⁹⁰ Hans Hoebeke, Stéphanie Carette and Koen Vlassenroot, Op. Cit., p. 7

⁹¹ Ibid, p. 8

Implementation Plan affirms this importance of the STAREC, and considers it as a good instrument for LRRD, and precise that large amounts of funds are being mobilized for overall stabilization activities (including infrastructure, local governance, rule of law and community services) even if the available level of new funding for STAREC is, however, still limited.

B) Security sector reform and civilian mission

After the second conflict the Army and the police was completely destabilized and there was a need of security and protection of Civilian. Then Sun City Agreement and the Pretoria provided a Security Sector Reform through the establishment of a specialized unit of the Police Nationale Congolaise (PNC): the *Unité de Police Intégrée* (UPI), to ensure the protection of the transition institutions and to reinforce the internal security apparatus. EU put in place two Civilian missions for the Security Sector Reform (SSR): EUPOL 2004 and EUSEC 2005. The EU and its Member States plan to support the first phase of police reform in DRC after the elections, upon endorsement by the newly elected government.

EUPOL, the first civilian police mission in Africa within the European Security and Defense Policy (ESDP) framework was approved on 9 December 2004 and was launched in April 2005 to ‘monitor, mentor, and advise’ the IPU. The EUPOL observers participated at the specialized trainings given to UPI policemen, which ended in June 2005. They also participates in the census and recording operation of the PNC members led by South Africa and, since January 2006, the EUPOL mission is part of the think tank Group on the PNC reform and reorganization. The EUPOL mission also contributes, since March 2006, to the UPI continued training. While EUPOL was successful with limited results and confined to a small DRC police Unit, a new mission has been decided to support it. EUSEC, launched on 2 May 2005, is a small scale SSR advisory mission in support of the FARDC. Experts deployed in the EUSEC mission are assigned to crucial positions within the Congolese administration. The two missions were quite successful and trained a huge number of integrated police unit. While EUSEC is still in course, one can say that the overall appreciation of this mission has allowed the Congolese army and police to take progressively the lead of security in the Capital and some key region. But again as it was for the military intervention, the missions were limited and have faced a lot of coordination problems with the rest of the EU instruments.

Moreover, EU has continuously support the voluntary DDR program in DRC. As promised in its declaration for the implementation of the Lusaka agreement. But the failure of this program lay on its voluntary way and the lack of will of armed groups to participate in it.

SECOND PART: THE LIMITS OF THE EU INTERVENTION IN DRC

The EU intervention in DRC is as old as the crisis itself, from a simple development aid, EU has progressively increased its action, first to a humanitarian assistance and finally to a military intervention which correspond today to a comprehensive crisis management process. Looking at this, it seems clear that EU can be count among those who want to contribute to the reestablishment of peace in DRC. The first part has considerably proved that EU has developed in DRC a policy taking both the humanitarian exigencies and the crisis management aspect. But looking to its deployment the next question is: is there any harmony in this intervention in DRC? How is the coordination between all these policies, instrument and actors? What evaluation can be done of all these policies?

The aim of this part is to demonstrate that EU actions are undermined by numerous shortcomings and limits that weaken its action. From a coordination problem within the institution and with external actors to a lack of decisive actions, EU actions seems at the end a circle without a real end just as the rest of the international community intervention in DRC.

CHAPTER III: COORDINATION OF THE ACTORS ON THE FIELD AS A MAIN OBSTACLE

One of the main reasons the international community failure in DRC is the lack of coordination and coherence between different actors, mandate and policies. Talking about EU responsibility in this lack of coordination the question is: Do the EU operations represent a coherent strategy of intervention? How efficient is the coordination between EU actors and between EU and other actors? The answer to this question will explain one of the main reasons of EU difficulties to ameliorate DRC situation.

Section 1: EU internal Coordination limits in DRC

Within the EU Institutions, a high number of actors is implicated in the policy development and decision making procedures in the framework of the EU external action⁹². In addition the participation and contribution of member state is required for the implementation and the success of an EU mission. Therefore there is a need of coordination between all the actors and policies. The experience in DRC has shown how the lack of coordination between all these actors and policies can undermine the crisis management and humanitarian intervention.

Paragraph 1: The lack of coordination within the EU institutions

Lack of coordination between humanitarian actions and military actions, between civilian missions and military interventions, but also lack of coherence between the head Quarter in Brussels and the field⁹³.

1. Inter-pillar and intra-pillar coordination in DRC

The EU humanitarian crisis management falls within the competence of the First Pillar, the European Community, and the Second Pillar, CFSP/ESDP. Therefore the EU peacebuilding and humanitarian activities fall into ‘grey areas’ of competences, especially those relating to peacebuilding operations (such as civil protection, civilian aspects of crisis management and various aspects of human rights). Consequently, the distribution of roles and tasks within the EU is not always very understandable and the sometimes apparent institutional disconnection between the Commission and the Council means that the necessary

⁹² Hans Hoebeker, Stéphanie Carette and Koen Vlassenroot, *Op. Cit.*, p. 14

⁹³ *Ibid*, p. 2

tools are not brought to bear in an integrated manner to the crisis prevention, crisis management and peacebuilding activities of the Union⁹⁴.

In DRC this disconnection has been one of the main obstacles to EU intervention. In fact the commission and the council shared the responsibilities on many activities falling in their shared inter-pillar framework. The question here is does the commission and the council shared the same point of view and priorities in DRC? First it's important to clarify responsibilities assumed by each institution.

In one hand we have the activities under the CFSP, the second pillar where the commission shared the responsibility with the council (the budget of the CFSP depending on the commission) are divided in two: the ESDP such as Artemis, EUFOR EUPOL and EUSEC and other crisis management aspect. In the other hand we have the community activities, the first pillar where the European commission is responsible of actions such as humanitarian aid, development aid etc... the 'grey areas' of competences here falling in between the two Pillars, are mainly foreign policy actions such as: human rights, civil protection, civilian aspects of crisis management, SALW, and defense industrial issues.

In the draft Council Document on comprehensive planning, it is underlined that the Council and the Commission will work together to address the need for effective intra- and inter-pillar coordination of activity by all relevant EU actors in crisis-management planning (Council Doc. 13983/05). Regarding this, in 2002 a Civil and military Cooperation (CMCO) has been created aiming to encourage coordination among relevant EU actors in all phases of the operation⁹⁵ and to coordinate civilian (humanitarian and development) and military missions and actors.

But Fernanda Ferria in her analysis on the EU support to African crisis has already found some diversity between the commission and the council concerning crisis management after the Artemis operation. In fact the commission has expressed its fear on the will of the council to prioritized military intervention in crisis management to the detriment of civilian and political instrument of crisis management. For the commission military intervention are too expensive and used alone are less sustainable, while the commission insists on the importance of military missions as a crucial EU tool⁹⁶. This evaluation of Artemis operation intends to demonstrate that in the absence of an inter-pillar coordination organ, there is

⁹⁴ EPLO, *A European Peacebuilding Office*, Policy Paper, January 2006.

