



## COI QUERY

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| <b>Country of Origin</b>                          | <b>DEMOCRATIC REPUBLIC OF THE CONGO</b>   |
| <b>Main subject</b>                               | <b><u><a href="#">The Katanga independence movement in Haut-Katanga province</a></u></b>  |
| <b>Question(s)</b>                                | <ol style="list-style-type: none"><li>1. <u><a href="#">Background of the Katanga independence movement</a></u></li><li>2. <u><a href="#">Activities of the Katanga independence movement in 2021 (with particular focus on Haut-Katanga province, Lubumbashi city, Kampemba commune)</a></u></li><li>3. <u><a href="#">Legal provisions and treatment by the State for involvement in separatist movements (with particular focus on Haut-Katanga province, Kasapa jail)</a></u></li></ol> |
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The information provided in this response has been researched, evaluated and processed with utmost care within a limited time frame. All sources used are referenced. A quality review has been performed in line with the above mentioned methodology. This document does not claim to be exhaustive neither conclusive as to the merit of any particular claim to international protection. If a certain event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist. Terminology used should not be regarded as indicative of a particular legal position.

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The target audience is caseworkers, COI researchers, policy makers, and decision making authorities. The answer was finalised on 12 January 2022. Any event taking place after this date is not included in this answer.

# COI QUERY RESPONSE – Democratic Republic of the Congo

## The Katanga independence movement in Haut-Katanga province

### 1. Background of the Katanga independence movement

#### 1.1 Historical background

The first attempt of Katanga province's secession took place less than two weeks after Democratic Republic of the Congo's (DRC) independence from Belgium, on 30 June 1960.<sup>1</sup> Two years earlier, in 1958, Moïse Tshombe had founded the Confédération des associations tribales du Katanga (CONAKAT) party. Based in what is now Lubumbashi, CONAKAT was the majority party at that time, and was described as advocating for a federal DRC comprising highly autonomous provinces. As resource-rich Katanga province had been extensively developed by the Belgians, the party was in favour of DRC's union with Belgium, but it also supported 'the idea of an "authentic Katangan," an individual who, regardless of race, had been "integrated into the province"'.<sup>2</sup>

In this context, when DRC's army mutinied on 5 July 1960 in what is now Kinshasa, leading to 'an eruption of violence',<sup>3</sup> Moïse Tshombe announced on 11 July 1960 that Katanga was seceding and becoming an independent country, with Tshombe as president.<sup>4</sup> The same month, the United Nations (UN) authorised the deployment of the United Nations Operation in the Congo (ONUC), its first large-scale peace-keeping mission.<sup>5</sup> While initially mandated to provide military and technical assistance to DRC's government, in 1961 ONUC's mandate was expanded to 'protect the Congo from outside interference, particularly by evacuating foreign mercenaries and advisers from Katanga'.<sup>6</sup>

In September and December 1961, and later in December 1962, ONUC troops clashed with 'secessionist gendarmes under the command of foreign mercenaries'.<sup>7</sup> Although supported by Belgium, the United Kingdom and the United States of America, as well as by 'white mercenaries'<sup>8</sup> and foreign mining companies, Tshombe eventually agreed in 1963 to end Katanga's secession, which was reintegrated into the DRC.<sup>9</sup>

The second secessionist movement in Katanga is linked to the emergence of local Mai Mai groups. The term 'Mai Mai' is described as an umbrella term for a wide range of small communal militias,

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<sup>1</sup> France 24, DR Congo marks 60 years of independence, 30 June 2020, [url](#); BBC, Democratic Republic of Congo profile, 10 January 2019, [url](#)

<sup>2</sup> Thomas, C.; Falola, T., *Secession and Separatist Conflicts in Postcolonial Africa*, University of Calgary Press, June 2020, [url](#), pp. 40,41

<sup>3</sup> Thomas, C.; Falola, T., *Secession and Separatist Conflicts in Postcolonial Africa*, University of Calgary Press, June 2020, [url](#), p. 42

<sup>4</sup> Thomas, C.; Falola, T., *Secession and Separatist Conflicts in Postcolonial Africa*, University of Calgary Press, June 2020, [url](#), p. 42; BBC, Democratic Republic of Congo profile, 10 January 2019, [url](#); USDOS, *The Congo, Decolonization, and the Cold War, 1960–1965*, n.d., [url](#)

<sup>5</sup> HRW, *DR Congo: Chronology*, 21 August 2009, [url](#); United Nations Peacekeeping, *Our History*, n.d., [url](#)

