EXECUTIVE SUMMARY

The Congolese Justice System and Crimes against the Peace and Security of Mankind:

PROGRESS, CHALLENGES AND PROSPECTS

UpRights

MARCH 2025


TRIAL
International

Global Initiative
Against Impunity
Making Justice Work

République Démocratique du Congo
Pouvoir Judiciaire
Conseil Supérieur de la Magistrature
CSM

1. This document presents the main findings and recommendations of the in-depth study conducted by UpRights and published in March 2025 in a report entitled: *"The Congolese Justice System and Crimes against the Peace and Security of Mankind: Progress, Challenges, and Prospects."*

2. The study, carried out by UpRights between March and December 2024, was commissioned by TRIAL International as part of the *"Global Initiative Against Impunity for International Crimes and Serious Human Rights Violations"* project, funded by the European Union. It is conducted under the high patronage of the Supreme Council of the Judiciary (CSM) of the Democratic Republic of the Congo (DRC).

3. This in-depth study aims primarily to assess the unique model of the DRC in the fight against impunity for international crimes[1] by highlighting the progress made over the past twenty years and the challenges that persist. The study also offers preliminary reflections on possible institutional solutions to sustain and strengthen the prosecution of international crimes committed in the DRC.

4. This study comes at a pivotal moment, as a number of factors and dynamics favor renewed discussions on the fight against impunity for international crimes in the DRC. The progressive withdrawal of the United Nations Organization Stabilization Mission in the DRC (MONUSCO), the positions expressed by President Félix Tshisekedi in favor of justice for Congolese victims of armed conflicts, and the launch of a process for the adoption of a transitional justice policy have created a favorable environment for an updated debate on the priority that the Congolese state wishes to give to the fight against impunity, as well as the nature and scope of international support needed to ensure its success.

5. The study is based on an in-depth analysis of documentary sources and 41 semi-structured interviews conducted with actors and stakeholders from the Congolese judicial system who have or have had direct experience with it. UpRights also participated in the workshop on the consequences of MONUSCO's disengagement and the national justice system's needs for prosecuting international crimes, organized by the High Military Court (HCM), the General Prosecutor's Office of the Armed Forces of the Democratic Republic of the Congo (FARDC), the MONUSCO Justice Support Section, and TRIAL International in Kinshasa in late July 2024.

6. The sources consulted enabled UpRights to analyze—both quantitatively and qualitatively—the results of the Congolese justice system in prosecuting international crimes over the past twenty years and to identify the main characteristics of the DRC's model in the fight against impunity for international crimes. Based on a detailed analysis of judicial practice, the consultants then

1 The term 'international crimes' used in this document refers to war crimes, crimes against humanity, and genocide, as defined in Congolese legislation under the formulation 'crimes against the peace and security of mankind'.

conducted an in-depth study of each of these characteristics to identify the strengths and weaknesses of the Congolese model, as well as the conditions that facilitate progress and the obstacles that hinder its development.

Review of the DRC accountability model – progress and challenges

7. After years of total impunity, the DRC has been striving since 2002 to combat impunity for the most serious crimes committed in the context of the armed conflicts that have plagued the country since the early 1990s. Its legal framework for the repression of international crimes has undergone significant development, marked by the ratification of the Rome Statute as early as 2002. This development continued through several major legislative reforms that enabled the codification of crimes against the peace and security of humanity in accordance with the Rome Statute of the International Criminal Court (ICC), expanded jurisdiction over these crimes, and strengthened provisions for victim protection and reparations. These advances have been accompanied since 2015 by a political prioritization of the fight against impunity for international crimes, evidenced by the conclusions of the General Consultation on Justice in 2015 and the adoption of the National Justice Reform Policy (PNRJ) in 2017, which makes the fight against impunity for the most serious crimes a priority objective of the justice reform. More recently, the emphasis placed by the Congolese government on transitional justice as a holistic response to the violence suffered by its population is breathing new life into debates surrounding the repression of international crimes.

