



UNIR M. N.
UNION POUR LA REPUBLIQUE MOUVEMENT NATIONAL

The Republic of Congo-Zaire (at present the **Democratic Republic of the Congo**) is today a country invaded and occupied by its neighbours to the North-East (**Rwanda, Burundi and Uganda**), in flagrant breach of the relevant rules of international law, including Article 2 § 4 of the Charter of the United Nations Organisation (UN), which forbids the threat or use of force against the territorial integrity or political independence of any other country. For these countries' presence on the soil of Congo-Zaire is indeed a real and undeniable act of aggression, in the terms of Resolution 3314 of the UN General Assembly, and a *prima facie* violation of the rules of peaceful coexistence and the maintenance of friendly relations between States, not to mention the principle of *uti possidetis* that guarantees the inviolability of internationally recognised borders.

In addition to the armed forces of invasion and occupation, we should also emphasise that other African states are still present in Congo-Zaire, having been called in by the ruling Kinshasa regime to assist it. No fewer than six foreign states in all have established an illegal presence, directly or indirectly, on our national territory (**Angola, Burundi, Namibia, Uganda, Rwanda and Zimbabwe**).

The continued presence of these foreign forces, military and paramilitary, is a serious menace to the peace, security, stability and development of the Great Lakes Region and, indeed, of the whole of East and Central Africa. Furthermore, their presence is prejudicial to the effective exercise of the sovereignty of the Republic of Congo-Zaire.

The international community has been very ready to consider this issue : a number of resolutions have been adopted by the UN Security Council, and an agreement for a

ceasefire in the Democratic Republic of the Congo was signed on 10 July 1999 – the so-called “Lusaka Agreement”.

However, despite the efforts made by the international community, the present state of affairs in Congo-Zaire gives grounds for serious concern. The territory of the Republic has become a proving-ground for the armed forces of foreign African powers, and is liable to remain so.

The war of aggression which began in late October 1996 and is still spreading desolation in Congo-Zaire has already slaughtered more than two million of our citizens and imperils the lives of more than eight million others. Now, after five years of fighting, the agony that is tearing Congo-Zaire apart is imperceptibly becoming firmly rooted; the situation of its people becomes worse and worse, their conditions of existence are miserable in the extreme, and there is no real, tangible sign of hope that peace will be swiftly restored or robustly maintained in the Great Lakes Region, still less that the process of reconstruction can begin, in Congo-Zaire and its devastated regions. Are we to stand by, passive and uncaring onlookers, as this horror becomes set in stone? Together, we and the historic partners of Congo-Zaire (**the European Union and its member states, the United States of America**), have to seek solutions that can unravel this horrendous situation and restore proper conditions in our country and in the Great Lakes Region.

The UNIR MN is therefore asking the European Union to intervene for the application of the Lusaka Agreement in practice. The UNIR MN notes with satisfaction that a European Council Common Position was adopted on 11 March 2002 “concerning European Union support for the implementation of the Lusaka ceasefire agreement and peace process in the Democratic Republic of Congo”, and invites the European Union to adopt a common position condemning those states which do not scrupulously observe the provisions of that Agreement. This common position should be accompanied by joint action in the form of economic sanctions.

To make the restoration and maintenance of peace in the Great Lakes Region practicable, the UNIR MN also proposes giving up the formula “observation mission” in MONUC’s mandate, and recommends the deployment of a real, coercive diplomatic effort to resolve

this crisis. The UNIR MN invites the European Union and its member states, with the co-operation of the United States of America, to seek the Security Council's authorisation for an intervention by WEU or NATO forces. Such an intervention, made according to the provisions of the UN Charter and the Agenda for Peace, would facilitate the practical implementation of the Lusaka Agreement, and would re-establish peace and security in the region.

The UNIR/MN's aim is to initiate (with the co-operation of our historic partners, which is crucial), an international operation for the rebuilding of peace and a transition towards a definitive solution of the crisis, under terms which do not rule out coercion but are designed on a basis of peaceful action.