⁹⁵ Bjørn Olav Knutsen, "The EU's security and defense policy (ESDP) and the challenges of civil_military coordination (CMCO): the case of the Democratic Republic of Congo (DRC)", in *European Security*, Vol. 18, No. 4, December 2009, p. 445

⁹⁶ Fernanda Ferria, *Op. Cit.* p. 48

permanent discussion and a possible contradiction between the commission and the council on the activities to prioritize. Confirming this, Gourlay et al. (2004) in their evaluation of Artemis, will argue that there was no link between crisis management and longer term (civilian) peace building. *“Reportedly there was no senior EU civilian representative working with the operation commander to help to link the military operation to broader civilian activities in the region (including inter-pillar coordination with the Commission)”*⁹⁷. In fact looking to this EU intervention, it is clear that there is no proper coordination between the commission and the council, more there is not a real coherence between the first and the second pillar. Elsewhere according to some NGOs, such as Saferworld and International Alert, while conducting the Artemisia operation, the EU was simultaneously supporting the NGOs in Bunia to build capacity in the local police, but no direct contact was made to Artemis⁹⁸. The general opinion trend shows that the Artemis operation *“was institutionally and practically divorced from the longer term conflict prevention and development capacities supported by the Commission. In this sense the operation reflected the institutional disconnect between the Council and the Commission and meant that the complementary conflict-prevention program was not integrated into the strategic and operational planning of the operation”*⁹⁹.

In addition to these difficulties observed during the Artemis operation, the 2006 EUFOR operation has highlight the problem of lack of coordination between the Operation headquarter (OHQ) in Potsdam and the field headquarter (FHQ) in Kinshasa, showing the crucial issue of inter-pillar coordination. It is this clear that the late build-up of the FHQ resulted in a rather poor coordination between the strategic and operational commands.

In conclusion, one can agree with the report issued by the Swedish Institute for European Policy Studies (SIEPS) on ‘Institutional Competences in the EU External Action’, where the authors find that in the DRC case, inter-institutional consensus among different EU actors led to discreet cooperation between the different pillars.

Nevertheless, it is also important to recognize that with the two police missions EUPOL and EUSEC the inter and intra pillar coordination has gradually been improved, even though the funding issue of EU missions remains an unresolved conundrum of considerable seriousness, since the CFSP budget depend from the Commission and the council still

⁹⁷ Stale Ulriksen, Catriona Gourlay And Catriona Mace, Op. Cit. p. 515

⁹⁸ Saferworld and International Alert, Strengthening Global Security through Addressing the Root Causes of conflict: Priorities for the Irish and Dutch Presidencies in 2004, February 2004, p.10.

⁹⁹ Bjørn Olav Knutsen, Op. Cit., p. 449

disagree on priorities. The adoption of the Treaty of Lisbon appears for some authors like Nik Hynek as the solution to this lack of coordination¹⁰⁰.

2. EU Humanitarian and Military coordination in DRC

The important issue of the relation between Humanitarian and military actors is in the heart of every humanitarian crisis management. How they collaborate and how their actions are coordinated is determinant for the success of the humanitarian intervention. Talking about the coordination we just present how there was a pillar disconnection problem during EU intervention in DRC. This could have impacted on the civil and military relation but in a wider way on the relation between EU humanitarian commission and the military actions. In fact for Hans-Georg Ehrhart, “*since ECHO was not involved in the crisis management set-up, coordination between humanitarian, other civil and military partners requires a strong coordinator in the field*”¹⁰¹.

Despite the lack of systematic link between the humanitarian and the crisis management actions, Artemis was on the contrary a very success story concerning the coordination aspect between humanitarian and military. In fact at the beginning of the operation, an EU civil- military liaison officer with a firm humanitarian understanding has been appointed to take attach with the humanitarian organizations in Bunia and to share information with them daily and to assure their security¹⁰².

In contrast with Artemis, ECHO does not coordinate with EUPOL or EUSEC on the ground. These two EU initiatives are in contact though in Kinshasa, but mainly as a general information exchange on the activities¹⁰³. The investigation carried out by Paul Bonard *et Al.* has proved that in general coordination between DG ECHO and other services of the EC or the EU, although globally good, needs further strengthening. For instance EUPOL and EUSEC, which are attached to the Council, appear to have hardly any contact with DG ECHO, although they are dealing indirectly with the same protection concerns. In addition, cooperation on transition issues between DG ECHO and other services of the EC/EU could be

¹⁰⁰ Nik Hynek, “Consolidating the EU's crisis management structures: civil-military coordination and the future of the EU OHQ”, in *directorate-general for external policies of the union*, policy department, expo/b/afet/fwc/2009-01/lot6/03, April 2010

¹⁰¹ Hans- Georg Ehrhart, *Civil- Military Co- operation and Co- ordination in the EU and in Selected Member States*, European Parliament Directorate General External Policies of the Union. Policy Department External Policies, Brussels, 2007

¹⁰² Lieutenant-colonel Charles Marquez, « Opération Artémis, “nous avons appris à nous connaître », interview realised by GRIP, in *Les humanitaires en guerre, sécurité des humanitaires en mission en RDC et au Burundi*, Op. Cit., p. 71

¹⁰³ Gudrun Van Pottelbergh, “Civil–Military Relations in Kivu, Democratic Republic of Congo: A Case Study on Crisis Management in Complex Emergencies”, in *Raising the Bar*, available on http://www.disastergovernance.net/fileadmin/gppi/RTB_book_chp19.pdf, consulted the 29 June 2011, p. 378

more systematized¹⁰⁴. As said above, ECHO is not part of the development of crisis management, may be because n ECHO's view, integrating civil and military mechanisms can lead to encroachment of humanitarian space and endangered humanitarian personnel lives but considering the management of humanitarian crisis as whole, as a comprehensive framework, this can failed coordination and weaken the EU's intervention. Looking at the EU intervention DRC, it appears that at headquarters level, ECHO stands outside the debate of developing crisis management mechanisms. Following Gudrun Van Pottelbergh analysis, "*ECHO is hesitant to be included in the debate because it wishes to remain as firmly as possible to the humanitarian principles. While this flexible approach can be beneficial, it is important that actual coordination between all partners does occur in the field though, especially in tensed security situations like Kivu. Ideally, there should be basic communication in terms of joint planning and setting up liaison structures before deployment*"¹⁰⁵.

Paragraph 2: Divergence between EU and the member state

Launching an ESDP mission is always controversial, and not all Member States are as keen to finance a mission to Africa as they are to the European 'neighborhood'. Indeed, EUPOL Kinshasa is the first EU foray of its kind into Africa, and its commitments in terms of size, scope and resources are dwarfed by those of the other EU civilian police missions to Bosnia (EUPM) and Macedonia (EUPOL)¹⁰⁶. This cans explain the permanent disagreement between member state and between the states and the Union itself.