8. The model built in the DRC is unique and based on a pragmatism that has guided its development. Despite a theoretical shared subject-matter jurisdiction between civilian and military courts regarding international crimes, the model remains in practice centered on military judicial authorities. It benefits from significant multidimensional support from technical and financial partners within the United Nations (notably the Prosecution Support Cells [CAP] of MONUSCO) and civil society supported by international donors. The model is also innovative in terms of its pragmatic tools, such as strategies for prioritizing prosecution and provincial consultation frameworks established to meet the needs of judicial actors.

9. The state of play outlined in this study highlights the significant progress made by the Congolese justice system in the fight against impunity for international crimes over the past twenty years. Even though many challenges persist and the vast majority of international crimes committed

in the DRC have, to date, not been addressed judicially, important milestones have been reached since the DRCs capacity to fight impunity was assessed in the Mapping Report[2] in 2010.

10. In terms of judicial results, Congolese criminal courts – almost exclusively military courts – have rendered at least 131 judgments in international crime cases since 2004. This little-known result deserves to be highlighted. It is largely unmatched compared to the number of cases handled by national courts in other countries concerning international crimes. It is also remarkable considering the security situation in the DRC and the budgetary constraints faced by Congolese judges.

11. The number of judgments rendered remains relative in light of the scale of recorded crimes, but notable progress has been observed, including:

> (1) the gradual and constant increase in the number of judgments rendered for international crimes;
>
> (2) a slow, but noticeable, increase in the number of judicial proceedings involving high political and military officials that lead to convictions, even though the highest levels of political and military responsibility are still too often preserved.

12. Despite the progress in judicial results over the past twenty years, the task that remains to be accomplished for the victims of international crimes in the DRC is enormous. These 131 judgments represent only a drop in the ocean compared to the millions of victims of armed conflicts in the DRC since the early 1990s. In this regard, it is noteworthy that no judicial procedure has been conducted for international crimes committed before 2004. As a result, those responsible for older crimes committed between the early 1990s and 2003 still benefit from total impunity today.

13. Qualitatively, judicial decisions show a significant improvement in the level and quality of analysis and reasoning behind judgments. Although disparities persist, military courts generally have the necessary competence and expertise to adjudicate complex cases related to international crimes.

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2 The "Mapping Exercise" was mandated by the United Nations Secretary-General to inventory the most serious human rights violations committed between 1993 and 2003 in the DRC, and its final report contains a detailed analysis of the fight against impunity in the DRC up to 2010. *See* Office of the United Nations High Commissioner for Human Rights, Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003 (August 2010).

14. These improvements stem from several key factors specific to the Congolese accountability model:

(1) The gradual adoption of an overall effective legal framework that has catalyzed the efforts of judicial actors and facilitated the prosecution of international crimes by national criminal courts.

(2) The adoption and implementation since 2015 of a national policy making the fight against impunity for international crimes a priority, which has facilitated the work of Congolese magistrates in conducting judicial proceedings and created a favorable framework for the development of international support.

(3) The implementation of pragmatic strategies for prioritizing prosecutions at the provincial level. These strategies have had a direct impact on the number of investigative missions, "mobile court" field hearings, and consequently the number of cases judged, as well as on the number of prosecutions and convictions of individuals at higher hierarchical levels, particularly within the Armed Forces of the Democratic Republic of Congo (FARDC).

(4) The establishment of a unique model of multidimensional support to judicial proceedings by technical and financial partners, centered around the provincial consultation frameworks and the Prosecution Support Cells (CAP), which has proved highly beneficial in a number of ways. Indeed, it has: (i) promoted collaboration between judicial authorities and their technical and financial partners; (ii) allowed for targeted and optimized support from partners; (iii) strengthened the capacity of Congolese judicial actors to handle international crimes cases. All these aspects have undoubtedly contributed to the development of the model, impacting the number of investigation missions, field hearings, and cases judged, as well as the quality of investigations and judgments rendered by Congolese magistrates.

