

**First Carter Center Pre-Election Statement on
Preparations in the Democratic Republic of Congo**

Oct. 17, 2011

The Carter Center has been closely monitoring the implementation of the electoral calendar that was released by the Independent National Election Commission (CENI) in April of 2011. Voter registration that was scheduled to begin February 28 was postponed until June, which meant that the work of reviewing and validating the voter registry of 32,024,640 could not be concluded before the publication of the annex to the electoral law, determining the number of parliament member seats per district. The delayed publication of the provisional voter register threatens to undermine the public's ability to confirm or challenge their details and lingering opposition party concerns about the quality of the register could be used to call into question the overall credibility of the voter roll. CENI must take rapid and convincing steps to ensure the transparency and credibility of the voter register to meet the state's obligation to ensure that all

Historical Background

Electoral administration procedures were revised appropriately by the Independent Electoral Commission (CEI) after the first round, and while the new measures were not always fully implemented, voting and counting operations were significantly improved.

In many areas where a particular candidate was popular, witnesses from the other candidate were not present until the end of the count. This limited the effectiveness of such witnesses and may have led to inaccurate predictions of the results by each candidate.

The media, including the public broadcaster RTNC, did not honor their responsibilities to provide neutral information to the public.

Instances of disruption or attempted manipulation of the electoral process, while serious in a few cases, did not undermine the overall success of the vote. Despite suspicious patterns of massive vote counts for each candidate in their respective strongholds, the overall results validated the victory of Joseph Kabila with 58.5% of the vote.

In protest of the results, on November 21, Jean-Pierre Bemba supporters attacked and set fire to the Supreme Court building.

The many important shortcomings observed by the Center made the electoral process vulnerable to allegations of manipulation and leaves many questions that cannot be answered. However, The Carter Center did not see evidence of systematic or widespread attempts to manipulate the results. The results of the presidential election are sufficiently clear-cut that the overall outcome

Legal Structure

An important amendment to Article 71 of the Congolese Constitution of 2005 was passed on January 25, 2011, by the Senate and National Assembly, modifying the electoral system for presidential and legislative elections. Most significantly, the presidential election was changed from a two-round voting system to a plurality voting system. In 2006 President Kabila was elected by an absolute majority, which necessitated a run-off election in October between the two candidates who received the highest number of votes, Kabila (44%) and Bemba (20%).

Several articles of the electoral law of February 2006 were amended on July 1, 2011, concerning technical and organizational aspects for elections. On August 17, 2011, an annex to the electoral law was passed allocating seats per voting district.³ The allocation was based on figures from the June-July voter registration period before the voter register had been examined and cross-checked in order to remove duplicate names, active-duty military and police, and other ineligible voters.

Under Article 74 of the electoral law, the Supreme Court is the designated body for adjudication of electoral disputes arising from the presidential and legislative elections, and it has the difficult task of reviewing all electoral issues arising from the candidacy of the eleven presidential candidates and 18,386 legislative candidates.⁴ There is an urgent need to increase the capacity of

Election Administration Observations

Voter Registration:

In June and July of 2011, the CENI enrolled 32,024,640 voters across DRC. Though its observers were not present at voter registration centers in May and June of 2011, The Carter Center has followed the voter registration process closely. Compared to 2006, the voter registration period was longer in duration and in certain provinces the number of registration sites increased, both contributing to comprehensive registration of eligible voters. The voter registration list for 169 districts has not been published in full. Under Article 6 of the electoral law the list is to be published by September 28 at the latest, 30 days before the start of the electoral campaign period.

The CENI began publishing voter lists on its website on October 3. As of October 10, lists for districts in Bas-Congo, Kasai Occidental, Maniema are available. While it is the discretion of the CENI to choose how it publishes the September 28 voter list, CENI President Mulunda stated on September 27 that voter lists would be made available to the public at CENI offices across the country.¹⁰ Not one Carter Center observer team has found voter lists available yet for consultation at the CENI's provincial election commission offices. The CENI should follow through with President Mulunda's offer, as the CENI website - though a potentially useful tool for disseminating news and as a depository for information - is not always operational and many voters are unable to access and download documents from the internet.

The registration process was characterized by a low number of domestic observers from civil society and political party observers to monitor the process. Political party Union for Democracy and Social Progress (UDPS) has requested to do an audit of the server which holds voter registration information on the grounds that minors, foreigners, military, and other ineligible groups are enrolled. The CENI has said it cannot permit access to the server by opposition groups unless the majority party is present. PPRD refuses to participate in an audit on the grounds it does not consider UDPS concerns about voter list fraud or error to be genuine or credible, noting that UDPS was not present during the voter registration to provide to a basis for its claims. These positions create an impasse concerning party access to the server, contributing to tensions between the parties that have at times escalated to violence.

