

Open letter: the EU should honor its commitments to human rights in Burundi

21 June 2021

Dear EU High Representative / Vice-President,
Dear Foreign Ministers of the EU member states,

As the Council of the European Union (EU) and its preparatory bodies review the situation in Burundi and related EU policy, the undersigned organizations wish to express their concern that the EU and some of its member states appear willing to overlook the lack of meaningful human rights progress and widespread impunity for past and ongoing serious human rights violations in the country.

Despite a series of recent one-off gestures by the Burundian government regarding public freedoms, the Council should **maintain its position that sustainable and tangible progress regarding the opening of political and civic space and the fight against impunity are necessary to address fundamental human rights concerns in Burundi**. The EU should not rely on promises of human rights reforms from the Burundian authorities, and insist instead that they meet concrete benchmarks proving their commitment to ensuring accountability and embarking on a human rights-respecting path.

Ongoing human rights violations and widespread impunity

In March 2016, in light of Burundi's failure to respect its obligations under the Cotonou agreement relating to human rights, democratic principles and the rule of law, the EU decided to suspend direct financial support to the Burundian government. This decision was taken in response to killings, torture, enforced disappearances and arbitrary arrests of thousands of Burundians, amidst a political crisis around the contested third mandate of late President Pierre Nkurunziza. The police violently cracked down on protestors, and after a failed coup attempt in May 2015, several radio stations were attacked and forced to close. More than 400,000 people, including most leading civil society activists and independent journalists, fled the country.

The UN Commission of Inquiry on Burundi has stated that it believes crimes against humanity were committed in Burundi since 2015, possibly even during the 2020 election period.

On 25 May 2020, Évariste Ndayishimiye, the ruling party candidate, was declared the winner of the presidential elections, which took place in a context of widespread repression; several opposition members were killed and many arrested. Access to social media was blocked and there were no independent international observers.

During Ndayishimiye's first year in power, there have been some limited improvements. For example, the president pardoned four journalists arrested in 2019, initiated a dialogue with media representatives in Burundi -- leading to the lifting of some restrictions -- and pardoned more than 5,000 other prisoners (although only around 2,600 had been released by late May).

But many of Ndayishimiye's repeated promises to deliver justice and promote political tolerance remain unfulfilled. The president has appointed ruling party hardliners to key positions, including Gervais Ndirakobuca, the current minister of interior, community development and public security, who is under EU sanctions. Furthermore, while reports of serious human rights violations have decreased, human rights groups continue to document cases of torture, ill-treatment and arbitrary arrests, and unidentified dead bodies are still found in different parts of the country.

Ndayishimiye has shown greater openness than his predecessor towards the EU. In February 2021, the Burundian government and representatives of the EU and its member states in Burundi resumed a political dialogue, on hold since 2016. Foreign minister Albert Shingiro visited Europe in April. The Burundian government has produced a technical roadmap regarding human rights and other reforms, but it is vague and noncommittal and avoids sensitive issues – notably dealing with impunity for the many crimes committed since 2015.

No sustainable progress on 2016 benchmarks

In the annex to its [2016 decision](#), the Council included a “schedule of commitments”, on which it expected specific and concrete progress from the Burundian government before lifting the EU’s restrictive measures. The Burundian government has failed to implement reforms in most of these areas, almost all of which remain relevant today:

- Ndayishimiye has made efforts to rein in members of the youth league of the ruling party, the ***Imbonerakure***, leading to a reduction in their involvement in human rights abuses in many provinces. However, in other provinces, they continue to perform law enforcement duties – despite having no authority to do so – with the explicit encouragement of government and ruling party officials. *Imbonerakure*, some of whom are armed, have arrested, ill-treated and killed suspected opponents, sometimes in collaboration with, or with the support of, local government officials, police or intelligence agents. Some of their members have been involved in fighting Burundian armed opposition groups in Burundi and the Democratic Republic of Congo, as recently as in May 2021.
- Despite repeated promises, there has been only a limited reopening of **private media stations** closed by the government in 2015. Since the EU’s 2016 decision, only Radio Bonesha has re-opened, in 2021, after signing a working agreement with the National Communication Council (CNC), the state body that regulates the media. The British Broadcasting Corporation (BBC) and Voice of America remain suspended since 2018. In 2021, the media landscape in Burundi remains severely restricted. The few independent media outlets that are allowed to operate exercise self-censorship and avoid controversial issues. Journalists are regularly threatened or harassed by government and ruling party officials. There have been no credible investigations into the 2016 enforced disappearance of Iwacu journalist Jean Bigirimana or other serious human rights violations against journalists.
- **Independent civil society organizations and human rights defenders** are unable to operate freely and safely in Burundi. The suspension of several civil society organizations in 2015 has not been repealed. The human rights defenders who left Burundi for their safety in 2015 and 2016 have been unable to return; their organizations have been closed down or suspended, destroying Burundi’s once vibrant human rights movement. Most civil society organizations operating inside Burundi refrain from directly criticizing the government. Human rights defender Germain Rukuki is serving a 32-year prison sentence, and a verdict on his latest appeal is overdue. Nestor Nibitanga, another human rights defender sentenced to five years in prison in 2018, was among those granted a presidential pardon in 2021.