(5) The active participation of Congolese and international civil society, which notably documents international crimes, conducts capacity building for judicial system actors, engages in advocacy activities, and supports victims and witnesses before, during, and after judicial proceedings.

(6) The use of "mobile courts" and field hearings to judge international crimes, which both brings justice closer to victims and affected populations, and strengthens the pedagogical and deterrent dimension of judicial proceedings.

(7) A judicial framework that favors the participation of victims of international crimes in judicial procedures, through globally effective protection measures and the frequent and significant granting of reparations pronounced by judges not only against the convicted but also the Congolese state.

15. However, the progress made cannot overshadow the fact that the judicial results obtained over the past twenty years still address only a tiny fraction of international crimes committed since the early 1990s; that the highest political and military leaders responsible for these crimes too often continue to escape justice; and that the Congolese model is largely dependent on international support, without which it could hardly function, at the cost of the national ownership that is so essential.

16. The study of the model's characteristics highlights weaknesses and significant challenges that remain and need to be addressed in order to sustain and strengthen the fight against impunity for international crimes in the DRC. The following aspects should be emphasized:

(1) Aspects of the legal framework remain problematic and hinder the consolidation of the model and the proper administration of justice, notably: (i) the use of the death penalty for international crimes and the lifting of the moratorium on executions in March 2024; (ii) military courts' jurisdiction to prosecute and judge perpetrators of international crimes, which is contrary to international best practices in this area; (iii) some procedural aspects, such as the the lack of appellate jurisdiction before certain courts, issues of jurisdictional privileges, abuses of pretrial detention, and the inexistent execution of judicial decisions regarding reparations for victims.

(2) The weaknesses of the civil justice system, which has not been able to catch up and assume the role it should play in prosecuting international crimes.

(3) The dilution over time of the initial objective of provincial prioritization strategies, which risks, in the long term, to impact the number and type of cases that can be successfully prosecuted, as well as the lack of national anchorage for these strategies, which is essential for their long-term sustainability.

(4) The limitations of the model of multidimensional support to judicial proceedings by technical and financial partners, centered around the provincial consultation frameworks and MONUSCO's Prosecution Support Cells (CAP). These limitations include: (i) the absence of a high-

level strategic framework guiding international support (MONUSCO has not taken on the role it could have played in leading the strategy to combat impunity in the DRC with political authorities); (ii) weaknesses in the scope and quality of the technical support provided to judicial actors by the Prosecution Support Cells (CAP) of MONUSCO; (iii) consultation frameworks that are too focused on operational, financial, and logistical support, at the expense of strategic and technical support.

(5) The significant dependence of the model on international financial and logistical support, which has unintended consequences on judicial procedures, limits the ability of Congolese justice to become independent, and raises questions about sustainability and national ownership.

(6) The state system of victim protection, which is imperfect and largely dependent on partners, especially when it comes to protecting victims before and after trials in the absence of a legal framework and sufficient resources at the national level.

(7) The systematic failure to pay judicial reparations granted by judges to civil parties, a significant weakness of the model that affects victims' trust in the justice system. Moreover, despite the advances promised by the 2022 law on the protection and reparation of victims, there is still no national policy on victim reparations or administrative mechanisms to offer reparations to communities of victims affected by armed conflicts.

(8) The gap between the stated goal of making the fight against impunity a national priority and the daily challenges faced by judicial actors. In particular: (i) the weakness of the Congolese budget allocated to criminal justice to carry out investigations, prosecutions, and trials related to international crimes; (ii) the broader issue of corruption in the justice sector; and (iii) the continued significant interference of political and military figures in judicial procedures.

