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Team of Experts on the Rule of Law - Sexual Violence in Conflict Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict

Project Title: Team of Experts' support to the implementation of the Democratic Republic of Congo's Joint Communiqué on addressing sexual violence

Democratic Republic of the Congo

Reporting period: 1 April 2014 – 31 December 2015

I- Objective

Based on the commitments taken by the Government, in particular in the Joint Communiqué, the project's main objective was to provide ongoing technical and strategic support by the Team of Experts on the Rule of Law and Sexual Violence in Conflict (TOE) to the Democratic Republic of the Congo (DRC) to strengthen the national capacity to address sexual violence.

These efforts focused on assisting the DRC Government to engage in a sustainable fight against impunity for conflict-related sexual violence, establishing a solid legal framework, well-functioning institutions and strong protection measures. These efforts should lead to the prosecution of alleged perpetrators in accordance with international standards, an increased confidence in the justice system, and a reduction of future incidents of sexual violence. By encouraging national ownership, leadership and responsibility, these efforts should strengthen the capacity of the national civil justice system as a whole and contribute to peace and enhanced security more generally.

The project is in line with the UNDP Country Programme (Country Programme Document, hereinafter CPD) and the United Nations Development Assistance Framework (hereinafter UNDAF), respectively:

- CPD: The authority of the State is gradually restored and structural responses are formulated and implemented at community level in the area of conflict management and prevention, the fight against gender-based violence and HIV/AIDS in target provinces.
- UNDAF: The institutional framework and citizen structures are strengthened with a view to ensuring promotion of human rights and development in the Democratic Republic of the Congo (hereinafter DRC).

Given the **expected results of the abovementioned programme**, the specific results of the project are achieved on the basis of a number of measures aiming at strengthening the role of the executive, legislative and judicial branch in addressing impunity for SVC.

Output 1: Strengthening the legal framework of the DRC;

Output 2: Strengthening national judicial mechanisms;

Output 3: Improvement of the government's ability to protect victims and witnesses;
Output 4: Supporting the Office of the Personal Representative of the President of the DRC for Sexual Violence and Child Recruitment (hereinafter OPR);
Output 5: Improvement of legislative actions and an advocacy by the Senate's Special Commission in charge of conflict-related sexual violence issues (hereinafter Commission).

The TOE which, in accordance with its mandate under the 1888 resolution (2009), deploys "to situations of particular concern with respect to sexual violence in armed conflict ... to assist national authorities to strengthen the rule of law", has identified DRC as one of the priority countries for a support and a targeted assistance.

In accordance with its mandate, **United Nations Joint Human Rights Office (hereinafter UNJHRO)** was in charge of the implementation of outputs 1 and 3 and the activity 2.1 of the output 2.

The OPR [of the fight against sexual violence and the recruitment of children] was in charge of the implementation of output 4.

Finally, the **Senate's Special Commission on Conflict Related Sexual Violence** was in charge of the implementation of output 5.

During the implementation of the project, the TOE provided a technical assistance in conjunction with the implementing agencies.

II- Resources

The project was financed by Japan in the amount of \$1.850.000.

In accordance with the workplan the budget was 100% executed.

The project was one year in duration from 1 April 2014 to 31 March 2015. It was further extended without costs until 31 December 2015.

III- Implementation and monitoring

In the project implementation, UNDP, through its Judicial and Security Reform component ensured the global supervision of the project activities and its financial management. In order to do so, a Project Manager was recruited and based in Kinshasa. However, given the number of activities to carry out in the eastern part of DRC, it has been decided to change the Project Manager's duty station to Goma.

The management of the allocated funds has been done according to the UNDP rules and financial procedures, based on annual work plans established by each implementing entity. The outputs 1, 2, 3 were implemented according to the Direct Implementation Modality (hereinafter DIM) whereas outputs 4 and 5 were submitted to the National Implementation Modality (hereinafter NIM).

The monitoring of the project was ensured by the Project Manager in coordination with the Monitoring & Evaluation unit of UNDP, according to UNDP procedures. The Team of Experts ensured a general technical support in the implementation of the project.

The PRODOC provided a matrix of indicators relating to each output, subject to regular monitoring in order to ensure accountability of all stakeholders, and outline lessons learned.