The Center is concerned that unresolved issues related to the voter register, notably a) the need to reassure political parties that adequate measures have been undertaken to "clean" the roll of multiple or error entries and b) the timely publication for public examination and challenge, could undermine the overall credibility of the voter register.¹¹

¹ Under Article 6 of the Electoral Law, the CENI may 'determine

Electoral Calendar:

The Carter Center has also observed departures from the CENI electoral calendar. Such delays are especially challenging in the context of the DRC. While there has been substantial investment in construction of roads and other infrastructure improvement since 2006, the current calendar for distribution of electoral materials presents a significant challenge for the CENI and MONUSCO.

In mid-September the CENI and MONUSCO began distributing initial shipments of electoral kits for the 62,000 polling stations throughout DRC (located at 16,000 voting centers in 13,000 locations compared to 50,000 polling stations total in 2006). The majority of CENI hubs and subhubs have received non-sensitive electoral material, including voting booths and training materials for polling workers. The distribution of ballot boxes is significantly delayed due to production challenges.

With six weeks to election day the time remaining is extremely compressed for CENI and its partners to ensure the design and printing of ballot papers, production and receipt of ballot boxes and other essential election materials and the timely distribution of all these election materials, as well as the finalization and publication of all procedures for polling, counting and tabulation, matched to the recruitment and training of polling station officials, and other related tasks. CENI should therefore, develop as soon as possible, contingency plans for a delay in the election date.¹² Should a delay be required, CENI should consult with presidential candidates, political parties and international partners to ensure that the reasons are clearly defined and a detailed plan and budget is presented to achieve a realistic date.

The majority of CENI teams have concluded their work in each province to identify polling locations and recruit election officials. Their recommendations have been submitted to CENI headquarters; locations of polling stations are still to be made public.

Registration of presidential candidates was finalized on September 26, with the publication of the final list - one day ahead of a revised calendar and 10 days behind the original date. Registration of legislative candidates was extended; a provisional list of legislative candidates was published on September 21; and a final list was published on its website on October 17. The majority of legislative candidates registered late in the process by submitting applications on September 10-11. Candidates appear to have delayed their submissions while negotiating party affiliations and the CENI was unprepared to process the large volume of candidates at once, despite this occurrence during legislative candidate registration in 2006. Carter Center observers monitoring the candidate application process in Kinshasa and Mbuji Mayi reported complete disorder at CENI candidate application processing centers (BRTCs). Across the country the CENI extended the registration processing period by 48 hours, through September 13, in order to ensure candidates in the queue were able to register. Carter Center observers in Kisangani observed that though the extended-registration process was not strictly managed, allowing some candidates to

¹² Temporary postponement of voting processes is permissible under international law, owing for example to public emergency, but only to the extent required by the circumstances and provided that the measures are not contrary to the State's other obligations under international law. The political effects of national considerations, notably the expiration of President Joseph Kabila's constitutional mandate on Dec 6, 2011 must obviously also be taken into account along with managerial, financial and operational considerations.

register out of order, the CENI staff were competent and professional, and working with very limited resources.

The large number of applications generated processing errors across candidate registration centers. A legal challenge against the CENI was submitted to the Supreme Court after at least one political party submitted candidate lists that exceeded the number of seats in some districts. The CENI is responsible for ensuring candidate registration conforms to electoral law, which limits the number of party candidates per district to the number of seats.¹³ There is no indication that CENI intentionally allowed departures from this requirement and instead it likely concerns limitations in resources of CENI to oversee over 18,000 candidate applications. As recently as September 23 the CENI anticipated a total 15,500 legislative candidate applications.¹⁴

This legal challenge against the CENI underscores a perception of many opposition parties who question the neutrality and independence of the CENI. The CENI met with parties on September 7 in Kinshasa to share information and address party concerns. The CENI cancelled a second planned meeting with parties scheduled for September 28, which has been not rescheduled to this date. This type of outreach, through the "*Forum des partis politiques*," is needed on a regular basis to increase transparency in the work of CENI and improve relations with parties.

Voter Education:

It is a role of independent election commissions to undertake voter education activities.

Transparency:

Since September 2 the CENI has held weekly press conferences at its headquarters in Kinshasa to share information and address questions. The CENI provincial office in Matadi may institute a weekly press conference as well, which would increase timely access to information for Congolese citizens and parties in the area. The CENI website is a potentially valuable instrument but it remains woefully out of date and incomplete. Although the majority of Congolese do not have internet access, CENI should nevertheless make the fullest possible use of this resource to make information available, manage informational demands made upon the commission.