17. In addition to the aforementioned weaknesses and challenges, those fighting impunity must now face the consequences of MONUSCO's gradual disengagement, which involves the withdrawal of the Prosecution Support Cells (CAP). However, this withdrawal should not signify a reduction in the support provided by international partners. On the contrary, it should present an opportunity for the international community to finally provide the DRC with support commensurate with the scale of the challenges and the extent of the crimes committed over decades.

18. In this perspective, the present study identifies three complementary and interdependent pillars of action essential to sustaining and consolidating the DRC's accountability model:

1. Strengthening the efforts of the Congolese state to make its national policy prioritizing the fight against impunity for international crimes a reality on the ground.
2. Establishing an enhanced international support mechanism for the fight against impunity in the DRC.
3. A more active strategy for complementarity with the International Criminal Court (ICC).

1 STRENGTHENING THE STATE'S EFFORTS TO MAKE ITS NATIONAL POLICY PRIORITIZING THE FIGHT AGAINST IMPUNITY FOR INTERNATIONAL CRIMES A REALITY

19. This report has highlighted several aspects that the Congolese state must consider in order to make its national policy prioritizing the fight against impunity for international crimes a reality. It is therefore essential for the Congolese state to intensify its efforts if it truly aims to sustain and consolidate the DRC's unique model for the prosecution of international crimes.

20. In this regard, the present report makes the following recommendations:

- **Abolish the death penalty for international crimes. To comply with international best practices and promote international support and cooperation, lawmakers should abolish the death penalty for international crimes. Pending this reform, the state should immediately restore the moratorium on executions, which was lifted in March 2024.**
- **Reform the distribution of subject-matter jurisdiction between military and civilian courts in the medium to long term so that civilian courts become the sole competent jurisdiction to prosecute and judge perpetrators of international crimes, even when they are members of the armed forces. In parallel, reform the civilian justice system with the goal of eradicating the serious corruption it suffers from.**
- **Reform the aspects of the procedural legal framework that remain problematic, such as operational military courts, the lack of appellate jurisdiction before certain courts, the issue of jurisdictional privileges, abuses of pretrial detention, and the procedure for the execution of judicial decisions on reparations.**

- **Increase and deepen initiatives aimed at enabling civilian judges to benefit from the expertise acquired by military judges in the prosecution of international crimes. The approach currently being explored in various forms[3] by Congolese authorities, aiming to create specialized chambers within civilian courts composed of both civilian and military judges, could systematize this peer-to-peer capacity building and accelerate the transfer of expertise gained by military judges.**

- **Ensure the allocation of a budget and the establishment of an effective system to ensure that the state finally pays reparations to the victims it has been ordered to compensate. Accelerate the implementation of a national reparations policy and administrative reparations programs for communities of victims who do not benefit from a judicial decision.**

- **Accelerate the implementation of the 2017-2026 PNRJ and particularly: (1) a revaluation of the budget allocated to the prosecution of international crimes so that judicial authorities have sufficient resources to carry out investigations, arrest suspects, organize hearings, and ensure the payment of salaries for a sufficient number of judges; (2) actions related to the fight against corruption in the Congolese judicial system; (3) actions to make the Superior Council of the Judiciary fully functional.**

- **Finally, all political and military authorities, especially the highest political and military authorities of the DRC, must show unwavering and unconditional support for the independence of the military and civilian courts responsible for prosecuting and judging perpetrators of international crimes. It is crucial for the Congolese state to respond firmly to any attempt at interference to demonstrate that such actions will not be tolerated.**

2 THE ESTABLISHMENT OF AN ENHANCED INTERNATIONAL SUPPORT MECHANISM FOR THE FIGHT AGAINST IMPUNITY IN THE DRC

21. Aware of the issues posed by the departure of MONUSCO, stakeholders in the Congolese judicial system have engaged in reflection on its consequences and, more broadly, on the needs of the justice system in prosecuting international