1. Different Views among member States

Concerning EUFOR, the conduction of the geographical scope and the timeframe of the operation has raised a long struggle among member state. In fact, according to its mandate, EUFOR was focus in Kinshassa with the possible to be extending to all DRC on request, but the German and the Spanish Units were not keen to move out from Kinshassa. The German disagreement was observed again concerning the position of France and Belgium to extend of the EUFOR mandate after its December 2006 deadline as a precaution again riots in Kinshasa¹⁰⁷. There were many political problems at the genesis and during the conduction of to the operation that suggested certain difficulties in the Franco-German relations. Both

¹⁰⁴ Paul Bonard et Al., Op. Cit., p. 34

¹⁰⁵ Idem

¹⁰⁶ Natalie Pauwels, "EUPOL 'Kinshasa': testing EU co-ordination, coherence and commitment to Africa", in *ISIS European Security Review*, N° 25, March 2005, p. 2

¹⁰⁷ Claudia Major, "EU-UN cooperation in military crisis management : the experience of EUFOR 2006", *ISIS Occasional Paper*, N° 72, September 2008, p. 20

countries continuously disagreed on “rapid reactions”, on deployment of troops, and on the duration of the entire operation since the Germany’s defense minister Franz-Josef Jung promised German troops their return to Germany for Christmas of the same year¹⁰⁸. In fact Germany is very anxious to prevent the EU from taking a neo-colonialist turn and imposing its views on its African partners, therefore the German foreign policy is more often against long term ESDP mission in Africa in general. We have seen above how Germany only accepted to Lead EUFOR because of a disagreement between France and England.

In general there are two tendencies among EU member state concerning crisis management missions in Africa. A first group of states, such as France or Portugal, which share a strong desire to develop an African security policy and to promote the linkage between security, governance and development in EU crisis management in Africa. And the second group of State such as Germany, Austria, and the Netherlands that are particularly cautious when it comes to funding EU security activities in Africa. In addition to this Catherine Gegout will show that EU member state relation to DRC before 2003 Artemis operation was guided by an influence battle among member states to control the region¹⁰⁹. For example while England and other European Nations had turn the back to Mobutu’s dictatorship and autocracy, France was still supporting him by providing secret service support, increasing arms sales and organizing the dispatch of mercenaries to protect him.

To conclude it is obvious that the member state defend different views on DRC crisis management, this will explain why some member states are less reluctant to participate to EU institutions activities and missions.

2. Different views between the EU institutions and the member state

It is also possible to observe in EU’s support to DRC, some disconnection between EU institutions and the member states. Many aspects can be point out here: the deficit of participation of member state to EU missions, the coordination between EU policies and bilateral actions.

Concerning the participation of member states to EU policies, member States offer military personnel on a voluntary basis. At the planning stage, they tend to contribute in principle, but the commitment tends to evaporate when military personnel are needed, especially for the fact that Member States are responsible for their own costs. Therefore the member states are not eager to invest in military interventions for instance. In the case of

¹⁰⁸ Hans- Georg Ehrhart, *EUFOR RD Congo: a preliminary assessment*, European Security Review no 32, http://www.isis-europe.org/pdf/2007_esr_46_esr32final.pdf, March 2007, p. 10

¹⁰⁹ Catherine Gegout, Op. Cit. p. 240-243

DRC, the German parliament was strongly opposed to the EUFOR mission because of high budget it would have taken. The EU member states have a national focus, as opposed to a purely European focus, which leads to fragmentation. When member states spend money, they generally do so in a national way¹¹⁰. One main problem of EUPOL was to get sufficient staff from member states. This was partially due to the importance or interest given to other and much bigger police missions such as in Bosnia or in Afghanistan and for financial reasons, but also to the reluctance of capitals to send their police officers in regions where their safety is at risk¹¹¹. In reality many countries prefer to contribute to “more safe” places or closer countries than in Africa. Making a comment to this in 2010, Kirsten Soder noticed that the majority of ‘new’ EU member states contributed to a lesser degree to CSDP operations conducted in Africa, before and after gaining membership. Apart from Slovenia and Poland, new member states only provided minor contributions (1-4 personnel) to mission outside of Europe. Estonia, Latvia, Lithuania and Slovakia did not send any personnel to operations carried out in Africa¹¹². In DRC apart from Poland and Slovenia none of them has contributed in 2003 and 2006. For some realistic authors, this shows the lack of interest toward DRC justified by no historical link. It is anyway clear and confirms the difficulty for EU to implement its policies if member states are not motivated to participate to missions.

Another problem is that the EU’s reservoir may not be always suitable or trained for the assigned role in missions such as Artemis, EUFOR RD Congo. “*A competent policeman in Milan or Vienna is not necessarily adept at law enforcement in the midst of a civil war in Africa*”¹¹³. For this reason, many countries may be reluctant to participate because they are conscious that their personnel might not be ready for such operations. It is important that the EU dispatches the right people with the right skills to support the missions and avoid that the military troops perform tasks for which they are not properly trained¹¹⁴.

As demonstrated in the first part, the member states are really present in a bilateral way, in the crisis management in DRC. But it appears most of the time that there is no coherence between their individual policies in bilateral cooperation and the common EU policies. Both their internal coordination and their coordination with the Congolese authorities

¹¹⁰ Biscop Sven, Conference Address, “Saint Malo + 10: Is the European Security and Defense Policy Capable and Credible?” Department of Policy Studies, Queen’s University, December 5-6, 2008

¹¹¹ Hans-Georg Ehrhart, *Civil- Military Co- operation and Co- ordination in the EU and in Selected Member States*, Op. Cit., p. 25

¹¹² Kirsten Soder, “EU military crisis management: an assessment of member states’ contributions and positions”, in *Draft for the COST Action meeting* on 10 June 2010, May 2010, p. 10

¹¹³ Witney N., *Re-energizing Europe’s security and defense policy*, Policy Paper, The European Council on Foreign Relations, http://ecfr.3cdn.net/678773462b7b6f9893_djm6vu499.pdf, July 2008, p. 48

¹¹⁴ Elizabeth Deheza, Op. Cit., p. 9

undermined EU capacities to act more effectively on multilateral basis. “*Second, the Congolese actors are confronted with these multiple external partners which places them in a relatively comfortable position, in which the European actors compete rather than coordinate their relations and interactions with the Congolese authorities, leading to an obstruction of effective progress*”¹¹⁵. A similar trend seems to exist in reform of the defense sector, since there is no a *Comité de Suivi* in this sector, each member State prefer the bilateral cooperation rather than the EU global support.

Section 2: Lack of coordination between EU and other national and international actors

The management of humanitarian crisis in DRC, both concerning the relief aid and the crisis management aspect, is the preoccupation of the entire international community. More than a hundred of NGOs are present only in the Eastern region and many intergovernmental institutions collaborate in different ways to save lives and build peace there. In the current multilateral system, many scholars have noticed that the EU is trying to seek a global role¹¹⁶. Supporting UN and other actors, EU has to coordinate its actions with them in order to be more efficient. We are going in this section to analyze the coordination between EU and some main actors on the ground to understand how the lack of coordination between them has undermined EU efficacy in its different missions.

Paragraph 1: EU and UN coordination in DRC

In the European Security Strategy, the EU defines effective multilateralism as one of its strategic objectives, with the UN being a key partner¹¹⁷. DRC is a suitable field to analyze this EU-UN cooperation in the field of crisis management. We have explained above how EU has answered to UN request to support military or police interventions in DRC. We are going to point out now the different aspects of this cooperation which have weakened EU actions in DRC. We will in take consideration only the two EU military operations: Artemis and EUFOR.