<sup>6</sup> UN Archives and Records Management Section, *United Nations Operation in the Congo (ONUC) (1960-1964)*, n.d., [url](#)

<sup>7</sup> UN Archives and Records Management Section, *United Nations Operation in the Congo (ONUC) (1960-1964)*, n.d., [url](#)

<sup>8</sup> Oxford Reference, *Moïse Tshombe*, n.d., [url](#)

<sup>9</sup> BBC, *Democratic Republic of Congo profile*, 10 January 2019, [url](#); BBC, *Katanga: Fighting for DR Congo's cash cow to secede*, 12 August 2013, [url](#); HRW, *DR Congo: Chronology*, 21 August 2009, [url](#)

which claim to act in self-defence, and to support indigenous rights.<sup>10</sup> According to researchers Kasper Hoffmann and Judith Verweijen, many Mai Mai groups ‘do not control large swathes of territory in a durable fashion. Their headquarters frequently relocate and their spheres of influence fluctuate’.<sup>11</sup> Referring to DRC’s Mai Mai groups generally, Jamestown Foundation wrote in 2014 that they operated by ‘terrorizing villagers, looting food, engaging in mass rapes, killing village elders’, and engaging in combat with patrols of the DRC army.<sup>12</sup>

In Katanga, these groups were formed around 1998, and were supported by the government, to fight against foreign troops in the region. After failing to be integrated into the national army, the groups became hostile to the government, and entered in conflict with the army.<sup>13</sup> Moreover, according to Human Rights Watch, Katanga’s Mai Mai groups have, with time, lost the support of the local population.<sup>14</sup>

## 1.2 Secessionist armed groups in Haut-Katanga province (2018-2021)

According to sources, secessionist groups in Katanga included entities such as Bakata-Katanga (‘Kiswahili for “cut Katanga off [from the DRC]”’,<sup>15</sup> also referred to as Kata Katanga), Mai Mai Gideon, and CORAK (Coordination pour le référendum et l’autodétermination du Katanga, Co-ordination for a Referendum on Self-Determination for Katanga) Kata Katanga.<sup>16</sup>

A short description of some secessionist groups reported active in Haut-Katanga province between 2018 and 2021 are presented below.

### **Bakata-Katanga or Kata Katanga**

On 12 August 2015, it was reported that Bakata-Katanga changed its name to the Movement of African Revolutionary Independents (Mouvement des indépendantistes révolutionnaires africains, MIRA).<sup>17</sup> In October 2016, RFI described MIRA as a ‘political-military group’ that would eventually ‘turn into a political party’, named the Innovative Movement of African Revolutionaries (Mouvement des indépendantistes révolutionnaires africains).<sup>18</sup>

According to the Africa Center for Strategic Studies (ACSS), the group has ‘Katangan identity issues,

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<sup>10</sup> Hoffmann, K., Verweijen, J., Rethinking rebel rule: How Mai-Mai groups in eastern Congo govern, in LSE blog, 3 October 2018, [url](#); McGregor, A., New Offensive Expected Against Mai Mai Militias In Mineral-Rich Katanga, in Jamestown Foundation, Terrorism Monitor Volume XII, Issue 7, 4 April 2014, [url](#), p. 3

<sup>11</sup> Hoffmann, K., Verweijen, J., Rethinking rebel rule: How Mai-Mai groups in eastern Congo govern, in LSE blog, 3 October 2018, [url](#)

<sup>12</sup> McGregor, A., New Offensive Expected Against Mai Mai Militias In Mineral-Rich Katanga, in Jamestown Foundation, Terrorism Monitor Volume XII, Issue 7, 4 April 2014, [url](#), p. 3

<sup>13</sup> HRW, DR Congo: As Vote Nears, Abuses Go Unpunished in Katanga, 21 July 2006, [url](#); HRW, DR Congo: Mai Mai Warlord Must Face Justice, 18 May 2006, [url](#)

<sup>14</sup> HRW, DR Congo: Mai Mai Warlord Must Face Justice, 18 May 2006, [url](#)

<sup>15</sup> McGregor, A., New Offensive Expected Against Mai Mai Militias In Mineral-Rich Katanga, in Jamestown Foundation, Terrorism Monitor Volume XII, Issue 7, 4 April 2014, [url](#), p. 3