Chapter I

Restoration of the territorial integrity of Congo-Zaire; the Re-establishment and maintenance of peace in the Great Lakes Region

In view of the failure of all attempts at a peaceful settlement that have been made since 1996, and renewed with greater intensity from 1998 onwards with the various UN resolutions and the Lusaka Agreement in 1999, the forms of action currently offered by the UN for resolving the conflict in the Great Lakes Region must give way to a new, active diplomatic initiative in which the European Union and its member states are determinedly involved along with the United States of America, so as to enable the Lusaka Agreement to be effectively implemented. This new diplomacy should have two phases :

- phase 1: negotiation among the belligerents ;
- phase 2: a phase of coercion, if phase 1 is unsuccessful.

1 negotiation among the belligerents

The UNIR MN invites the European Union to intervene vigorously in the process of re-establishment and maintenance of peace in the region, and to use all its influence for the conclusion of a negotiated peace agreement that is fair to all parties and insists on respect for the territorial integrity and national sovereignty of Congo-Zaire.

To achieve this, the UNIR MN proposes that the European Union appoints a “ Senior European Union Mediator”, whose role should be to mediate the opposing claims and conciliate any resentments arising among the countries involved in the conflict, so as to arrive at an effective implementation of the Lusaka Agreement.

The Senior Mediator would have the task of re-establishing real contact, in good faith, among the belligerents. What is needed is for the belligerents to be brought together, for a dialogue to be set going, and for negotiations to be conducted among the belligerent states. By the actions of the European Senior Mediator, real negotiations could be renewed among currently opposing states and lead to a peaceful settlement of the crisis.

As well as arranging for a resumption of contact, the UNIR MN invites the Senior Mediator to put the UNIR MN draft Regional Stability Pact to the states involved in the crisis of the Great Lakes Region, and to convene an Intergovernmental Conference for this purpose under the auspices of the European Union.

2 Recourse to coercive diplomacy

If negotiations among the various parties concerned should fail, then the next stage would necessarily be coercive: an intervention with a view to coercion, followed by an international reconstruction and peace-keeping operation in the region.

This coercive diplomacy should be in two distinct, but still complementary stages:

- economic and/or diplomatic sanctions (1) ;
- military sanctions (2).

1 Economic and diplomatic coercion

In order to make recalcitrant states respect the undertakings entered into at Lusaka, the UNIR MN invites the European Union and its member states to adopt economic and/or diplomatic sanctions. These could be the result of an independent initiative on the part of the Union: such sanctions can be taken on the basis of two elements of the Treaty on European Union : Title V (Provisions on a Common Foreign & Security Policy) and/or Article 301 of the Treaty establishing the European Community (TEC).

In addition to its own unilateral action, the European Union could also take economic and diplomatic measures, against those states which fail to respect the provisions of the Lusaka Agreement, with a view to a Security Council Resolution adopted on the basis of Article 41 of the Charter of the United Nations.

However, if all these measures should prove insufficient, then recourse to armed force ought not to be ruled out.

2 Military coercion

It is the UNIR/MN's deep conviction that if the above economic and diplomatic measures prove inadequate, then only armed force, by which we mean true military engagement duly authorised by the UN Security Council, can quickly compel the foreign armies operating in the territory of Congo-Zaire to pack up and go.

Since, however, the United Nations Organisation has no effective material or human resources of its own for the purpose, the UNIR MN invites the European Union and its member states, with the support of the United States of America, to recommend to the Security Council the passing of a Resolution authorising regional defence organisations, on the basis of Chapter VIII of the Charter (Article 52), to carry out in an appropriate manner the coercive measures adopted by it under Chapter VII of that Charter (Article 42).

It is the view of the UNIR MN that the intervention of the WEU or NATO would itself be decisive; recourse to such intervention is essentially justified by the avowed inability, for the moment at least, of the Organisation of African Unity (OAU) to resolve the conflicts within and/or between states which are overwhelming Africa.

Moreover, the classic peace-keeping and international security operations undertaken by blue-helmeted UN forces have continually demonstrated their remarkable ineffectiveness: for proof, one need only consider the situation in southern Lebanon, or in Cyprus. In these two cases we can only observe with consternation the impotence of UN forces and their inability to guarantee or maintain peace and security in their allotted areas.

The UNIR MN now considers that MONUC, whose mandate is clearly restricted to observation, demilitarisation and monitoring of the withdrawal of the foreign forces present on the territory of the Republic, cannot reasonably be expected to bring a recovery of full sovereignty to Congo-Zaire.