Furthermore, the project, in partnership with Harvard Humanitarian Initiative (hereinafter HHI), conducted surveys in the Eastern provinces on: 1) the perception of sexual violence; and 2) the perception of the governmental action taken to fight sexual violence. These studies allow re-orienting the action if necessary in order to meet the real needs of the population.

Additionally, the UNJHRO, the High Council of the Judiciary (hereinafter HCJ) and the Association of Women Magistrates in Congo (hereinafter AWMC) formed a Monitoring and Evaluation Pedagogical Committee to monitor the deployment of women magistrates to the prosecution offices in the East. Pedagogical meetings were organized to prepare main activities and monitor their implementation. The committee carried out the first evaluation mission after the deployment of the magistrates.

During the implementation of this project, there was no external evaluation. However, three relevant studies were carried out on:

- Revision of the law on sexual violence;
- Analysis on the legal framework and existing protection models;
- Definition of prioritization criteria to develop a monitoring strategy.

IV- Results

Output 1: The legislative framework of DRC is strengthened

- A national consultant has been recruited in early November 2015 for three months, under the supervision of UNJHRO. The consultant works on reviewing legislation on sexual violence, legislation on the protection of the rights of the child, as well as the legal framework on the protection of victims and witnesses.

Output 2: Strengthening of national judicial mechanisms

- **There has been significant progress in the thinking on punishment of crimes of sexual violence** with the organization of a workshop bringing together key stakeholders of Congolese justice on the evaluation of the implementation of the law on sexual violence. This activity co-organized by the Ministry of Justice reviewed: 1) good practices that need to be consolidated according to their recommendations; and 2) challenges subject to recommendations that may help to define national priorities and the law reform.
- **The quality and the number of investigations were strengthened** by the good work of the Special Police Units on Sexual Violence and Child Protection (hereinafter SPU) and the Congolese National Police (hereinafter CNP) which, according to judicial monitoring data, have generated 51% of the sexual violence case-files transmitted to the Prosecutor's office in 2014-2015. The project supported the reinforcement of institutional capacity with the establishment of two specialised Investigative Pools on the prosecution of sexual violence crimes as an international crime. These Pools were set up to assure and entry point and a quick and adequate response to serious crimes. They are based in the SPU, next to the Courts of Appeal in Goma and Bukavu. These pools are already operational and bring expertise in investigations of massive sexual violence (e.g. Kavumu case). The investigators of the Pools are also trainers of the Judicial Police Officers (hereinafter JPO) deployed in other SPU, ensuring their coaching and monitoring in: Kitshanga, in the Masisi territory (North Kivu); Kavumu, in Kabare territory (South Kivu). The training modules

integrate new knowledge and techniques, including the use of the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict¹. Furthermore, in order to improve the reception and hearing conditions of victims of sexual violence in a preliminary phase, the project supported the construction of three new SPU in the cities of Kitshanga (North Kivu), Kavumu (South Kivu) and Bukavu (South Kivu)². These buildings are in finishing phase and shall be operational before the end of the 1st quarter 2016.

- **The efficiency of prosecutions of civil justice has been improved** by the creation of Special Cells on SGBV within the local Prosecutor's office. These Special Cells are now operational. The project supported missions by the Special Cells of Goma and Mongwalu, respectively, to the territories of Masisi (North Kivu), Walikale (North Kivu) and Rutshuru (South Kivu) and Mongwalu (Bunia, Ituri). These missions resulted in 363 prosecutions for 2015. Additional field missions are ongoing. The project also contributed to the equipment of the cells (furniture, computer equipment, office supplies, and documentary resources) as well as the training of cell members and all the stakeholders of the penal chain.
- **The efficiency of the prosecutions of the military justice has also been strengthened.** The military justice benefited from international expertise during the project. This expertise assured: investigation guidelines and technical tools; technical support to the investigations on sexual violence as crime against humanity in Sake and Beni (North Kivu); training of Judicial Police Inspectors' (hereinafter JPI) on investigations. Furthermore, the project supported the "mapping" of open judicial investigations, including charges of sexual violence, pending before military jurisdictions in the provinces of Ituri, North and South Kivu provinces. In North Kivu, the identification and mapping of pending cases prompted the development of prioritization criteria by local prosecutors that will now address the existing case backlog. The same exercise will be carried out at the beginning of 2016 in the South Kivu and Ituri provinces.
- **The feminization of justice in eastern provinces has been strengthened.** Twenty-four women magistrates were identified to be deployed in the jurisdictions of Ituri, North and South Kivu and Kalemie jurisdictions. The project also supports the magistrates' installation. The HCJ has already published the assignment notes and their deployment is scheduled for the end of January 2016. This result could be achieved thanks to the development of a common strategy between HCJ, UNJHRO and AWMC for the deployment of women magistrates and their monitoring, as well as the organization of three workshops aiming at raising awareness among women magistrates in Kinshasa.
- **The fight against impunity of crimes of sexual violence has been effective.** The organization of eight court hearings on 91 cases of which 57% were sexual violence (including two cases of rape as Crime Against Humanity committed in Mambasa and Mungbere) which resulted in the conviction of 80% of the defendants. In order to strengthen the sustainability of the results, the project will also provide military justice