3 Two parallel solutions seem to be considered at present as part of the implementation of a national transitional justice policy (PNJT): (1) either the establishment of specialised mixed chambers with the presence of international magistrates as proposed by the Report on the PNJT, or (2) the establishment of specialised chambers composed solely of Congolese magistrates as proposed by the Inter-institutional Commission for Victim Support and Reform Support set up by the 2022 law on victim protection and reparations.

crimes. In a reflection workshop held in July 2024 on this issue, the HCM and the general military prosecutor's office of the FARDC presented their vision for the fight against impunity for international crimes in the DRC and the future of international support. While emphasizing the importance of existing multidimensional support, particularly the indispensable role played by civil society, judicial authorities expressed the desire for the support functions currently carried out by MONUSCO (notably the role of the CAPs) to be maintained and taken over by a UN structure. According to military judicial authorities, "*the goal is to sustain the effort that has been fruitful so far. To have fair justice in a secure environment.*"[4]

22. The workshop also provided an opportunity for stakeholders to assess the challenges and needs of the national justice system. Based on the conclusions of the workshop, the needs expressed by judicial authorities, and the conclusions of this study, this report's authors recommend transferring the support functions currently carried out by MONUSCO to an enhanced international support mechanism for the fight against impunity in the DRC. Indeed, the withdrawal of MONUSCO should not result in a slowdown of international support, but should rather be seen as an opportunity to increase international backing for a Congolese model that has proven successful.

23. After the departure of MONUSCO, two institutional replacement solutions exist. On one hand, the support currently provided by MONUSCO could be taken over by UN agencies operating in the DRC. UN support would then be implemented by one or more already existing agencies: the United Nations Joint Office for Human Rights (BCNUDH) in a post-MONUSCO version, the United Nations Development Programme (UNDP), or, more broadly, the UN Country Team. This solution would have the advantage of continuity and a good knowledge of existing cooperation dynamics. [5] On the other hand, renegotiating the Memorandum of Understanding between the DRC and the United Nations could present the opportunity to establish a new international mechanism to coordinate all international support to the Congolese judicial authorities, including that provided by UNDP and BCNUDH. This solution would have the advantage of centralizing international support within a single

4 Final report of the workshop on the partnership with military judicial authorities in the fight against impunity in the DRC: current situation and prospects, July 23-25, 2024, p. 7.

5 In practice, MONUSCO's withdrawal means that support provided by the CAPs and the Judicial and Penitentiary Affairs Section will disappear. There is also an unknown regarding the BCNUDH's mandate and role, which should disappear in its joint form but whose OHCHR component should remain. The support currently provided by the UNDP for judicial proceedings relating to international crimes is not affected by the closure of MONUSCO.

institution specifically dedicated to the fight against impunity for international crimes in the DRC. This new international mechanism could be designed with financial rules more suited to judicial proceedings, thus avoiding logistical problems and the complexities of certain UN bodies that were not designed to support independent judicial proceedings. For these two main reasons, it seems preferable to establish a new enhanced international support mechanism.

24. The proposed enhanced international support mechanism for the fight against impunity in the DRC is envisioned as a UN structure that would take on the support role currently provided by MONUSCO but would also be reinforced and designed as a unique mechanism specifically dedicated to the fight against impunity for international crimes. It would centralize and coordinate international technical, strategic, logistical, and financial support for Congolese criminal justice in charge of prosecuting international crimes. The newly created enhanced international support mechanism would add to and complement the multifaceted support already provided by civil society. It would help balance the objectives and funding of civil society programs with the need for judicial authorities to receive neutral and non-partisan support.