Chapter II

The Setting up of a Regional Stability Pact and an Organisation for Security and Mutual Defence in the Great Lakes Region and East and Central Africa

The security of Congo-Zaire is indissolubly bound up with that of all the other states of the Great Lakes Region and of East and Central Africa.

Reconciliation in Africa must accommodate a political vision. Regional peace and security cannot be preserved without creative efforts commensurate with the dangers that menace them. Among different peoples thrown together by geography, as are the peoples of the Great Lakes Region and East and Central Africa, there must be some sort of protecting confederacy or bond. The genocide in Rwanda in 1994, the war presently tearing Congo-Zaire apart, whose first phase goes back to autumn 1996, the war in Congo-Brazzaville, and the rebellion in Angola have all shown that none of our countries on its own can claim to be vindicating its independence or effectively providing for the security of its territory. Not one of our countries can resolve, on its own, the problems affecting its stability, and we must therefore arrange for the first practical sessions of a regional organisation, without which peace cannot be preserved.

For this reason the UNIR MN recommends a constructive partnership among all the states of the region for the furtherance of security and stability in the Great Lakes Region and in East and Central Africa, free from all divisions, and taking account of political, economic, social and ecological aspects, as well as the indispensable one of security and defence.

The institution and preservation, throughout the region, of democratic societies free of all forms of coercion and intimidation are a direct and very real concern for us, as they are for all the region's other states. The best means of preserving our common security would be to conclude a Stability Pact on Security and Defence, and to develop a network of relationships and an overall architecture of linked institutions.

1 Convening, under the aegis of the European Union, of an Intergovernmental Conference on Security, peace and Regional Cooperation

The UNIR MN requests the co-operation of the European Union in the promotion of stability and of peace in the Great Lakes Region and East and Central Africa by a strengthening of the democratic process and of regional cooperation. To this end we ask the European Union to use its good offices for the convening of an Intergovernmental Conference of heads of state and government of the region, on **Security, Defence, Peace and Cooperation**.

The UNIR MN considers that the government representatives of the countries of the region would have in such a Conference the occasion to examine means of developing a regional identity in the domain of security and defence. The mandate of the Intergovernmental Conference would be the adoption of a Regional Stability Pact and the setting up of an Organisation for Security and Mutual Defence. This Stability Pact would have the task of settling the issues of security and defence, providing for minorities and upholding the inviolability of borders.

2 The Regional Stability Pact on security and defence

The UNIR MN is of the view that unless there is a freely-agreed Stability Pact the Great Lakes Region and East and Central Africa will remain condemned to insecurity. For this reason we recommend the establishment of a form of cooperation on security and regional defence: the setting in place of the mechanisms of control and surveillance of our common borders so as to avoid and prevent all threats to peace in the region, to coordinate our actions against regional terrorism and organised crime, and to take the proper steps for re-establishing and maintaining peace and security in the region.

In this spirit, states joining the Pact must affirm their obligation of and commitment to refraining from the threat or use of force against the territorial integrity or the political independence of any country, from attempting to change existing borders by the threat or use of force, and from all other behaviour contrary to the aims or principles of the Pact.

The Stability Pact on Security and Defence must be founded on the principle of military solidarity among the contracting parties, and should include a clause for non-interference in other countries' internal affairs, at the same time proscribing all forms of support from a member country to rebel and/or secessionist groups. The purpose is, essentially, to establish a legitimate collective defence mechanism, a kind of general action against any country daring to break its solemn undertakings by resorting, for instance, to acts of aggression or attempts to destabilise the internal security of another member country. This Pact must also provide for opportune cognizance by the Security Council of the existence of an act of aggression, a threat to peace or a breach of the peace, so that the United Nations can intervene under Chapters VII and VIII of the Charter to maintain peace and security in the region, if the Parties to the Pact consider that the execution of the measures decided on could be more effectively done under UN auspices rather than within the framework of the Pact.

We must reiterate, though, that true stability must be both lasting and effective. For this reason the UNIR MN proposes that each of the Pact's member countries should initiate a national dialogue within its own territory, designed to lead to the establishment of a democratic country, under the rule of law, with respect for inviolable human rights and the universally-accepted basic rule of "one person, one vote". In those states where there are ethnic minorities, these must be taken into account and effectively protected, by the inclusion of a Minorities Clause in national basic law, in terms conformable to the various international texts that exist (we refer in particular to Article 27 of the 1996 UN International Covenant on Civil and Political Rights, and to UN Assembly Resolution 47/135, dated 18 December 1992).