The first cooperation Artemis/MONUC had some difficulties of mutual confidence at the beginning in the pre-deployment phase. In fact there was a lack of information on the

¹¹⁵ Arnout Justaert and Stephan Keukeleire, The EU's Security Sector Reform Policies in the Democratic Republic of Congo, In: Vanhoonacker, Sophie, Hylke Dijkstra and Heidi Maurer (eds). Understanding the Role of Bureaucracy in the European Security and Defence Policy, *European Integration online Papers (EIoP)*, Special Issue 1, Vol. 14, <http://eiop.or.at/eiop/texte/2010-006a.htm> , 2010, p. 22

¹¹⁶ Claudia Morsut, Op. Cit., p. 261

¹¹⁷ European Security Strategy, Part II, “Strategic Objectives”, <<http://ue.eu.int/uedocs/cmsUpload/78367.pdf>>

deployment of EU troops, and UN officials *in situ* feared an overlap between the EU troops and the blue helmets¹¹⁸. But apart from that the cooperation was conducted in a mutual and constant exchange of information at institutional and field levels due to clear and simple procedural rules.

The second military cooperation, in the contrary received some observers' critics. Although the UN and EU worked well together, there were some differences and misunderstandings between the two in operational command. In fact in October 2006, International Crisis Group Report argued that MONUC and EUFOR should have acted more promptly to avoid the violence, serving as an interposition force. Because of a command chain problem the mission was inefficient regarding this situation. EUFOR RD Congo could not act unless requested to do so by MONUC, which in turn had to ask to New York. "*The UN and the EU contingents were not able to fully engage in their tasks because of their differences in "Einsatzkulturen" (culture of work) in crisis management in the region*"¹¹⁹. The UN troops would engage in fire fights only in self-defense, whereas the EU troops would repeatedly engage in such fights with the local militias. Under these conditions and, in such a violent region, the EU troops were at a very high risk¹²⁰. Moreover EUFOR could not meet all of MONUC's expectations because some of them were not part of the mandate (for example crowd control) or contradicted the autonomous character of EUFOR.

Concerning the Humanitarian aspect, the coordination between EU and UN depends on whether it is a military actor or a civil one. In fact as stated above ECHO is apolitical and refuse any linked with military. In the 2010 DARA report on evaluation of ECHO in DRC, Paul Bonard et Al., affirmed that ECHO "*alignment or non-alignment on the UN strategy for the protection of civilians is not crucial*"¹²¹. However it is important to notice that DG ECHO's actions, strategy and sectoral approaches are included in the Humanitarian Assistance Plan (HAP) which is a UN plan. So, the collaboration with the UN humanitarian agencies at least information exchanges concerning protection which is ECHO priority, is important, since UNHCR is the cluster group leader. Since the UNHCR has strong collaboration with military and peacekeepers, DG ECHO may consider establishing a more

¹¹⁸ Thierry Tardy, "EU-UN cooperation in peacekeeping: a promising environment", in Martin Ortega (ed.), *The European Union and the United Nations. Partners in Effective Multilateralism*, Chaillot Paper No.78, Paris: Institute for Security Studies, 2005, pp.55-7

¹¹⁹ Elizabeth Deheza, Op. Cit., p. 9

¹²⁰ Hans- Georg Ehrhart, *Civil- Military Co- operation and Co- ordination in the EU and in Selected Member States*, Op. Cit., p. 33

¹²¹ Paul Bonard et Al., Op. Cit., p. 30

defined policy on this issue in order to positively influence a debate which seems to be at a cross-road.

Paragraph 2: EU coordination with DRC governmental authorities

According to the principle of sovereignty, the most crucial actor for the development and implementation of crisis management policies and for effective international coordination is the target country itself. It is the target country that in principle should take the lead and needs to monitor and steer foreign interventions from other countries, on the basis of national strategies, priorities and action plans. Since it is the state that plays the instrumental role in the state-building, it is essential that the state is strong, institutionally and ideologically. The weakness of the Congolese state had an incidence on the success of the international community and of course the EU support. In fact the efficiency of EU policies is evaluated on the basis of their implementation which is lead and own by Congolese authorities. *“In practice numerous problems challenge this Congolese ownership and leadership, which hampers the reception, implementation, and thus the effectiveness of the EU’s SSR policies towards the country”*¹²². First we can mention the dysfunctions of the State characterized by the widespread corruption, which also causes the lack of resources, the fragility of the parliament of the country, the lack of judicial independence, when the politicians still interfere in the issues of the judiciary¹²³. This influence of the collapse of the state can be experiment in the current Security sector reform, where Congolese ministries disconnection and weakness have an influence on the implementation of the EU support to the security in DRC.

An investigation conducted on the 28 of August 2009 by Arnout Justaert and Stephan Keukeleire, has proved that there is a lack of coordination between the Ministries of Interior, Security, Justice and Defense, but also the Ministries of Finance, of Decentralization, etc. which have different agendas, priorities, approaches, capabilities and interests in the different dimensions of security sector reform. For example, there is a permanent misunderstanding and tension, between the Ministry of Interior and the Ministry of Justice on the status and the authority over the judicial police which paralyzed the progress in the police reform for more than two years¹²⁴. Also there is not a fluid relation between the police and the military forces, since the latter have traditionally a stronger role in the DRC and has received much more attention from the international community than the police or the judicial system.

¹²² Arnout Justaert and Stephan Keukeleire, Op. Cit, p. 19

¹²³ Burmaa Nyamaa, Inga Munteanu, Op. Cit., p. 56

¹²⁴ Arnout Justaert and Stephan Keukeleire, Op. Cit., p. 19

To summarize, the efficacy and efficiency of EU policies also depend on its relation the assisted state. In DRC the authorities' weakness and lack of coordination constitute an obstacle to EU's policies implementation.

CHAPTER IV: EU FAILURE TO IMPLEMENT ITS POLICIES IN DRC

We have said that EU has a concern towards African conflict and crisis. We have demonstrated that progressively, the Union has developed a large range of instruments to manage humanitarian crisis, from simple humanitarian to military intervention. We have shown how in the early 1999 EU has defined its priorities and policies for the management of crisis in DRC and how EU has in 10 years implemented these policies. Now we would like to prove that EU has not realized its entire plan for DRC or has failed to do so and this one of the reasons of the unchangeable situation in the Eastern Region.

Section I: An inefficient monitoring of EU policies towards DRC

The EU peacebuilding mechanism increasingly put an emphasis upon post-conflict stabilization as well as conflict prevention¹²⁵. At this stage, the reconstruction of the state is crucial and therefore requires the sanction of guilty and reconciliation with victims. In this regard, some measures have been taken at EU level toward DRC as legal or administrative directives without a good follow up, and this has resulted to an inefficiency of those policies. In this section we are going to evaluate the justice reform as well as the observation of the EU embargo on arms in DRC.