<sup>16</sup> ACSS, A Medley of Armed Groups Play on Congo’s Crisis, 25 September 2017, [url](#); McGregor, A., New Offensive Expected Against Mai Mai Militias In Mineral-Rich Katanga, in Jamestown Foundation, Terrorism Monitor Volume XII, Issue 7, 4 April 2014, [url](#), p. 3; UNSC, UNSC (United Nations Security Council), Letter dated 22 January 2014 from the Coordinator of the Group of Experts on the Democratic Republic of the Congo addressed to the President of the Security Council, S/2014/42, 23 January 2014, [url](#), paras. 47-51; UNSC, Letter dated 19 July 2013 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council, S/2013/433, 19 July 2013, [url](#), paras. 83-87

<sup>17</sup> 7Sur7, « Bakata-Katanga » devient un parti Politique, (“Bakata-Katanga” becomes a political party), (informal translation by EASO), n.d., [url](#); Afrikarabia, RDC: les « Bakata-Katanga », nouveau parti politique? (DRC: the Bakata-Katanga, a new political party ?), (informal translation by EASO), 20 August 2015, [url](#)

<sup>18</sup> RFI, RDC: de retour à Lubumbashi, l’ex-chef de guerre Gédéon dépose les armes, (DRC: back in Lubumbashi, ex-warlord Gédéon lays down his arms), (informal translation by EASO), 12 October 2016, [url](#)

in particular the deep sense of alienation from the central administration'.<sup>19</sup> Human Rights Watch described MIRA as Kyungu Mutanga's political party<sup>20</sup>, while the armed group remains commonly referred to as Bakata-Katanga.<sup>21</sup> In 2020, Radio France Internationale (RFI) stated that their members meet in Moïse Tshombe square in Lubumbashi, and 'claim to be fighting for the reestablishment of the independent state of Katanga, proclaimed in July 1960'.<sup>22</sup>

### **Mai Mai Gideon**

Mai Mai Gideon was formed in 2011 by Gideon Kyungu Mutanga<sup>23</sup>, who soon 'began allying his movement' with the Bakata-Katanga group.<sup>24</sup> In a 2014 report, Jamestown Foundation stated that both Bakata-Katanga and Mai Mai Gideon 'call for Katanga to secede from the DRC, but also condemn what they perceive as an unequal distribution of wealth between north Katanga and south Katanga, where the largest resource extraction operations are located'.<sup>25</sup>

### **CORAK Kata Katanga**

CORAK Kata Katanga is the military wing of CORAK. According to a 2014 report by the UN Coordinator of the Group of Experts on the Democratic Republic of the Congo, CORAK had 'a military wing and a political branch'. According to the source, at that time, the leader of the military wing was Tshinyama Ngonga Ya Cingo Gideon, while the political leader of CORAK was Matuka Munana Tshitshi Simon.<sup>26</sup>

With regards to the relationship between the various groups, as well as their reported leadership, a July 2013 UN report stated that, at that time, Mai Mai Gideon was 'allied' with CORAK Kata Katanga.<sup>27</sup> In 2014, Jamestown Foundation stated that Mai Mai Gideon and Bakata-Katanga were separate entities<sup>28</sup>, while later in 2017, the ACSS also wrote that Mai Mai Gideon and Bakata-Katanga were separate, with Kyungu Mutanga as leader of both groups.<sup>29</sup> However, a 2018 report by the United States Department of the Treasury (USDT) stated that, as of March 2014, Mai Mai Gideon and Bakata-Katanga were 'considered one group under the presumed leadership of [Kyungu

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<sup>19</sup> ACSS, A Medley of Armed Groups Play on Congo's Crisis, 25 September 2017, [url](#)

<sup>20</sup> HRW, Escaped Congolese Warlord Inspires New Attacks, 28 October 2019, [url](#)

<sup>21</sup> France 24, RDC : après une nouvelle incursion armée sanglante à Lubumbashi, la population reste perplexe, (DRC: after a new bloody armed incursion in Lubumbashi, the population remains perplexed), (informal translation by EASO), 30 September 2020, [url](#); RFI, RD Congo: l'attaque d'une milice fait une dizaine de morts à Lubumbashi, (DR Congo: attack by a militia kills ten people in Lubumbashi), (informal translation by EASO), 26 September 2020, [url](#); Actualite, RDC : « Sans une traque effective suivie de l'arrestation de Gédéon Kyungu et son retour en prison, la paix et la sécurité seront toujours menacées à Lubumbashi » (VSV), (DRC: "Without an effective hunt followed by the arrest of Gédéon Kyungu and his return to prison, peace and security will always be threatened in Lubumbashi" (VSV)), (informal translation by EASO), 17 February 2021, [url](#); UNSC, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, Report of the Secretary-General, 18 June 2020, [url](#), para. 7; HRW, Convicted Congolese Warlord Escapes. Again., 7 April 2020, [url](#); RFI, RDC: incursions de miliciens Mai Mai Bakata-Katanga dans plusieurs villes de l'ex-Katanga, (DRC: Mai Mai Bakata-Katanga militiamen incursions into several towns in the former Katanga), (informal translation by EASO), 29 March 2020, [url](#)