25. The proposed enhanced international support mechanism, whatever its form, should fulfill the following essential functions:

- **Set up and lead a strategic discussion framework between technical and financial partners and the highest political and judicial authorities in the DRC to ensure that prosecutions and international support focus on the most serious and destabilizing crimes.**

- **Ensure the sustainability of provincial coordination frameworks. Coordinate (facilitate and follow up on coordination frameworks, as is currently done by the prosecution support cells initiated and presided over by judicial authorities), and also consolidate and improve the functioning of regional coordination frameworks in light of the challenges identified in this study.**

- **Ensure the sustainability of support to prosecution prioritization at the provincial level while restoring the initial strategic goal of prioritization strategies to focus on a limited number of priority cases selected based on objective criteria (nature, gravity, impact of crimes, status of perpetrators, and operational and procedural considerations).**

- **Initiate the creation of a national strategic framework for exchanges between judicial authorities and international partners to regularly discuss obstacles and challenges, and, if deemed useful, prioritization and its monitoring.**

- Contribute to strengthening the capacity and expertise of civilian the justice system and to facilitating its appropriation of international crimes cases. Specifically, key aspects to consider include: (1) integrating civilian magistrates into coordination frameworks; and (2) strengthening the technical expertise of prosecutors and civilian judges, notably by supporting initiatives that facilitate the transfer of expertise gained by military judges. The enhanced international support mechanism could also provide technical assistance to: (1) ongoing efforts to create specialized chambers for prosecuting and judging international crimes, composed of both civilian and military judges within civilian courts; (2) a more or less long-term reform of the jurisdiction of military and civilian courts.

- Provide continuous technical expertise to the investigation, prosecution, and judgment of international crimes. A regular, even daily, presence of international experts alongside Congolese prosecutors and judges would be desirable. To make this support useful, granting the experts access to judicial files would be necessary, as is the case today. These technical experts should focus on strengthening the capacities of civilian judges and providing ongoing training for military judges to address frequent turnover.

- Provide technical expertise in specific areas (forensics, ballistics, digital evidence collection, psychosocial support, etc.). In the short term, the enhanced support mechanism could make international experts available to assist Congolese magistrates in ongoing investigations. The status of these international experts should ensure that they can participate in judicial proceedings as expert witnesses and that the reports they produce can be submitted as evidence. In the medium and long term, the enhanced support mechanism could contribute to strengthening the capacities of Congolese experts, so that they can gradually replace international experts.

- Provide financial support to Congolese judicial authorities to organize investigative missions and field hearings. The average financial support provided by international partners for the conduct of an international crimes case in the DRC is around USD 140,000, from the investigation to the appeal phases. According to information gathered in this study, this amount is sometimes insufficient and does not allow optimal judicial activities. More substantial international financial support could, for example, enable better investigations, enhance the quality and quantity of evidence collected, and thus improve the decisions made. It could also address scheduling issues related to field hearings and ensure greater flexibility in organizing them. It is essential to globally assess the financial needs for conducting investigations and judicial procedures and provide financial international aid to meet these needs. The enhanced international support mechanism

should have fund allocation and disbursement rules adapted to judicial proceedings to avoid logistical problems and the complexities faced by existing UN bodies that were not designed to support such independent proceedings.

- **Assist the Congolese government and the two reparations funds for victims in the effective implementation of a national reparations policy and programs. An additional function of the enhanced international support mechanism could be assisting in raising voluntary contributions internationally to support a national reparations program that would have proven its worth.**

- **Participate in strengthening judicial cooperation in the region, particularly by supporting the operationalization of the Great Lakes Judicial Cooperation Network.**

- **Establish a roadmap for prosecuting perpetrators of international crimes committed before 2002, which does not yet exist. The mechanism could establish a roadmap based on a list of cases for which there is still a realistic prospect of initiating prosecutions. This inventory could be based on the Mapping Report and other existing sources, such as the recent report of the Transitional Justice Working Group in South Kivu, which lists international crimes committed between 1994 and 2024 in South Kivu and could be supplemented by a similar inventory in all provinces affected by conflicts. For crimes where there is no longer any prosecution prospect, the enhanced international support mechanism could support transitional justice initiatives, particularly those based on truth-seeking mechanisms.**

26. Depending on its prerogatives, it will then be necessary to determine the best location(s) for this new international mechanism. General and continuous technical support seems more suited to being based close to the jurisdictions in locations to be identified (initially, at least in the eastern provinces, notably in South Kivu, North Kivu, and Ituri), associated with specific technical support for which the experts could be centralized in a single location (Goma or Kinshasa), with technicians traveling to other sites (e.g., South Kivu, North Kivu, and Ituri) depending on the needs expressed by judicial authorities. A presence in Kinshasa also seems essential for strategic discussions and the creation of a national exchange framework between judicial authorities and technical and financial partners.