Paragraph 1: A relative the support to the Justice system

According to the FIDH report impunity is the most shared thing in DRC over these last 15 years of conflict, since the conflict has completely pull down the rule of state and the judiciary system¹²⁶. EU has promised to support the rule of state in DRC and has implemented and financed some program concerning the Justice Sector reform. But this support seems insufficient or weak since the impact is invisible.

1. A weak support to the justice reform

At the end of Artemis Operation, maintaining an engagement in Ituri, the European Commission and the French cooperation financed the progressive restoration of the penal justice in Bunia from 2004 to 2006. Supporting the reforms of the judicial sector, the EU and its member states contribute through various instruments and programs to justice, human rights and the rule of law in the DRC. Therefore, the program RAJ was implemented for 4 years, which was followed by the REJUSCO program, with the aim of supporting the capacity

¹²⁵ Simon Duke and Aurélie Courtier, Op. Cit., p. 20

¹²⁶ Rapport de la FIDH, *République démocratique du Congo (RDC) : «Briser l'impunité»*, 2008, p. 10

building of the judiciary and the chain of penal justice with support to the police, the judicial institutions (including the prisons), the justice actors (judicial police, magistrates, legal defense, penitentiary officers) and the ‘clients’ of the justice system (witnesses, victims, the accused) in the Eastern part of the country. The REJUSCO project that was launched in 2006 and its overall budget (€11.5 million) financed by both the European Commission (€7.9 million) through its EDF and particular member states (the Netherlands, the UK and Belgium)¹²⁷.

As a result of these programs, the institutional capacity of the Ministry of Justice has been improved, especially regarding the planning and coordination of the justice sector. Moreover, the High Council of Judiciary (Conseil Supérieur de la Magistrature) became able to exercise its mandate on guaranteeing the independence of the judiciary. But it is important to notice that, the functioning of the justice system and the public access to the justice was improved mainly in Kinshasa and not in the most dangerous places such as in the East. The FIDH report of 2008 affirmed that in all the Eastern province, *“Moins de 60 % des 180 tribunaux de première instance nécessaires ont été mis en place, les lois sont obsolètes et les installations judiciaires et les établissements pénitentiaires sont extrêmement délabrés”*¹²⁸. In fact it seems that the REJUSCO program didn’t have an effective impact in DRC. At the end there is no justice at the local level and the victims are still fragile. This failure can be understand through the lack of systematical support of the program by the Congolese authorities themselves, but also a lack of follow up by the European donors. And again the coordination issue among EU actors appears in this field. In 2009, Davis Laura explained that although the *Comité Mixte de la Justice* (CMJ) unites all relevant actors involved in the sector, European coordination occurs mostly informally, among a limited number of actors, such as the UK, the Netherlands, France and Sweden¹²⁹. And this lack of coordination has weakened the effort of the Union to underpin the Justice reform.

After the REJUSCO program, the EU Support to the Justice Reform occurred within the SSR led by EUSEC. But *“one of the major weaknesses in SSR and DDR in the DRC has been the high number of national and international actors involved. The main difficulty has been the adequate coordination of these efforts in order to avoid some of the Congolese actors to exploit the different accents advanced by some of the bilateral actors”*¹³⁰. In fact all

¹²⁷ Hans Hoebeke, Stéphanie Carette and Koen Vlassenroot, Op. Cit., p. 10

¹²⁸ Rapport de la FIDH, *République démocratique du Congo (RDC) : «Briser l’impunité»*, 2008, p. 10

¹²⁹ Davis, Laura, “Small Steps, Large Hurdles. The EU’s role in promoting justice in peacemaking in the DRC”, in *IFP Mediation Cluster*, 2009, p. 19-20

¹³⁰ Hans Hoebeke, Stéphanie Carette and Koen Vlassenroot, Op. Cit., p. 12

the energies seem focus on the police reform and the security with less follow-up of the Justice Sector. The member states such as UK are more involved in financing the police reform activities and infrastructures. This has given the opportunity to Congolese leaders to take advantage of the funds provided for the justice sector.

2. Lack of member states judiciary initiatives

If the National justice in DRC is weak and quasi inexistent, it is still possible to end impunity through the international justice. In fact the Rome Statute has been ratified by DRC since the 11 April 2002, and has given the possibility to the prosecutor of the International Criminal Court (ICC) the 1st of July 2002 to start investigating on the most horrifying crimes committed in the East. Since then, three main crimes perpetrators are jailed in The Hague, among them Mr. Thomas Lubunga, president of the Union des Patriotes Congolais (UPC). Many other warrant arrest have been launched by the Court.

Unfortunately, the action of the ICC is resumed to 3 main arrests in DRC. Regarding this the action of the Court has to be enhanced and reinforced by other actors. EU as one of the principal actor could orientate its effort toward DRC justice in this sense. By contrast, none of the mandates of the four different ESDP missions to date or of the EUSRs have included cooperation with the ICC, despite the outstanding ICC warrant against Bosco Ntaganda for war crimes.¹³¹

In addition the UN Group of expert final report has proved that many leaders of criminal groups, militias, rebel groups etc. operating in the East, are based in European countries. In 2009 the report affirmed that the president of FDLR Ignace Murwanashyaka, and his vice-president and Straton Musoni, were both leaving in Germany, where they were ordering and financing military attacks against the population. Their military commanders Gaston Iyamuremye and Callixte Mbarushimana where based in France and other EU countries. The report has followed all their activities, phone conversations and bank transfers, with a large network of members leaving mainly in Europe and in the Great lakes¹³².

In fact through the doctrine of universal competence, consecrated by the international criminal law, national courts are allowed to try cases of the gravest crimes against humanity, even if these crimes are not committed in the national territory and even if they are committed by government

¹³¹ Laura Davis, *The European Union and Transitional Justice*, in IfP Democratisation and Transitional Justice Cluster, june 2010, p. 14

¹³² Conseil de sécurité, *Rapport final du Groupe d'experts sur la République Démocratique du Congo*, S/2009/603, 23 novembre 2009, pp. 25-26

leaders of other states¹³³. Acknowledging this theory, a group of European NGOs working in the East of DRC has asked to « *Les Etats membres de l'UE qui accueillent des dirigeants des FDLR – dont le Royaume-Uni, la France, l'Allemagne, l'Italie, les Pays-Bas et la Suède – devraient agir dans le cadre de leur législation nationale pour limiter la capacité des dirigeants politiques des FDLR d'inciter à la violence* »¹³⁴.

In the early 2011, the three main FDLR leaders (Ignace Murwanashyaka, Straton Musoni, Callixte Mbarushimana), have been arrested in Germany and in France. This constitutes an important step to justice support in DRC. But many observers say that these arrests didn't influence the military actions and attacks on the field in the East of DRC. Therefore it is clear that the network is not limited to 3 actors, elsewhere the UN Group of Expert report in the annexes of the final report gives in deep the information about the names and actors of the network leaving throughout the world. Furthermore, FDLR is not the only group with international support, it is then important that European countries in collaboration with UN and the ICC develop a mechanism to arrest crimes perpetrators of supporters leaving on their territory.

In addition, Even if it is not part of EU mandate in DRC, other aspect of transitional justice such as reconciliation, truth commission and reparation can be developed in DRC under the control or the support of EU.