<sup>22</sup> RFI, RD Congo: l'attaque d'une milice fait une dizaine de morts à Lubumbashi, (DR Congo: attack by a militia kills ten people in Lubumbashi), (informal translation by EASO), 26 September 2020, [url](#)

<sup>23</sup> USDT, Treasury Sanctions Individuals Destabilizing the Eastern Democratic Republic of the Congo, 5 February 2018, [url](#); ACSS, A Medley of Armed Groups Play on Congo's Crisis, 25 September 2017, [url](#); McGregor, A., New Offensive Expected Against Mai Mai Militias In Mineral-Rich Katanga, 4 April 2014, [url](#), p. 3

<sup>24</sup> USDT, Treasury Sanctions Individuals Destabilizing the Eastern Democratic Republic of the Congo, 5 February 2018, [url](#)

<sup>25</sup> McGregor, A., New Offensive Expected Against Mai Mai Militias In Mineral-Rich Katanga, in Jamestown Foundation, Terrorism Monitor Volume XII, Issue 7, 4 April 2014, [url](#), p. 3

<sup>26</sup> UNSC, Letter dated 22 January 2014 from the Coordinator of the Group of Experts on the Democratic Republic of the Congo addressed to the President of the Security Council, S/2014/42, 23 January 2014, [url](#), para. 50

<sup>27</sup> UNSC, Letter dated 19 July 2013 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council, S/2013/433, 19 July 2013, [url](#), para. 83

<sup>28</sup> McGregor, A., New Offensive Expected Against Mai Mai Militias In Mineral-Rich Katanga, in Jamestown Foundation, Terrorism Monitor Volume XII, Issue 7, 4 April 2014, [url](#), p. 3

<sup>29</sup> ACSS, A Medley of Armed Groups Play on Congo's Crisis, 25 September 2017, [url](#)

Mutanga]'.<sup>30</sup>

### **Gideon Kyungu Mutanga**

Kyungu Mutanga (full name Gideon Kyungu Mutanga Wa Bafunkwa Kanonga) is described as an ethnic Balubakat who joined the Katanga Mai Mai movement in 1999.<sup>31</sup> As leader of his group, he was accused of various abuses against civilians between 2002-2005.<sup>32</sup> In May 2006, he surrendered to United Nations Mission in the Democratic Republic of Congo (UN MONUC) troops in 2006.<sup>33</sup> After a lengthy trial, in March 2009, Kyungu Mutanga was found guilty of crimes against humanity, insurgency and terrorism, and sentenced to death<sup>34</sup>, but escaped from Kassapa prison in September 2011<sup>35</sup>, and went on to carry out serious human rights abuses and war crimes, including targeting civilians and recruiting child soldiers.<sup>36</sup> After surrendering again in October 2016 and being allowed to live under house arrest<sup>37</sup>, in March 2020 Kyungu Mutanga managed to escape again.<sup>38</sup> In a 7 April 2020 report, Human Rights Watch stated that he had not yet been recaptured.<sup>39</sup>

The UNSC has, since January 2018, imposed sanctions on Kyungu Mutanga due to his involvement 'in serious human rights abuses such as killings and attacks against civilians, notably in rural zones of the Katanga province' between 2011-2014.<sup>40</sup> The EU similarly imposed sanctions on him in February 2018.<sup>41</sup>

## **2. Activities of the Katanga independence movement in 2021 (with particular focus on Haut-Katanga province, Lubumbashi city, Kampemba commune)**

With regards to violent incidents in Haut-Katanga province, data provided below is based on publicly available figures published by the Armed Conflict Location and Event Data Project (ACLED).<sup>42</sup> For the

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<sup>30</sup> USDT, Treasury Sanctions Individuals Destabilizing the Eastern Democratic Republic of the Congo, 5 February 2018, [url](#)