¹ These investigators-trainers were the first to benefit from a training including the London protocol. They also ensure its popularization within the supported unites in order to ensure the quality of the investigations.

² The London protocol insists on the necessity of enabling "a safe and supportive environment in which survivors and witnesses of sexual violence feel sufficiently secure and comfortable to come forward and report crimes". The reception and hearing conditions of these persons (logistical and technical) are decisive.

with transport and additional equipment (tents, benches, furniture) to facilitate the continuous organization of court hearings and the field missions.

- **The access to justice for victims and defendants has been improved.** The project supported four legal clinics in Shabunda (South Kivu), Walikale (North Kivu), Butembo (North Kivu) and Mambasa (Ituri). They already provided legal guidance to one hundred people and continue to welcome, orient and assist. In order to guaranteeing a fair trial, all the prosecuted defendants benefited from a legal assistance during the court hearings.

Output 3: Improvement of the government's capacity to protect victims and witnesses

- In cooperation with the local NGOs and other partners, the UNJHRO ensured the establishment of protection measures for the victims and witnesses involved in judicial cases prosecuting high level military officers. The project allowed supporting, helping and protecting 651 victims and witnesses in seven different judicial cases in Eastern DRC,.
- The UNJHRO also provided training on legal protection for lawyers and magistrates (98 lawyers, 85 magistrates and judicial actors, as well as 188 members of the civil society) and advocated for a legal basis for protection measures at the national level. A high level international conference was organized in December in collaboration with the Senate, the Parliament and the Ministry of Justice and Defence. It resulted in a security improvement for an unprecedented number of victims in various important causes and an increased will from courts to implement these protection measures. The legal protection is now considered by international stakeholders as a crucial prerequisite for success in the fight against impunity in DRC.

Output 4: Support to the Office of the Personal Representative of the President of the DRC for Sexual Violence and Child Recruitment (OPR)

- After more than four years of advocacy from the SRSB-SVC, and in order to implement one of the recommendations of the national consultations organized in DRC in 2014, the President Kabila appointed Madam Jeanine Mabunda Lioko as his Personal Representative on the fight against sexual violence and recruitment of children.

With the support of the project, the OPR achieved many important results, such as:

- The operationalization of the office through the acquisition of office and computer equipment and the recruitment of experts;
- The definition of the OPR's 2014-2015 strategic plan in six pillars, namely (i) mapping, (ii) fight against impunity, (iii) prevention, (iv) duty to remember, (v) economic repair and (vi) communication and advocacy;
- The development of a OPR's business plan in order to facilitate resources mobilization from patronage and private sector;
- The implementation of a legal monitoring mechanism (inspection mission, monitoring, data bases) in collaboration with the civilian and military justice which allows acceleration of the legal process and allowed the conviction of 68 soldiers and policemen perpetrators of sexual violence, including two colonels and one general as well as the conviction of 46 perpetrators of rape in Bunia;
- The implementation of an emergency telephone number in order to help victims of rape by providing them guidance for a medical and legal assistance which allowed the denunciation of more than 1,000 cases of rape, of which, the victims were largely composed of young girls aged between 12 and 16;