Paragraph 2: Proliferation of arms in DRC: The Application embargo on arms

The third UN Group of Expert report on illegal exploitation of natural resources in DRC, published in October 2002 by the Security Council in its resolution S/2002/1146, underlined that the proliferation and the illicit arms traffic in the Great lakes region are among the main causes of conflict in DRC, Burundi and Rwanda¹³⁵.

This is why on July 2003 through the resolution 1493; an UN embargo was imposed on DRC. But apparently this was really late considering all the instability that has happened in this region since the 1990s. Fortunately, EU and its Member States have realized it before and on 7 April 1993 have imposed an arms embargo on Zaire (first name of Democratic Republic of Congo), this was followed by the Council Common Position 2002/829/CFSP of 21 October

¹³³ Jordi Palou Loverdos, "Universal Jurisdiction and ICTR, Towards reconciliation?", [http://www.heritagepirdefense.org/papers/Jordi%20Palou-Loverdos Universal Jurisdiction and ICTR JPL 09.pdf](http://www.heritagepirdefense.org/papers/Jordi%20Palou-Loverdos%20Universal%20Jurisdiction%20and%20ICTR%20JPL%2009.pdf), consulted the 4th of July, 2009, p. 7

¹³⁴ 2^{ème} rapport ONG sur la situation en RDC, *Trop de pertes, pas assez de résultats : L'impact des opérations anti-FDLR sur les civils dans l'Est de la RDC et ce que l'UE devrait faire*, Octobre 2009

¹³⁵ UN Security Council, Resolution S/2002/1146, Final report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, 2002.

2002 on the supply of certain equipment into the DRC. But all these measures did not really have an impact on the arms transfer to DRC since UN working Group on DRC has proved that arms were still coming into DRC after the UN embargo of 2003.

To take more steps in this regard the EU Council introduced the common position 2003/680/CFSP and Council Regulation (EC) N° 1727/2003, as an amendment to the arms embargo on 29 September 2003. Further, to bring the EU arms embargo in line with UNSCR 1596/2005, Common Position 2002/829/CFSP was repealed and council common position 2005/440/CFSP was adopted and for the same reason, the Council Regulation (EC) N° 889/2005 was adopted to replace Council Regulation (EC) No 1727/2003¹³⁶. In addition to this EU has also established Code of Conduct on Arms Exports in 1998, ensuring a responsible arm trade from member state to the rest of the world.

But, many reports have proved that EU member states hardly comply with these measures and therefore are the first to breach these measures. A report of Amnesty international tries to explain that this breach of responsible arm trade by member state is more because of different interpretation than a lack of will to comply with the law. However, in DRC some member states are found guilty of breaching the double EU and UN embargo on arms.

As said, the implementation of EU policies by member states varies from state to state. Concerning the implementation of arms embargo for example “*The forms of national measures to implement embargoes vary greatly from state to state and depend upon whether the state’s legal system is common law, as in the United Kingdom, or civil law, as in France and the Netherlands*”. This could explain the breach of the embargo by some member states. In fact researches conducted by the *Control Arms Campaign* in September 2006 showed that bullets made in Greece, China, Russia and the United States were used by armed groups in DRC¹³⁷. The UN Group of Expert has also conducted investigation and proved that Czech Republic provides illegally arms to DRC. For Amnesty international the violation of the EU embargo on Zimbabwe in May 2000 by the Austrian government can be considered as an indirect violation of the embargo in DRC. In fact the involvement of Zimbabwean armed forces in the brutal war in the Democratic Republic of the Congo meant that the Austrian government also ignored Criteria three and four of the EU Code¹³⁸ referring the prohibition to

¹³⁶ EU embargo on DRC, consulted on the 3rd July 2011, in http://www.sipri.org/databases/embargoes/eu_arms_embargoes/DRC/DRC/?searchterm=EU%20and%20DRC,

¹³⁷ Georges Berghezan, “Arms transfers to the embargoed DR Congo”, GRIP, 18/03/08, p. 4

¹³⁸ Amnesty International’s Report, *Undermining Global Security. The European Union’s Arms Exports*, 2004, pp. 5-6

transfer arms in internal conflict areas and to places where they can be used to violate Human rights.

In its 2004 report concerning European arms export, the organization has proved how the new EU entering members especially former Yugoslav state, were the main violators of the EU embargos. In its analysis on arms flows in DRC, the NGO affirmed that “*in recent years the DRC government has had with arms suppliers in the Eastern Europe: Czech Republic, Bulgaria, Georgia and Ukraine*”¹³⁹. So, in many reports, the same EU member states are point as violators of embargo on arms in DRC. It appears that one of the weaknesses of EU in DRC is the lack of harmony of EU member states and EU policies toward DRC.

The action of EU in DRC should therefore take in account the important issue of arms. The member states should respect the embargo on arms in order to undermine the actions of illegal armed groups in the East. Furthermore the Union should develop a mechanism to monitor the respect by the members of their obligation regarding the transfer of arms in DRC. This may include the transfer of arms in neighboring countries such as Rwanda, Uganda and Angola which are the transit countries where arms comes from Europe according to Georges Berghezan investigation in DRC¹⁴⁰.

Section 2: Lack of proactive measures taken toward DRC

We have shown how EU has honored must of its engagement toward DRC. Although the EU intervention has faced a coordination problem or a lack of monitoring the main issues of the humanitarian crisis have benefited the support of EU. In this section we are going to point out some initiatives that EU has totally overlooked in its action. The lack of actions against the illegal exploitation of mineral or the lack of conduction of a military intervention in the East can be considered here as the main EU failure in DRC.

Paragraph 1: The penal responsibility of European companies involved in the conflict

Although the Union has point its concern on the illegal exploitation of natural resources as cause of the humanitarian situation no significant measures have accompanied this concern. In fact in the EU declaration on the implementation of the Lusaka Agreement

¹³⁹ Amnesty International’s Report, “Democratic Republic of Congo: Arming the East”, July 2005, p. 43, available on <http://www.grandslacs.net/doc/3667.pdf>, consulted on 04th July 2011.

¹⁴⁰ Georges Berghezan, *Transferts et trafics d’armes vers la RDC*, Note d’analyse du GRIP, 3 décembre 2007

the Presidency stressed its concern at the use of diamonds, gold and other resources of the DRC to fund military operations in DRC.

1. European multinational cooperates involved in the fueling of the conflict in DRC

In a report published in 2010, Global Witness has proved that, in DRC there is a link between natural resources and armed violence. In fact the corporates extracting minerals in the Eastern region are competing for the country's mineral wealth, and are then fuelling the conflict and serious crimes against civilians¹⁴¹. The report tries to explain in detail what the UN panel for illegal exploitation of natural resources has already demonstrated in 2002.

In its report Global Witness describes the way enterprises buy their minerals to warlords or how the supply chain is mixed with armed groups. In fact the majority of companies trading in DRC are telephonic corporates which needs coltan and other minerals used to make mobile phones and other electronic tools. In addition, Cobalt mining in Katanga also involves a wide range of human and labor rights abuses such rights to health, water, decent work, child labor and development¹⁴².