<sup>31</sup> UNSC, The Democratic Republic of Congo Sanctions Committee, 1533 Sanctions List, n.d., [url](#)

<sup>32</sup> HRW, DR Congo: As Vote Nears, Abuses Go Unpunished in Katanga, 21 July 2006, [url](#)

<sup>33</sup> HRW, DR Congo: Chronology, 21 August 2009, [url](#); HRW, DR Congo: Militia Leader Guilty in Landmark Trial, 10 March 2009, [url](#); HRW, DR Congo: Mai Mai Warlord Must Face Justice, 18 May 2006, [url](#)

<sup>34</sup> HRW, Congolese Warlord Surrenders But Will Justice Prevail?, 14 October 2016, [url](#); HRW, DR Congo: Militia Leader Guilty in Landmark Trial, 10 March 2009, [url](#)

<sup>35</sup> BBC, DR Congo bounty for fugitive Gedeon Kyungu Mutanga, 9 September 2011, [url](#); Dawn, Nearly 1,000 inmates, militia leader escape Congo prison, 8 September 2011, [url](#)

<sup>36</sup> USDT, Treasury Sanctions Individuals Destabilizing the Eastern Democratic Republic of the Congo, 5 February 2018, [url](#); HRW, Congolese Warlord Surrenders But Will Justice Prevail?, 14 October 2016, [url](#)

<sup>37</sup> HRW, Convicted Congolese Warlord Escapes. Again., 7 April 2020, [url](#); HRW, Escaped Congolese Warlord Inspires New Attacks, 28 October 2019, [url](#); USDT, Treasury Sanctions Individuals Destabilizing the Eastern Democratic Republic of the Congo, 5 February 2018, [url](#); HRW, Congolese Warlord Surrenders But Will Justice Prevail?, 14 October 2016, [url](#)

<sup>38</sup> Actualite, RDC : « Sans une traque effective suivie de l'arrestation de Gédéon Kyungu et son retour en prison, la paix et la sécurité seront toujours menacées à Lubumbashi » (VSV), (DRC: "Without an effective hunt followed by the arrest of Gédéon Kyungu and his return to prison, peace and security will always be threatened in Lubumbashi" (VSV)), (informal translation by EASO), 17 February 2021, [url](#); UNSC, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, Report of the Secretary-General, 18 June 2020, [url](#), para. 7; HRW, Convicted Congolese Warlord Escapes. Again., 7 April 2020, [url](#); RFI, RDC: incursions de miliciens Mai Mai Bakata-Katanga dans plusieurs villes de l'ex-Katanga, (DRC: Mai Mai Bakata-Katanga militiamen incursions into several towns in the former Katanga), (informal translation by EASO), 29 March 2020, [url](#)

<sup>39</sup> HRW, Convicted Congolese Warlord Escapes. Again., 7 April 2020, [url](#)

<sup>40</sup> UNSC, Gédéon Kyungu Mutanga Wa Bafunkwa Kanonga, n.d., [url](#)

<sup>41</sup> EU, Council Implementing Regulation (EU) 2018/197 of 9 February 2018 implementing Article 9 of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, 9 February 2018, [url](#), Annex I, para. 35

<sup>42</sup> It is worth noting that the figures published in this document reflect the situation regarding violent incidents as of 5 January 2022, namely the date when EASO extracted these figures. According to its methodology, 'the ACLED project often

purpose of this COI Query Response, the following types of events were included as violent incidents in the analysis of the security situation: battles; explosions/remote violence; and incidents of violence against civilians.<sup>43</sup>

According to the latest available data, between 1 January-10 December 2021, ACLED recorded 6 violent incidents in Haut-Katanga province, of which 3 were coded as battles, and 3 were coded as episodes of violence against civilians. Of the 6 violent incidents, 2 were attributed to Bakata-Katanga, and were coded as battles. No events were attributed to any of the secessionist groups in any other provinces of DRC.<sup>44</sup>

On 14 February 2021, ‘separatist rebels’ attacked the military camps of Kimbembe and Kibati in Lubumbashi. A local civil society leader was quoted stating that ‘the attackers had identified themselves as members of the separatist Bakata-Katanga militia’.<sup>45</sup> According to media sources, four soldiers and six militiamen died in the fighting, while a civilian was also killed.<sup>46</sup>

On 14 April 2021, militiamen believed to be members of Bakata-Katanga attacked the ‘200 maisons’ (200 houses) police camp in Lubumbashi, killing one police officer and wounding another.<sup>47</sup>