- The 2016 Council decision mentioned the need for progress on **trials of political prisoners**. Some political prisoners have since been released, while others remain in prison. More recently, hundreds of CNL (*Congrès national pour la liberté*) members were arrested before, during and after the 2020 elections, many of them arbitrarily. A significant number were released after the elections, but others remain in prison. Interference by ruling party and government officials in politically motivated court cases is common, violating basic fair trial standards.
- In 2016, the EU stated that the cases of **prisoners arrested** during the 2015 protests and security incidents should be handled in accordance with Burundian and international law. Some protestors arrested in 2015 have been released, but many were tortured and convicted during unfair trials. Numerous people suspected of opposing the government in other contexts have been arrested more recently, particularly following security incidents. They face the same absence of due process: they are often arrested in an arbitrary manner, some have been tortured, and they cannot be guaranteed a fair trial.
- In 2016, the EU asked the Burundian government to **investigate allegations of torture and extra-judicial killings**, and to follow up on the conclusions of such investigations. At the height of Burundi's political crisis in 2015 and 2016, police and intelligence agents tortured scores of suspected government opponents and killed many others. No credible investigations have taken place. Dozens of new torture cases have been documented since the 2020 elections, and at least one detainee died in detention after being tortured by intelligence agents in 2021. The 2016 decision requested the participation of international experts in such investigations, but the Burundian government forced the Office of the UN High Commissioner for Human Rights to close its office in Burundi in 2019 and does not allow the UN Commission of Inquiry or international human rights organizations access to the country.
- The Burundian government was **unwilling to talk to its opponents during a dialogue** under the auspices of the East African Community, which has since been abandoned. It has also failed to engage with exiled political opponents and civil society actors. Instead, on 2 February 2021, a Supreme Court judgement was published (dated June 2020), convicting a group of 34 exiled defendants, including several journalists, civil society activists and political opponents, to life imprisonment for their alleged involvement in the failed coup d'état in May 2015. The [defendants were tried *in absentia* and did not have legal representation](#), denying them a fair trial and flouting the most basic principles of due process of law. Nor has there been any official dialogue between the government and the main opposition party inside Burundi, the CNL, many of whose members have been killed, arrested and tortured, particularly before and during the 2020 elections. Fabien Banciryanino, an outspoken former member of parliament arrested in October 2020, was sentenced in May 2021 to one year in prison for endangering internal state security and rebellion.

Recommendations

The EU should not signal in any way that it is willing to ignore its own benchmarks and fundamental principles in a desire to improve diplomatic relations. The EU and its member states should:

- Communicate to the Burundian government that **sustainable and demonstrable progress** on the fight against impunity, the restoration of public freedoms, and an end to torture are fundamental to resuming cooperation with the EU under the Cotonou agreement.
- Request that Burundian authorities take **immediate steps** to restore the space for independent human rights advocacy and reporting in Burundi. These should include, at a minimum, the immediate and unconditional release of Germain Rukuki and Fabien Banciryano, the lifting of the suspension of human rights organizations and media operating from exile, and the amendment of laws governing the media and domestic and international organizations, to bring them in line with regional and international obligations.
- Ensure that the Burundian government's human rights **commitments**, including those in its roadmap, are ambitious, detailed and comprehensive, are regularly monitored through a rigorous follow-up mechanism and are discussed as part of the political dialogue with the EU.
- Request the Burundian authorities to provide detailed information on **concrete cases** of serious human rights violations and on actions undertaken to hold those responsible accountable and to prevent similar violations from occurring in the future.
- Maintain **targeted sanctions** on individuals most responsible for serious human rights violations. This does not replace the need for a credible judicial process to try them for their responsibility for these crimes.
- Ensure that if or when sustainable progress allows a resumption of direct development cooperation, the EU does **not directly fund or support** projects that are managed or overseen by individuals against whom the EU imposed targeted sanctions or others with a well-documented record of human rights violations.
- Guarantee the autonomy and **independence of the work of international NGOs** in Burundi. The EU should publicly support civil society and the media's right to cover political, human rights, and security issues, and urge authorities to end surveillance and obstruction of their activities.
- Support a further extension of the **Commission of Inquiry** on Burundi mandated by the UN Human Rights Council when its current term expires in September 2021.
- Urge Burundian authorities to respect all regional and international **human rights obligations**.

We would be happy to provide you with more detailed information and to discuss these issues with you further.

Agir ensemble pour les droits humains (AEDH)

Burundi Human Rights Initiative

Committee to Protect Journalists

DefendDefenders (East and Horn of Africa Human Rights Defenders Project)

European Network for Central Africa (EurAc)

FIACAT: International Federation of ACAT

Human Rights Watch

International Federation for Human Rights (FIDH)

Ökumenisches Netz Zentralafrika (ÖNZ)

Open Society European Policy Institute

Protection International

Tournons La Page