3 The setting up of a Security and Mutual Defence Organisation (SMDO)

The contribution which a security and defence organisation in confederation form can make to the civilisation of a region is indispensable for the maintenance of peaceful relations in our common geographical area. There has never been a better time for beginning constructive work in our region, nor greater urgency. For this reason the UNIR MN recommends the creation of a regional organisation with the aim of gathering together

the wider family of the Great Lakes Region and of East and Central Africa, and giving it a structure that enables it to live and grow in peace, security and freedom.

The UNIR MN is clear that the stabilisation of the region will not come about all at once, nor by means of one single overall structure, but by practical achievements which begin by creating a solidarity of deeds. That is why the creation of a Security and Mutual Defence Organisation (**SMDO**) comprising the states of the Great Lakes region and of East and Central Africa would not only be a response to the conflicts which continue to lay waste our countries, but above all a first real step towards organising collective security and defence in the region.

The **SMDO** would be created on the basis of Chapter VIII of the UN Charter, and in particular Article 52, § 1. The actions envisaged within the **SMDO** framework would be based on the inherent right of collective self-defence enshrined in Article 51 of the Charter. The solidarity of such intertwined security and defence will clearly make war between states of the region not only unthinkable, but impossible in practice.

The specific institutional organisation proposed by the UNIR MN is as follows :

- 1) Conference of heads of state and government (the initiating body)
- 2) Council of Foreign Affairs and Defence ministers
- 3) Council of Home Affairs and Security ministers
- 4) Interparliamentary Assembly on foreign affairs, defence and security
- 5) Armed forces general staff committee
- 6) Permanent Secretariat. Initially the secretariat function could be assigned to the government holding the rotating presidency of the Organisation.

Chapter III

The Re-establishment of the Republic and the constitutional rule of law in Congo-Zaire

For half a dozen years and more, conflicts and internal crises have been strangling Congo-Zaire, and anarchy has been doing its best to destabilise, disrupt, and frankly rend our country apart. To all this the UNIR/MN's answer is : territorial integrity, restoration of peace, national reconciliation.

1 National reconciliation, the foundation of the new Republic of Congo-Zaire

The re-establishment of peace, preliminary to the restoration of territorial integrity, will only come about through the reconciliation of all of Congo-Zaire's sons and daughters; that reconciliation is in fact an essential moment in the crystallisation of peace in Congo-Zaire.

But what does this mean, this "national reconciliation"? How do we of UNIR MN imagine it? What would its various phases look like?

To all these questions, the UNIR MN offers a programme in three main stages :

- Organising a suitable national dialogue;
- Asking the people's pardon;
- Holding a NSC.

A The organisation of a national dialogue

It is an ambitious mission, to remake our Republic. As well as the UNIR/MN, there are other live strands within the nation which are seeking to start a committed debate about these issues. This is the background against which we speak of a "Dialogue among the Congolese".

The UNIR MN is wholly in favour of this idea. **Nevertheless, the UNIR MN is firmly of the opinion that this dialogue must take place within the Republic's borders; it must be the symbol, the hallmark, and the expression of national reconciliation.**

It is the UNIR's conviction that the people of Congo-Zaïre must be – and are – responsible enough to wash their own dirty linen themselves, at home and nowhere else. Each of our country's sons and daughters must be aware of the real source of the problems currently facing the nation; and every single one must show solidarity with the people of Congo-Zaïre as a whole, for that people to organise itself accordingly and tackle all these problems.

Fully aware that Congo-Zaïre has neither the financial nor the material means of ensuring a fruitful outcome, the UNIR MN intends to ask not only for the support of the United Nations Organisation but also, and above all, for financial and logistical aid from the European Union to help with the organising and holding of this event as the foundation of civil harmony, itself a prerequisite of the country's reconstruction.