On 22 April 2021, police in Lubumbashi announced the capture of some 72 members of Bakata-Katanga during two operations. The first arrests took place on 18 April 2021 in a church in Rwashu commune, while the second operation took place in Annex commune. The army claimed that both groups of Bakata-Katanga members were planning attacks on Lubumbashi.<sup>48</sup>

### 3. Legal provisions and treatment by the State for involvement in separatist movements (with particular focus on Haut-Katanga province, Kasapa jail)

#### Legal Provisions

Article 190 of the Constitution of the DRC states that ‘No one may, under penalty of high treason, organize military groups, paramilitary [groups] or private militias, or maintain a youth army’.<sup>49</sup> Article 52 states:

‘All Congolese have the right to peace and to security, both on the national as well as on the international level [plan].

No individual or group of individuals may use a part of the national territory as a base of operation for subversive or terrorist activities against the Congolese State or any other

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reviews specific periods of conflict or instability [...]. This means that users may find changes to the data in their selected countries or targeted conflicts throughout the year’. See ACLED, Dashboard, n.d, [url](#)

<sup>43</sup> ACLED, Methodology, April 2019, [url](#), pp. 1-2

<sup>44</sup> ACLED, Dashboard, extracted on 5 January 2021, [url](#)

<sup>45</sup> AJ, DR Congo: Several killed in attacks on Lubumbashi military camps, 14 February 2021, [url](#)

<sup>46</sup> Actualite, RDC : Gabriel Kyungu appelle l'armée à arrêter tous les jeunes de son parti qui sabotent le régime en place aux côtés de Bakata-Katanga (DRC: Gabriel Kyungu calls on the army to arrest all the young people of his party who sabotage the regime in place alongside Bakata-Katanga), (informal translation by EASO), 25 April 2021, [url](#); AJ, DR Congo: Several killed in attacks on Lubumbashi military camps, 14 February 2021, [url](#); Xinhuanet, 11 dead in clashes between army, militiamen in DRC mining city, 14 February 2021, [url](#)

<sup>47</sup> Politico, (Lubumbashi: 1 policeman killed during an incursion of suspected Bakata-Katanga), (informal translation by EASO), 15 April 2021, [url](#); 24h Congo, Lubumbashi : un policier tué par les insurgés Mai-Mai / Bakata-Katanga (Lubumbashi: a policeman killed by the Mai-Mai / Bakata-Katanga insurgents), (informal translation by EASO), 15 April 2021, [url](#)

<sup>48</sup> RFI, RDC: plusieurs dizaines de miliciens Bakata-Katanga détenus à Lubumbashi (DRC: dozens of Bakata-Katanga militiamen detained in Lubumbashi), (informal translation by EASO), 24 April 2021, [url](#); Radio Okapi, Lubumbashi: plus de 70 miliciens Bakata-Katanga aux arrêts, (Lubumbashi: more than 70 Bakata-Katanga militiamen under arrest), (informal translation by EASO), 15 April 2021, [url](#)

<sup>49</sup> DRC, The Constitution of the Democratic Republic of Congo (As Amended in 2011), 20 January 2021, Art. 190, available at Constitute Project [url](#)

State.<sup>50</sup>

On 4 February 2014, the Parliament of DRC adopted a legislation that granted amnesty for acts of insurgency, acts of war and political offenses dating back to 2006, excluding though genocide, crimes against humanity, and war crimes. The legislation originated as part of the December 2013 agreement to end fighting between the DRC army and the 23 March Movement (M23) rebel group, and intended to ‘encourage armed groups to lay down their arms and put an end to the conflicts that have engulfed the DRC since 1996’.<sup>51</sup> Within the time constraints for drafting this COI query, no further information could be found regarding the implementation of this law, nor on its impact specifically on the secessionist groups in Katanga Province.

### **Effectiveness of the justice system**

The Rule of Law in Armed Conflicts project (RULAC) described DRC as ‘engaged in several non-international armed conflicts on its territory against a number of non-state armed groups.’<sup>52</sup>

In its report covering the year 2020, Freedom House noted that informal justice system and customary courts are common across the country, especially in rural areas. According to the same source the ‘military is notoriously undisciplined’, with cases of soldiers exchanging weapons and intelligences with militia and rebel groups. Freedom House also reported:

‘Civilians are often tried in military courts, which have weak safeguards for defendants’ rights, poor witness protection mechanisms, and are subject to interference from high-ranking military personnel. Arbitrary arrests and detentions are common, as is prolonged pretrial detention. Much of the prison population consists of pretrial detainees.’