3 A MORE ACTIVE STRATEGY FOR COMPLEMENTARITY ON THE PART OF THE INTERNATIONAL CRIMINAL COURT

27. In light of developments in Congolese criminal justice over the past twenty years, a more active complementarity strategy from the ICC, combined with the previously mentioned enhanced international support mechanism, would, in our view, help sustainably strengthen the fight against impunity for international crimes in the DRC.

28. In the spirit of the Rome Statute, the ICC can and should play a more significant complementary role in the fight against impunity in the DRC. The recent decision by the ICC Prosecutor to accept the second referral from the DRC presents an opportunity for the Court to reprioritize the situation in the DRC. In this regard, the Prosecutor should develop a more active prosecution strategy targeting cases where the DRC lacks the capacity or willingness to act. There are at least three types of cases that the ICC Prosecutor could focus on: **(1) particularly sensitive cases in the DRC due to the political or military influence of potential Congolese perpetrators; (2) complex crimes such as the financing of armed groups and their armament; and (3) cases involving perpetrators of other nationalities where extradition to the DRC is difficult to obtainr.**[6]

29. In this sense, States Parties to the Rome Statute that support the DRC's accountability efforts should publicly advocate for the opening of new ICC investigations in the DRC and provide financial support accordingly.

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6 While Uganda is a State Party to the Rome Statute, Rwanda is not.

Reflection on institutional solutions

30. The second part of the report aims to provide avenues for reflection on possible institutional solutions to advance the fight against impunity for international crimes in the DRC. The reflections mentioned below are directed at all stakeholders within the Congolese political and judicial system, as well as their international partners, with the objective of laying the preliminary groundwork for a deeper discussion on the institutional solution(s) best suited to the situation in the DRC.

31. At the outset, it is important to note that the institutional solutions discussed in this section are limited to criminal prosecution for international crimes. However, given the scale of crimes committed in the DRC for decades, criminal justice—whether Congolese and/or international—cannot, on its own, resolve the issue of impunity, address all the needs of victims or the root causes of conflicts. The reflection on the fight against impunity for international crimes in the DRC must be holistic and based on the principles of transitional justice (right to truth, right to justice, right to reparations, and guarantees of non-repetition). In this regard, it is essential for the Congolese government to continue its efforts to adopt a national transitional justice policy (PNJT), the foundations of which were laid in the PNJT Report published in January 2023.

32. The study analyzes four institutional solutions related to criminal prosecutions that have been presented by or for the Congolese political authorities and their international partners in recent years. The PNJT Report alone contains three proposed institutional solutions: **(1) the establishment of an international criminal tribunal for the DRC; (2) the creation of a Special Criminal Court;** and **(3) the establishment of mixed chambers integrated into the Congolese judicial system.** All three of these proposals include an international component and are inspired by solutions considered in the 2010 Mapping Report. Furthermore, the recommendations in the first part of this study focus on **(4) the creation of a new international support mechanism aimed at sustaining and enhancing international support for the existing Congolese accountability model.** This fourth proposal reflects the needs expressed by judicial authorities responsible for prosecuting international crimes in the DRC, while addressing the challenges of the existing system.

33. The analysis was built on a framework considering criteria such as the mode of creation, the authority granted by the mandate, and the degree of internationalization of each envisioned institutional solution; the financing method and envisaged costs, as well as the possible scope of jurisdiction. The four solutions were then analyzed in light of lessons learned from past international criminal justice experiences and the current situation in the DRC.