European companies are counted among those doing illicit trade in DRC. UN panel affirmed that Western mineral firms are fuelling violence in the Democratic Republic of Congo by failing to check where their raw materials come from¹⁴³. The annex III of the UN panel report gives a list of 85 enterprises involved in this illicit trade among them one can count 42 European enterprises from UK, Belgium, France, Netherlands, Switzerland etc...

In a 2009 new report published by Global Witness, British companies such as Afrimex and Amalgamated Metals Corporation (AMC) and Belgium-based Trademet are presented as buying minerals that are funding armed groups and fuelling the 12-year conflict in the Democratic Republic of Congo (DRC). These companies were already present in the UN report of 2002 but nothing has been done and they have continued.

One of the companies featured in the report is THAISARCO, the world's fifth-largest tin-producing company, owned by British metals giant, AMC. THAISARCO's main supplier, Congo-based Panju, sells cassiterite and coltan from mines controlled by the FDLR. Another

¹⁴¹ Global Witness, "How the UN and Member States must do more to end natural resource-fuelled conflicts", January 2010, p.3

¹⁴² DanWatch Report, "How your mobile phone is linked to abuse, fraud and unfair mining practices in DR Congo", May 2008, p. 5, available on http://www.tu.no/multimedia/archive/00080/Danwatch_80519a.pdf, consulted on 4th July, 2011.

¹⁴³ United Nations Security Council, *Rapport final du Panel d'expert de l'ONU sur l'exploitation illégale des ressources naturelles et autres formes de richesses en RDC*, S/2002/1146, 2002, p. 5

company is the UK-based Afrimex, already found by the British government in 2008 to be in breach of the OECD Guidelines for Multinational Enterprises for buying from suppliers who made payments to a rebel group. The British government has yet to take any concrete action on this information¹⁴⁴.

The director of Global Witness declared that *“it is not good enough for companies to say they buy only from licensed exporters, when they know full well that their middlemen buy from armed groups. The failure of governments to hold companies to account, of Burundi and Rwanda to restrict the trade across their borders, and of donors and diplomats to address explicitly the role of the mineral trade, have all contributed to the continuation of a conflict that has killed millions and displaced many more”*¹⁴⁵

There is therefore no doubt that a lot of European based companies are part of the atrocities that are happening in the eastern part of DRC. The question is can EU do something to stop it? Is there any possibility to hold responsible of their act before European national or regional jurisdictions? What are the actions that EU has already done in this regard?

2. The lack of a specific European mechanism to address the criminal responsibility of corporate

Many observers agree to say that there is no currently binding mechanism to hold enterprises responsible of their human Rights violation especially in conflict areas. Global Witness believes that these failings on the DRC reflect the lack of a coherent and committed international approach to tackling natural resource fuelled conflicts. Despite being pivotal to the funding of the conflict in eastern DRC, natural resources appear to be a taboo subject in international mediation efforts. A number of Western diplomats admitted to Global Witness that they and others have been reluctant to discuss the issue of natural resources with the governments of DRC, Rwanda and other neighboring countries because they judge it too sensitive¹⁴⁶.

In fact many actions have been taken by NGOs or even UN asking EU member states to hold their companies accountable to their action in DRC without any success. The final UN report of 2002 has proposed sanctions against individuals and companies that were involved in the illicit trade of minerals in DRC. In December 2008, the UN Security Council passed Resolution 1857 on DRC concerning the embargo on arms shipments to non-state groups and

¹⁴⁴ Global Witness, *Global Witness Uncovers Foreign Companies' Links to Congo Violence*, 21st June 2009

¹⁴⁵ Idem

¹⁴⁶ Global Witness, “How the UN and Member States must do more to end natural resource-fuelled conflicts”, January 2010, p.3

individuals. This resolution has put the linkage between arms embargo breaches and the natural resource trade and has put an emphasis on due diligence. While asking them to provide the UN with name of individuals and enterprises violating international law in DRC, the resolution also “*encourages Member States to take measures, as they deem appropriate, to ensure that importers, processing industries and consumers of Congolese mineral products under their jurisdiction exercise due diligence on their suppliers and on the origin of the minerals they purchase*”¹⁴⁷. Despite that, 2009 not a single individual or company trading in natural resources in a way that supports the armed groups had been nominated for targeted sanctions. Moreover, In its report to the Security Council in November 2009, the Group of Experts again found AMC, through Thaisarco, to be a buyer of cassiterite (tin ore) sourced from mines controlled by sanctioned armed group the *Forces démocratiques de libération du Rwanda* (FDLR)¹⁴⁸.

In its side, Global Witness wrote to 200 companies and found they had no controls in place to stop ‘conflict minerals’ entering their supply chain. Their conclusion is that EU member states, like UK and Belgium, are undermining their own development assistance and diplomatic efforts to end the conflict by failing to crack down on companies based within their borders.

This is certainly because of the lack of binding mechanisms at the international level but also at the EU level. The Organization for Economic Cooperation and Development (OECD) guidelines for Multinational Enterprises are not sufficient to deal with this issue since there are not binding and are not EU measures. For instance, Global Witness upheld a complaint under the framework of the OECD Guidelines for Multinational Enterprises against Afrimex, another UK-based company active in eastern DRC. The UK Government’s OECD National Contact Point found that Afrimex had breached the Guidelines, concluding that the firm had initiated demand for minerals from a conflict zone, used suppliers who had made payments to the RCD-Goma rebel group, and had not exercised sufficient due diligence on its supply chain¹⁴⁹, but nothing was done against the company.

In general, there no binding instrument at the international level obliging enterprises to be accountable of the human Rights violations. The UN Global Compact and the OECD

¹⁴⁷ Final Report of the Group of Experts on the Democratic Republic of the Congo prepared in accordance with Security Council Resolution 1807, (2008)

¹⁴⁸ Final Report of the Group of Experts on the Democratic Republic of the Congo re-established pursuant to resolution 1857 (2008), submitted to the UN Security Council November 2009

¹⁴⁹ UK Government Department for Business, Enterprise & Regulatory Reform, ‘Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises: Afrimex (UK) Ltd’, August 2008

guide lines appear inefficient in the DRC context. There is a need for EU to hold the member states companies accountable of their action in DRC or at least apply the Due Diligence exigency developed by the UN Secretary-General special representative on the issue of corporate and Human Rights John Ruggie.

While the debate concerning the accountability of corporate as human rights holders is still going on the UN and international level, the real will of member states to contribute positive to this debate can be questioned here since during the 2007-2008 UN Human Rights Council cycle *“the United Kingdom and Slovenia (on behalf of the EU) argued that there should be no rapid move to operationalize the conceptual framework and no fundamental shift in international law from the duty of states to protect against human rights abuses”*¹⁵⁰. How can it be possible if supporting its member states EU restated its firm view that only states have obligations under international law after this HRC session?