The same source reported that ‘in November 2020, a military court convicted militia leader Ntabo Ntaberi Sheka and two co-defendants of war crimes perpetrated in the Walikale and Masisi territories, with Sheka and one co-defendant receiving life sentences’.<sup>53</sup>

USDOS indicated that corruption is pervasive in the judiciary of the country and that the judges often receive coercion from officials and other influential individuals. The same source reported that ‘civilians may be tried in military tribunals if charged with offenses involving firearms. The military justice system often succumbed to political and command interference, and security arrangements for magistrates in areas affected by conflict were inadequate.’<sup>54</sup>

### **Treatment by the State for involvement in separatist movements (with particular focus on Haut-Katanga province, Kasapa jail)**

In 2009, Gideon Kyungu Mutanga, then commander of Mai Mai and later commander of the Bakata-Katanga militia,<sup>55</sup> and 20 other Mai Mai combatants were convicted for crimes on major charges, including crimes against humanity, by a military court in Haut-Katanga of Katanga province. Mutanga was sentenced to death for crimes against humanity, insurgency and terrorism along with six other defendants. Fourteen defendants were convicted of insurgency, and three of them were also convicted of terrorism.<sup>56</sup>

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<sup>50</sup> DRC, The Constitution of the Democratic Republic of Congo (As Amended in 2011), 20 January 2021, Art. 52, available at [Constitute Project](#) [url](#)

<sup>51</sup> UN News, New DR Congo amnesty law welcomed by UN envoys, 5 February 2014, [url](#); IJRC, DR Congo Parliament Approves New Amnesty Law For Insurgency And Other Crimes, As Part Of Agreement With M23 Rebel Group, 10 February 2014, [url](#)

<sup>52</sup> RULAC, Non-international armed conflicts in DRC [Last updated: 22 April 2022], n.d., [url](#)

<sup>53</sup> Freedom House, Freedom in the World 2021, Democratic Republic of the Congo, 3 March 2021, [url](#)

<sup>54</sup> USDOS, 2020 Country Reports on Human Rights Practices: Democratic Republic of the Congo, 30 March 2021, [url](#)

<sup>55</sup> UN Security Council, Narrative Summaries of Reasons for Listing: Gédéon Kyungu Mutanga Wa Bafunkwa Kanonga, 1 February 2018, [url](#)

<sup>56</sup> HRW, DR Congo: Militia Leader Guilty in Landmark Trial , 10 March 2009, [url](#)

Mutanga escaped from Kasapa prison in 2011,<sup>57</sup> and surrendered in 2016 along with around 100 fighters, after long negotiations with the authorities of Katanga.<sup>58</sup> Several sources reported that when Mutanga surrendered, he received a 'hero's welcome ceremony'.<sup>59</sup> Following his surrender, Mutanga was placed under house arrest in Lumbashi. He escaped again on 28 March 2020, the same day after his men 'walked through the streets of Lubumbashi and five other towns, brandishing guns, knives, and sticks, and chanting war songs'.<sup>60</sup> President Felix Tshisekedi allegedly 'instructed his military to aggressively find Gideon Kyungu Mutanga'.<sup>61</sup> Citing local rights groups, Human Rights Watch reported that 'the response from the security forces was heavy-handed, with at least 31 militiamen reportedly shot dead. Dozens were arrested'.<sup>62</sup> United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) reported, in June 2020, that the number of militiamen shot by the security forces reached up to 43.<sup>63</sup>

On 22 April 2021, the 22<sup>nd</sup> military division announced that they had arrested more than 70 Bakata-Katanga militiamen in two regions of Lubumbashi. Major Ngoy Muyumba, the spokesperson of the 22<sup>nd</sup> military division, explained the circumstances of their arrest and stated that 'the 22<sup>nd</sup> military division presents all these groups in order to sensitize the population in general and our youth in particular to dissociate themselves from this kind of short-term adventures'.<sup>64</sup> Following the arrest of the Bakata-Katanga militiamen, the President of the Provincial Assembly of Haut-Katanga, Antoine Gabriel Kyungu wa Kumwanza, called for the arrest of all the young people who sabotage the regime alongside Bakata-Katanga.<sup>65</sup>

On 5 July 2021, during a press conference, Antoine Gabriel Kyungu wa Kumwanza called the Bakata-Katanga to discuss with the authorities in order to express their demands and stated that 'the hand is once again extended to the Bakata-Katanga to abandon the armed struggle'.<sup>66</sup>

Human Rights Watch reported that the bodies of three men who washed up in the Lubumbashi River after protests on 9 July 2020 bore scarring and mutilations that 'could be the result of torture'. At least one man was alleged to have been in military police custody prior to his death.<sup>67</sup>

According to Freedom House:

'Soldiers and police regularly commit serious human rights abuses, including rape and other physical attacks, and high-ranking military officials enjoy impunity for crimes.