There is a danger that this national dialogue might be no more than an illusion if, in this process of reconciliation, Congo-Zaïre does not reconnect with its own history. Indeed, national reconciliation is, in the UNIR/MN's view, the supreme moment in the marriage of the people of Congo-Zaïre with their history; and it is our belief that the restoration of peace to Congo-Zaïre cannot be achieved without the vital co-operation of all this country's sons and daughters. That is to say, national reconciliation must also include the restoration of family feeling among the different generations, and the re-establishment of a whole-hearted friendship between the pre-independence and post-independence generations.

To rebuild our country, therefore, we need all members of our Congo-Zaïre family to make their individual contributions, in their own fields and according to their own abilities, in spite of all divergences in their thinking.

B The people's pardon

Asking and obtaining the pardon of the people of Congo-Zaïre is an indispensable part of founding a new Republic.

Nothing vitiates the life of a nation more than these three "Rs": **Rancour, Remorse and Reproach**. All three are based on anger, blame and hatred.

These three feelings blind all our faculties and destroy all hopes of coming to enjoy peace. Hatred is death to national well-being. We must not view our country's future through a dark and distorting glass: countries are not mere victims of destiny. That, at any rate, is the UNIR/MN's conviction.

However that may be, it is the people's pardon that will be the start of this what the UNIR MN calls "**the Year Zero of the Republic**". The idea is not to efface the past utterly; we have a duty to turn the page, rather than rip it out.

The UNIR MN refuses to allow Congo-Zaïre to produce any more political exiles; and for this reason it is imperative that all of us, all of our country's children, become reconciled. The people of Congo-Zaïre must pardon each other; they must stop shutting each other out. Only with the agreement of all the country's sons and daughters can a lasting peace be re-established; only mutual reconciliation can provide an effective weapon against the aggressors, and against some who claim to be friends of Congo-Zaïre, but are not. Congo-Zaïre is in disarray: our families, our brothers and sisters, our children are calling for our help. It is time we heard their call ; time we put an end to our domestic quarrels; time we put ourselves at the service of a truly worthwhile cause.

Pardon, though, does not mean impunity. We must make it clear that, following the example shown us by the Republic of South Africa, pardon may only be obtained where there is total transparency. It will therefore be the task of the Commission set up for this purpose to decide the cases of those whom the people rightly expects to ask its pardon, and of those who may feel a need to apologise to the people of Congo-Zaïre.

C The holding of a National Sovereign Conference (NSC)

National reconciliation must be concrete; it must be credible ; and it cannot be achieved in isolation from the idea of restoration of the state. The NSC presents itself as the final stage in the process of reconciliation.

The institutional and political crisis in Congo-Zaïre today must be settled according to the principle of self-determination, under which each country has the right to determine its political, economic, and social status, and to choose its governors in freedom. This

sacrosanct principle, clearly enshrined in Resolution 1514 of the UN General Assembly in its Declaration on the Granting of Independence to Colonial Countries and Peoples, forms the very soul of a nation; the principle of self-determination is, in other words, the expression of sovereignty, and every modern state's mark of independence.

The people of Congo-Zaire must be in a position to contribute to its own particular story, in liberty and full awareness. Its sons and daughters must make up their own minds, recognising that this country is not the private property of any, and that each has rights of use in the Republic, not ownership of it. With this realisation, a concern for the creation of a society of peace and well-being must be, for all the people of Congo-Zaire, the very first of priorities. Each of us must think before all else of the inheritance we shall be leaving to our children and grandchildren, to the generations to come. We need to become aware of our duty, and work to carry it out.

The UNIR MN recognises and salutes the efforts of the people of Congo-Zaire and the work they put into their first and only NSC. That Conference pointed the way, and laid down two fundamental principles in the matter of political settlement: first, that power was not to be taken by force of arms; and, second, that a Government of National Unity should be formed for the period of transition.

The UNIR MN therefore proposes that the work of the defunct NSC should be resumed, or rather revived. This alone will foster the establishment of a real democratic transition in Congo-Zaire.

Obviously that work, though relevant as a whole, will not be taken up again in all details; but it cannot be ignored; and there are certain points settled then which must be subjected to either reconsideration or further development.