34. There is no ideal or standard model for establishing tribunals or mechanisms to prosecute international crimes, and it is crucial for its success that the chosen institutional solution is the most suited to the situation in the DRC. It is also important that the selection of one or more institutional solutions follows a comprehensive needs assessment, as the analysis and reflections contained in this section are not intended to be exhaustive.

35. Each of the four institutional solutions has advantages, disadvantages, and feasibility constraints.

36. The establishment of an international criminal tribunal for the DRC is the least realistic institutional solution given the situation both in the DRC and internationally. The political conditions for the establishment of an international tribunal for the DRC are not met at present at the international level. Additionally, the situation in the DRC does not seem to require the creation of an international tribunal that would be completely disconnected from the existing judicial system and the Congolese context. Thus, this solution does not seem to be the most appropriate.

37. The choice of a hybrid model, in the form of a Special Criminal Court or specialized mixed chambers, appears better suited to the national context and aligned with the current discourse around international support for the prosecution of international crimes. However, before opting for a mixed jurisdiction, whether in the form of a Special Criminal Court or specialized mixed chambers, it is important to carefully weigh the advantages and disadvantages of a hybrid model and the different degrees of internationalization possible and necessary in the context of the DRC.

38. The Special Criminal Court, as proposed in the PNJT Report, would have a predominantly international composition and would operate independently from the national legal system. While such a solution would enhance the legitimacy of the institution and guarantee its strong independence, it would have less of an impact on strengthening the Congolese judicial system compared to mixed chambers, which would be integrated into the national system. Continuing to strengthen the capacities and expertise of national courts should be prioritized in the Congolese context, to avoid losing the progress made over the past twenty years. If an international component must be considered, a hybrid institution integrated into the national legal system—such as specialized mixed chambers—seems more suited to the specific needs of the DRC, which already has a largely favorable legislative framework and a judicial system that successfully prosecutes and judges perpetrators of international crimes on a daily basis. Furthermore, while the establishment of specialized mixed chambers would require the negotiation of an agreement between the UN and the DRC, its implementation could be facilitated if the

DRC requests it. This approach would likely be less cumbersome and costly than the establishment of a Special Criminal Court.

39. The three institutional solutions in the PNJT Report are largely inspired by the Mapping Report and have been debated nationally since then. Given the context in the DRC and current international preferences for supporting the fight against impunity for international crimes, the establishment of mixed specialized chambers integrated into the Congolese system seems to be the most viable and desirable option of the three. It remains to be determined whether the presence of international judges still holds a significant advantage given the advances made by Congolese justice in the fight against impunity for international crimes over the past twenty years. The potential creation of a jurisdiction with an international component should, in any case, not be at the expense of preserving the gains of the existing model.

40. The DRC's model for prosecuting international crimes has reached a critical point of development, and the establishment of an enhanced support mechanism with a robust mandate and financing, as presented in the first part of this study, could significantly address the challenges faced in the fight against impunity for international crimes in the DRC.

41. The creation of a new international support mechanism for the fight against impunity in the DRC is not a solution currently debated at the national level, with the government only exploring the establishment of jurisdictions with an international component. However, this solution would meet the needs of the judicial authorities responsible for prosecuting international crimes in the DRC, while addressing the challenges of the existing model. With a robust and adequately funded mandate, this innovative international mechanism could provide strategic, technical, logistical, and financial support to the prosecution of international crimes in the DRC, while preserving national sovereignty and the progress made over the past twenty years. Moreover, this solution requires a lower financial commitment from international partners compared to all institutional solutions with an international component and allows for the direct injection of resources into Congolese courts.

Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Education and Culture Executive Agency (EACEA). Neither the European Union nor EACEA can be held responsible for them.

Co-funded by the European Union