Government forces have participated in summary killings and forced disappearances, and the judicial system has not held officials accountable. Senior intelligence officials accused of serious human rights abuses have not been tried for their acts. In July 2020, General Gabriel Amisi Kumba, who was sanctioned by the United States and European Union for human

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<sup>57</sup> Reveil FM, RDC: Gédéon Kyungu Mutanga, seigneur de guerre célébré en héros par le régime d'imposture d'Alias Joseph Kabila, 11 October 2016, [url](#)

<sup>58</sup> HRW, Congolese Warlord Surrenders But Will Justice Prevail?, 14 October 2016, [url](#)

<sup>59</sup>TV5 Monde, Reddition de Gédéon en RDC : "Il doit retourner en prison", 14 October 2016, [url](#); HRW, Congolese Warlord Surrenders But Will Justice Prevail?, 14 October 2016, [url](#); Reveil FM, RDC: Gédéon Kyungu Mutanga, seigneur de guerre célébré en héros par le régime d'imposture d'Alias Joseph Kabila, 11 October 2016, [url](#); US Department of the Treasury, Treasury Sanctions Individuals Destabilizing the Eastern Democratic Republic of the Congo, 5 February 2018, [url](#)

<sup>60</sup> HRW, Convicted Congolese Warlord Escapes. Again., 7 April 2020, [url](#)

<sup>61</sup> Taarifa, President Tshisekedi Orders Army To 'Arrest Mai-Mai Commander Dead Or Alive', 6 April 2020, [url](#)

<sup>62</sup> HRW, Convicted Congolese Warlord Escapes. Again., 7 April 2020, [url](#)

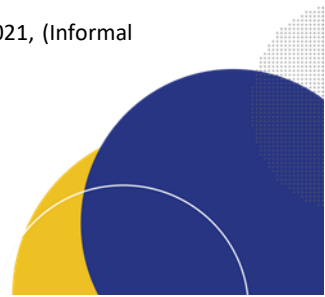
<sup>63</sup>UN Security Council, MONUSCO, Report of the Secretary-General, 18 June 2020, [url](#), para. 7

<sup>64</sup>Radio Okapi, Lubumbashi : plus de 70 miliciens Bakata-Katanga aux arrêts, 23 April 2021, (Informal translation by EASO), [url](#)

<sup>65</sup>Actualite.CD, RDC: Gabriel Kyungu appelle l'armée à arrêter tous les jeunes de son parti qui sabotent le régime en place aux côtés de Bakata-Katanga, 25 April 2021, [url](#)

<sup>66</sup> Radio Okapi, Lubumbashi : Kyungu wa Kumwanza appelle la milice Bakata-Katanga au dialogue, 6 July 2021, (Informal translation by EASO), [url](#)

<sup>67</sup> HRW, DR Congo: Ensure Credible Probe of Bodies Found in River, 12 August 2021, [url](#)





rights abuses, was appointed army chief, succeeding another general who faced sanctions.<sup>68</sup>

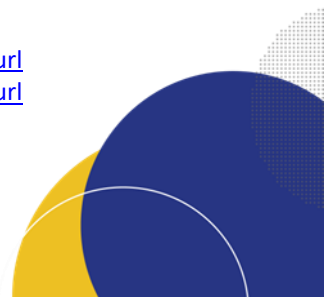
Information on the treatment by the State for involvement in separatist movements specifically in Kasapa jail could not be found among the sources consulted by EASO within time constraints.

Although not referring specifically to Kasapa jail, Freedom House described the prison conditions in DRC during 2020 as 'life-threatening', adding that torture of detainees was common.<sup>69</sup>

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<sup>68</sup> Freedom House, Freedom in the World 2021, Democratic Republic of the Congo, 3 March 2021, [url](#)

<sup>69</sup> Freedom House, Freedom in the World 2021, Democratic Republic of the Congo, 3 March 2021, [url](#)



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