2 The return to constitutional legality of transition: a way out of the political and institutional crisis

The UNIR MN intends that the new state of Congo-Zaire should be built on the basis of democratic principles; specifically, the UNIR/MN's political programme lays particular emphasis on the establishment of constitutional government: the founding of the state on the principle of the rule of law and the respect of human rights and fundamental freedoms. Indeed no rational person can nowadays dispute the value of having a legal framework based on the principle of constitutional government; yet such a legal situation unfortunately does not in fact exist in Congo-Zaire. For this reason the UNIR MN insists above all on the respect of basic personal human rights. Undeniably, the protection of human rights and fundamental freedoms is today regarded as a matter of common interest to all humanity; one might even go so far as to say that human rights constitute generally-accepted common ground, respect for which is a universal obligation on states.

The protection of human rights and fundamental freedoms is the task, in the end, of the judicial authorities. But UNIR MN insists, looking beyond the architecture of justice, its organisation or even its manner of operation, that all citizens, as well as all others who find themselves under the jurisdiction of the Republic of Congo-Zaire, must be entitled to have their cases heard by an independent and impartial court. We stress, that is, that the right of access to the courts must not only be proclaimed; its effectiveness in practice must be reinforced.

In practical terms, the government authorities must be obliged to educate the population, to make sure it is aware of its rights, by making available the necessary information. What is needed, in the UNIR/MN's view, is the creation of "**Citizens' Centre for Human Rights**" (CCHR). Along the same lines, the UNIR MN aims to establish legal assistance for the benefit of the poor so as to facilitate their access to justice and law. On this point, the UNIR MN recommends an institution known in English-speaking countries as a "Legal Aid Agency", consisting of officials with legal training whose task is to advise and/or defend the most deprived citizens free of charge.

3 Proposals concerning the Nationality of the “Banyamulengé”, in the Process of Peace and National reconciliation in Congo-Zaire

Among the many difficult or awkward passages to be expected on the road to a resolution of the chaos currently affecting Congo-Zaire is the primary matter of the relationship between peace and nationality.

The restoration of peace and territorial integrity to Congo-Zaire is in fact closely linked to nationality issues. According to the general practice of states and the case law of courts and arbitrators, nationality constitutes “a legal status based on a social fact of attachment, a real solidarity of existence, interests and feelings, combined with a reciprocity of rights and duties. It is, one might say, the juridical expression of the fact that an individual on whom it is conferred, whether directly by the law or by an official act, is more closely connected with the population of a particular State than with any other State” (C.I.J, Nottebohm case, Judgement of 6 April 1955).

The legal definition of the concept of nationality thus tallies with its sociological meaning; and this emphasises that nationality is to be understood as the state or situation of a person who belongs to a nation. It is, at bottom, a feeling of national belonging which must be effectively present, that is, which must correspond with a factual situation, one resting on greater connection in fact between the person concerned and the state he or she claims to belong to.

The dialectical relationship between peace and nationality in Congo-Zaire is instanced by the case of those who took it upon themselves, in 1977, to announce that they were thenceforward to be known as “Banyamulengé”. The name comes in fact from that of the name of the Fuliiru village where the first group of migrant Tutsi settled in 1924, before their dispersion on the high plateaux of Southern Kivu where they were joined, between 1959 and 1962, by successive waves of Tutsi refugees fleeing from Hutu persecution. In other words, whatever may have been written or read to the contrary in this place or that, the “Banyamulengé” do not constitute an ethnic group or tribe originating within Congo-Zaire. In the Kinyarwanda language, “Banyamulengé” simply means “inhabitants of Mulenge”.

In any case, it is clearly established nowadays that the so-called “Banyamulengé” have never been counted among the tribes or ethnic groups which existed in the territory of Congo-Zaïre in colonial times. As to their nationality, on the other hand, it is apparent from various official documents that the Tutsi population which settled on Congo-Zaïre territory have in principle enjoyed Zaïre or Congolese nationality ever since the Decree-Law of 26 March 1971. This text stated that : “Those persons originally from Rwanda-Urundi but settled in the Congo by 30 June 1960 are deemed to have acquired Congolese nationality on that date”. However, in view of its general and arbitrary character – that is to say because there was no census of the people to whom this Decree-Law applied – an Act of 5 January 1972 (Law N° 72-002 on Zaïrean nationality) attempted, though without real success, to clarify the issue of the nationality of the “Banyamulengé”, by rescinding the 1971 measure. Article 15 of the new law reads : “Those persons originally from Rwanda-Urundi who were in the province of the Kivu before 1 January 1950 and who have continued since then to reside in the Republic of Zaïre until the coming into force of the present Act shall be deemed to have acquired Zaïrean nationality on 30 June 1960”.