- The launch of the campaign entitled “Break the silence” to encourage denunciation of rape in DRC, and which allowed the awareness-raising in the Kinshasa, Goma and Bukavu’s population, through the visual display of the campaign in social media, distribution of communication materials, publications in the national and international press, as well as membership and sponsorship from members of the Congolese diaspora, politicians, multilateral and bilateral partners and Congolese musicians;
- The submission of the starter kits and the reintegration of 49 victims of sexual violence in the Kibumba and North Kivu territory thanks to a professional training emphasizing self-employment (literacy, modern husbandry, soap making, baking), provided by the National Vocational Preparedness Institute (NVPI);
- The improvement of the jurisprudence with the compilation and processing of the 25 most emblematic decisions of the Military High Court, with a view to publishing in the course of the year 2016; and
- Implementation of a communication strategy which allowed the distribution of a newsletter and various communication materials at the international and national level on the progress made by DRC in the fight against sexual violence leading progressively to a narrative change on DRC and the strengthening of lobby and advocacy on this cause.

Output 5: Improvement of the legal actions and advocacy by the Senate’s Special Commission in charge of the conflict-related sexual violence issues

- In November 2013, the Senate set up a special commission in charge of the fight against sexual violence.
- With the support of the project, the commission achieved the following results:
 - The definition of its mandate and its priorities with the development of a strategic plan;
 - The capacity-building of the members of the Commission on the fight against conflict-related sexual violence;
 - The organization of exploration missions in the North and South Kivu, the Ituri and the Tanganyika provinces that have raised awareness of the different strata of the population and local leaders on the causes of sexual violence;
 - The adoption, in plenary session of the Senate, of a report on the situation of conflict-related sexual violence in the North and South Kivu, the Ituri and the Tanganyika provinces.
 - The transmission by the Senate to the Prime Minister of DRC, of recommendations from the report on the situation of sexual violence. The recommendations formulated for the Government and the United Nations System deal with all the dimensions of the issue, namely: justice, health, education, socio-economic and security.

V - Constraints and lessons learned

Implementation constraints

- Difficulty to implement fundamental reforms within a limited timeframe such as the feminization of the magistracy which requires agreements at various level and the involvement of national authorities such as the HCJ;
- Delay due to the late availability of funds to all the parties of the project;
- Poor knowledge of the financial processes of UNDP by the stakeholders in charge of the implementation of the projects;

- Lack of financial resources making it difficult to scale-up the project to all the provinces concerned; and
- Focus of the project on conflict-related sexual violence leaving no support for the phenomenon of sexual violence on the whole national territory, with a risk to create a two-tier justice system.

Lessons learned:

- Activities have an increased impact when they are carried out jointly by the provincial authorities and the central services of the national institutions (e.g. OPR, Senate, HCJ, Ministry of Justice);
- Capacity-building cannot be limited to the individual training of agents but should take into account and reinforce the overall institution the agents are affiliated with. The holistic support provided to the SPU demonstrated this need;
- In general, awareness campaigns prompt changes in mentality and allow for easier communication as shown with the emergency telephone number recording a significant number of denunciations by very vulnerable people (minor girls);
- The swiftness of justice increases when it is submitted to a monitoring mechanism or external accountability;
- The late recruitment of a project manager made it difficult to coordinate mechanisms and harmonize strategies of the stakeholders; and
- The fact that the activities are carried both in the eastern part of the country and in Kinshasa makes it difficult to implement a synergy between all the partners of the project (MONUSCO, UNDP, OPR, Senate, UNJHRO).

Conclusion:

The project financed by the Japanese Government, and the technical support of the Team of Experts allowed the Government of the DRC to start the implementation of the Joint Communiqué on the fight against sexual violence. The project effectively contributed to the implementation of efficient mechanisms to fight against impunity for crimes of conflict-related sexual violence, to strengthening the legal framework and increasing the legal prosecution. These results constitute an important basis to reinforce victims' confidence in the judicial system. It is also important to emphasize the national appropriation prompted by the enhanced capacity of national institutions (e.g. Special Police for Children and Women; Ministry of Justice; the Senate's Commission; Office of the Special Representative of the Head of State)

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