Paragraph 2: the conduction of a military intervention in the East

EU members seem allergic to put their troops under UN command in Africa. *“As of January 2007, there were nearly 10,000 troops from EU states in UN missions worldwide – but 80% of these were in Lebanon. By contrast, fewer than 3% of the UN’s troop deployments in Africa came from the EU”*¹⁵¹. We have been trying to proof that more than just supporting UN in DRC, EU has progressively developed its own capacity to support humanitarian relief and transition to peace in DRC. But the analysis of the different EU military interventions has demonstrated that EU missions either to support UN or on its own initiatives were not deployed at the most adequate place the most appropriate time and when the populations needed their help such as in the eastern region.

The EU military interventions are really ambiguous, concerning the adequacy between the need of an intervention on the ground and its reaction. It is obvious that Artemis and EUFOR operations were crucial for DRC but *“In fact, when other humanitarian missions could have been conducted, the EU was not present. During the 2004 Bukavu events, during which there was fighting between militias and the government, with massive violations of international human rights and humanitarian law, the EU did not send troops to support MONUC. There was no intervention in Rutshuru in 2005 or in Sake in 2006”*¹⁵². And even

¹⁵⁰ Democracy Coalition Project, Human Rights Council Report Card, Analysis of Government Positions on Key Human Rights Issues 2007-2008, www.demcoalition.org, consulted on 4th July 2011.

¹⁵¹ Richard Gowan, “EUFOR RD Congo, UNIFIL and Future European Support To The UN”, in *SDA Discussion Paper, The EU’s Africa Strategy: What are the lessons of the Congo Mission?*, , p. 29

¹⁵² Catherine Gegout, op. Cit., p. 11

while it was useful to extend EUFOR, member states government were not in favor. For Catherine Gegout if EU interventions were guided by humanitarianism, it could have discussed intervention in all these cases, but did not do so¹⁵³.

In addition EU have never, even discussed about a possible military intervention in the most dangerous and unsecured region of DRC. In fact we have seen that the protection in the Eastern region is the priority of ECHO, but all the conflict long in the East none of the EU missions have been extended to the East. If there was coordination between ECHO and the rest of EU institutions, it would have been obvious for EU to conduct an intervention in the East to support the commission's actions in the East.

In 2008 while the troops of General Laurent Nkunda were massacring populations and villages in East, and the humanitarian situation was dramatic, the UN Secretary-General requested in December; the EU to send a bridging force to the DRC awaiting the enforcement of MONUC but, *“the EU this time failed to agree on the bridging mission and did not take on its international responsibilities in a transition process in which it has been deeply involved since the start and in which it has attempted to manifest itself as a credible security and defense actor”*¹⁵⁴.

some European diplomats justify it by the lack of military capabilities due to the fact that the countries that were in favor of a bridging force, such as Belgium, were not able to account for the necessary military capabilities themselves, and those member states that opposed the mission, such as France and the UK were not willing to deploy their capabilities given the fact that they are more intensively involved in other military operations (such as the UK in Iraq and Afghanistan)¹⁵⁵.

It is anyway clear that this non action in the east can really question the real will of EU and the member states to end violence in DRC and contribute to peace process. For many authors such as William Leday an EU military intervention in the East would have contribute to underpinned the role of UN and of course the international community including EU which for the population of the East of DRC and many observers have once more failed not only in DRC but in Africa in general¹⁵⁶.

¹⁵³ Idem

¹⁵⁴ Arnout Justaert and Stephan Keukeleire, Op. Cit., p. 15

¹⁵⁵ Idem

¹⁵⁶ William Leday, Pourquoi une intervention européenne au Kivu est-elle toujours d'actualité ?, Note de la fondation Terra Nova et ACTED, Novembre 2008

GENERAL CONCLUSION

In conclusion of this study, we can affirm that it is indeed interesting to investigate on the role of EU in humanitarian crisis management in Africa. Obviously the case study of the Eastern DRC has led us to many conclusions but also many other questions that we can consider as perspectives.

We have been trying to evaluate the efficiency and the efficacy of EU mechanisms and policies in DRC to understand the failure of the international community to which European Union belong in the management of the humanitarian crisis during the last decade. Three main conclusions can be highlighted.

First, EU has progressively developed several tools to manage a humanitarian crisis. These instruments tend to take in account both the humanitarian aid aspect and the crisis management side. As the modern humanitarian assistance ¹⁵⁷ require a more comprehensive approach, EU has taken in account in DRC both the humanitarian aid, the Military intervention and peacebuilding process.

Second, having analyzed all these instruments and policies that EU has developed for crisis management in Africa and more precisely in DRC, we wanted to understand if they have been exploited in an efficient and effective way. We have proved that EU is part of the coordination chaos that weakens all the international community involvement in DRC. In fact there is a lack of institutional dialogue between the two main pillars of EU foreign policy. These inter and intra pillar lacks of coordination have led to a less coherent intervention within EU actors and policies toward DRC. But also based on the same coordination problem we have noticed a lack of coherence between EU and its member states in terms of priorities, political interests and participation to the interventions. Last, there are also many shortcomings in the relationship between EU and its main partners at the international level (UN) and at the National level (the Congolese authorities).

Third, evaluating EU respect to its engagement toward DRC, we can conclude that even if EU has respected and implemented its main commitments toward DRC, this has suffered apart from the lack of coordination, of a lack of monitoring. This can explain why despite the EU and UN embargoes on arms imposed on DRC, arms are still entering in DRC coming from EU member states such as Greece and Czech Republic. Moreover, nobody can explain why, despite all the security reinforcement in EU countries, many crimes against humanity

¹⁵⁷ We refer our self here to the new humanitarianism which consists on considering humanitarian aid as part of a comprehensive framework for humanitarian crisis management.

perpetrators are still leaving peacefully in some European countries organizing and financing armed groups in DRC through bank transactions.

The last Aspect developed in the study tends to explore a less exploited field. In fact if everybody agrees on the fact that mining multinationals are part of the conflict in DRC by fueling and financing it, there are fewer analyses trying to see how EU can hold responsible the European companies taking part of this mess. We have tried to prove that on the 84 companies alleged of violation of the OECD guidelines, 45 are Europeans. We think that EU should develop binding mechanisms obliging companies apply their international obligation to respect Human Rights, but also the main agreement with African countries: the ACP agreement.

We would like to finish our study with some questions which appear crucial for the future of the EU humanitarian crisis management in DRC.

First we would like to share the fears of Felix Nkundabagenzi in its article on Artemis intervention concerning the coordination between EU military and humanitarian operations¹⁵⁸. In fact since ECHO claims to be apolitical and therefore does not have formal relation with the rest of EU mission, how is it possible to coordinate military and humanitarian actions and priorities on the field? We have explained in details for example how no military actions were conducted where the humanitarian situation was the most dramatic.

Second is it really possible to find a common interest between EU and its member states in DRC, since some of them are bound by colonial links and are still acting according to their interest rather than Congolese support? Especially concerning the challenging issue of illegal exploitation of natural resources by member state companies.

Last, concerning the coordination issue, we could have also investigated in this study on how extends the UN humanitarian reform can influence EU involvement in DRC.

Summing up, one can say that all these questions can be considered as perspectives for the future of EU intervention in DRC, answering to them can in a way help to ameliorate or underpin the EU humanitarian crisis management in the Eastern part of DRC.

¹⁵⁸ Felix Nkundabagenzi, Op. Cit. pp-182-183

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