Finally, the Act of 29 June 1981 (Law N° 81-002) restricted the right to Zaïrean nationality to those who could prove their ancestors had been living in Congo-Zaïre before 1885. This Act, and more particularly Article 20 of the Decree of 15 May 1982 which provided for certain measures in implementation of the 1981 Act, repealed that of 1972, and stated definitively that : “All certificates of Zaïrean nationality or other identity documents issued under Article 15 of the Zaïrean Nationality Act, Law n° 72-002 of 5 January 1972, are hereby declared null”. In fact, however, the 1981 Act has not been rigorously applied, in that identity cards that had been issued to “Banyamulengé” have not been cancelled.

In view of the legal void implicit in this state of affairs, and still with a view to national reconciliation, the UNIR MN starts from the premiss that the so-called “Banyamulengé” belong entirely to Congo-Zaïre. On the other hand, the UNIR MN has to express reservations as to the repeated claims of this section of the country’s population, known as “Banyamulengé”, to be treated differently from the rest of the population of Congo-Zaïre. On this, the UNIR MN wishes to recall that the new country to be built in Congo-Zaïre will be meeting the requirements of constitutional government; that is to say, it will be a state which respects the principles of freedom, human rights and the rule of law, all universal

principles without which no society could claim nowadays to be democratic. To achieve this, the UNIR MN recommends the erection of a functioning, coherent legal system which allows all those subject to the jurisdiction of the State of Congo-Zaire to benefit from effective legal guarantees, among other things by means of readier access to justice.

In view of this, the UNIR MN considers that to accord the “Banyamulengé”, alone, the right to special legal treatment would be tantamount to an implicit admission of the existence of one ethnic minority within the territory of the Republic. Now the ethnic map of Congo-Zaire clearly shows that our country is made up of many tribes and/or ethnic groups, each as incontrovertibly a “minority” as any other.

The UNIR MN accordingly rejects all claims by the “Banyamulengé” relating to different treatment, on the evident grounds that these are in a situation not manifestly different either in fact or in law from that of the remainder of the population of Congo-Zaire. For the new Republic of Congo-Zaire is a state which must rely on the principle that all its citizens are equal before the law. Every holder of Congo-Zaire nationality must, in reason, enjoy the same treatment and the same legal guarantees when in identical or similar conditions. The UNIR MN proposes therefore to resolve this thorny question of the “Banyamulengé” by insisting that the national authorities of the Republic of Congo-Zaire implement the principle of non-discrimination in an effective manner; that principle is moreover commended, in various texts protecting fundamental human rights, as one that is necessary for the exercise of the other fundamental human rights and freedoms.

The UNIR MN is of the opinion, when all is said and done, that all those who live in Congo-Zaire must have the same rights and duties; they must necessarily be subject to the same laws. It has to be noted, of course, that there are certain distinctive features which must, one way or another, be taken into account by the public authorities, all in accordance with the application in practice of the principle of non-discrimination. To achieve this, the UNIR MN undertakes not only to draw inspiration from the various international and regional measures that safeguard human rights and freedoms, but above all to apply them. More concretely, the UNIR MN recommends application of the relevant case-law of the European Court of Human Rights, in that the European system for protection of human rights is a part of the objective framework of the Universal Declaration of Human Rights

and, as a result, the substance of the European Convention on Human Rights and Fundamental Freedoms (ECHR) is not restricted to the sphere of the Council of Europe only. Furthermore, European law on human rights has been constantly developed over more than half a century, and has clearly proved its effectiveness.

However that may be, modern conceptions of human rights are increasingly extending their scope beyond any purely regionalist vision. The various authorities (the African Commission, the Inter-American and European Courts of Human Rights) can in fact be seen to be interpreting their own regional texts very often with reference to each others' case law. In the exercise of their legal powers enforcing government authorities' respect for human rights and in particular in the resolution of the issue of "Banyamulengé" nationality, the UNIR MN regards the approach to the principle of non-discrimination that has been taken in European case law as the one best suited to the achieving of the objective we seek.

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