Major Political Parties and Candidates

There are approximately 147 political parties in the DRC. Major political parties include: the Party for Reconciliation and Development (PPRD), led by President Joseph Kabila. The Congo Liberation Movement (MLC); Unified Lumumbist Party (PALU); Union of Mobutu Democrats (UDEMO); Union of Forces for Change (UFC); Union for Democracy and Social Progress (UDPS); and Union for the Congolese Nation (UNC).

officials so they can explain the ballot paper to voters, ensure that administrative procedures and even size of secure envelopes are proportional to the size and complexity of the ballots.

However the large number of candidates creates a dynamic and opportunity for more individuals to be engaged in the political process and involved in efforts to respond to the needs of Congolese voters and put forward creative solutions to address problems. The election law allows for parties or candidates to have witness per polling station (with one substitute), enabling an important aspect of international best practice.¹⁶ However, the very high number of candidates could pose logistical challenges for polling station officials to manage the number of people inside a crowded polling station. CENI should ensure adequate information is shared with parties and that election officials receive training on how to meet the double challenge of ensuring that voter rights are respected while handling the right of candidates to have observers present.

Campaign Environment and Assembly

Under Article 110 of the electoral law the candidate and party campaign period begins on October 28. However visible signs of campaigning such as banners and posters were observed in various provinces throughout DRC. It is not clear to electoral actors which institution (Supreme Court, other courts, CENI, CSAC) has responsibility for monitoring and enforcing infractions relating to early-campaigning. The police, under the instruction of the Ministry of Interior in Oriental Province, have recently removed campaign banners in Kisangani.

The CENI prepared a 2011 Code of Conduct, which has been signed by media organizations and all major political parties with the exception of UDPS. The party's justification for not signing is given on the grounds of the need for more transparency in the work of the CENI and the release of party members in jail.

Over the past few weeks there have been reports by opposition parties of limitations on the freedom to assemble by local authorities. Carter Center observers in Kinshasa and Bas-Congo were told by opposition party members in these areas that they were prevented from holding rallies in public stadiums, and that other parties have been able to organize similar events at the same locations. For the past four weeks UDPS members have been blocked by police before reaching the CENI headquarters in Gombe. At times police have used tear gas and fired shots in the air to disperse UDPS protesters. Congolese authorities have an obligation to apply laws consistently and respect obligations guaranteeing the right of parties to assemble in public places. Political parties also have the responsibility to notify authorities in the manner required under the law before holding public events.

Civil Society and Domestic Observers

Congolese civil society plays a crucial role in monitoring and supporting the electoral process. Carter Center observers have been told by civil society groups in their areas that these

private stations, and that provisions for equal access to state media do not exist in practice. TCC observers Kananga were also told by civil society groups that 3 or 4 of the 10 radio stations in the area are considered politically biased in their program content.

Security Situation

The security situation in the west of the country remains calm, with fears the situation may escalate following the rise of political tensions and the persistence of land disputes. In eastern DRC, MONUSCO and Congolese national armed forces (FARDC) are engaged in military operations against armed groups that contribute to securing the region for the electoral period. Insecurity in the east has not compromised electoral preparations though this is a risk in the period leading up to the election concerning deployment of materials and ability for voters to move freely on election day. Election day security is guaranteed by the Congolese national police. The current security plan in place calls for two officers for each of the 62,000 polling stations. Questions remain whether there are sufficient numbers of officers to fulfill this role as well as funds to deploy officers to remote parts of the country.

Disputes between PPRD and UDPS in Kinshasa have resulted in violence and damage to party

- To increase access and transparency concerning the National Transmission Center (CNT);
- To select suitable polling stations which allow members to conduct their work with sufficient space for voters, party witnesses, domestic and international observers;
- To finalize and publish all procedures for the polling stations and compilation centers to relevant actors, including CENI workers, political party witnesses, and observers;
- To dramatically increase voter education efforts, especially in rural parts of the country and other areas of most need;
- To recruit more women, as stipulated in Article 10 of the CENI's governing statute, especially to serve as polling station presidents;
- To facilitate accreditation of international and domestic observers and party witnesses; and
- To develop contingency plans should they become necessary in the event that an election date delay becomes necessary. Should a delay be required, CENI should consult with presidential candidates, political parties and international partners to ensure that the reasons are clearly defined and a detailed plan and budget is presented to achieve a realistic date.

The Carter Center reminds legislative candidates of their responsibility to develop a clear political platform that can be differentiated from other candidates, especially in the context of the large number of National Assembly candidates.

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