



Note to the Attention of the United Nations Security Council

Situation in the Democratic Republic of Congo

October 2018

FIDH, the League of Voters, the Lotus Group and ASADHO applaud the visit of the United Nations Security Council that took place in the Democratic Republic of the Congo (DRC) from 4 to 7 October 2018. Following this visit, the Council declared that the presidential, legislative and provincial elections due to be held in December 2018 are an “historic opportunity” to achieve a “democratic and peaceful transition”. However, much remains to be done to guarantee the holding of truly transparent, inclusive, free and peaceful elections. This note aims to highlight the conditions that remain to be met before elections are held in order to : **make the electoral process more credible; enable the reopening of the civic and political space; and avoid challenges to the voting results that could lead to violence capable of seriously destabilising the country and the sub-region.** The Council should adopt a series of positions and measures, detailed at the end of this note, which could help to meet the conditions for holding credible elections and prevent the outbreak of large-scale electoral violence.

1. Ease political tensions and create conditions for a credible electoral process

Nearly two months before the elections due to take place on 23 December 2018, very few of the conditions required for the organisation of transparent, inclusive and credible elections have been met. The refusal to accept support from MONUSCO and financial support from the international community increases the logistical and technical challenges faced by the authorities, in a political context that is already extremely tense. The primary concerns of our organisations with respect to the current electoral process are detailed below.

The inclusivity of the presidential election

While President Kabila's “non candidacy” for the presidential election is a positive progress, **the final list of candidates for the presidential election** published by CENI on 19 September has generated additional tensions between the authorities and the opposition. Four candidates have been disqualified, and the authorities also prevented Moïse Katumbi, one of the main opposition leaders, from entering the DRC to submit his candidacy for the presidential election. For many civil society activists and representatives of the opposition, the exclusion of these candidates is arbitrary and politically motivated. It undermines the inclusivity of the presidential election and could lead some opposition groups to reject the results of that election in advance.

The voting and vote counting system

The **lack of transparency and confidence in the voting and vote counting system** also continues to crystallise tensions. Opposition parties and civil society have rejected the **use of voting machines** following its brutal introduction, which was done without consultation by CENI, and are demanding the use of paper ballots. At the time this note was written, the first voting machines have still not arrived on Congolese territory, although they were expected by the end of July. CENI stated in September 2018 that 35,000

machines would be delivered to Matadi Port on 5 October, out of a total of 106,000 that are expected. No date has been announced for the delivery of the two other lots of machines. These delays and uncertainties cast serious doubts on CENI's ability to deliver all the machines to the 75,000 polling places where the voting is to take place. All the more so since the road network remains very limited in DRC and largely impassable due to the rainy season. Some areas are also inaccessible by road due to the insecurity. Moreover, CENI has refused logistical aid from MONUSCO, which has 20 helicopters that could be used to speed up the delivery of the machines. According to the electoral calendar, all the machines must be deployed by 5 December to the centres of the provincial capitals of each territory, where electoral officials will have to be trained on their use in the span of 18 days. Many questions concerning the reliability, the logistical challenge represented by the use of the machines and the delivery problems must be addressed with the utmost urgency. If CENI does not decide as soon as possible to adopt another strategy (appeal to MONUSCO and use paper ballots), the accumulated delays are extremely likely to compromise the smooth-running of the elections.

Voter Registration

The **voter register** also needs to be swiftly updated before the elections are held. In its current state it **remains unsuitable for the holding of credible elections**.

Nearly 6.8 million voters are still registered without fingerprints. Over one fourth of these registered using unreliable identification documents that could easily have been “falsified” (school and university ID cards, and pension booklets)¹. Almost 5% of voters registered without providing any identification at all, and in the vast majority of cases, without observing the procedure set by electoral law². Moreover, nearly half of voters were automatically registered in electoral lists because they had held a voter's card between 2010 and 2011, when in fact the credibility of that electoral roll has been largely discredited. OIF notes in its audit report, published in May 2018, that “previous electoral populations” have thus been “absorbed [...] without precautions”. Furthermore, over 500,000 unused ballots were not returned by enrolment centres and could be used illegally. These facts undermine the validity of the electoral register and could lead to manipulations altering election results. Civil society, the opposition and the Comité Laïc de Coordination [Lay Coordination Committee] (CLC) still believe that the electoral roll is unreliable and incapable of guaranteeing credible elections. Furthermore, CENI has not committed to implement OIF's audit recommendations, which would yet serve to significantly improve the quality of the register.

Provisional electoral lists

Furthermore, **provisional electoral lists** have yet to be posted in the administrative centres of the various regions of the country, even though CENI was required to do so before 23 September, according to electoral law. The purpose of posting these provisional lists is to enable complaints before the final lists are posted 30 days later (or 23 October). The delays that have occurred could lead to inadequate consideration or non-consideration of complaints from Congolese citizens and further shake their confidence in the electoral process.

Observation of the elections

Political and civic observation of the electoral process and the elections is essential to guarantee transparency and confidence in the results of the votes. However, in the name of respect for the principle of sovereignty, Congolese authorities have refused to allow the setting up of a **team of regional and international experts** (UN, UA, SADC, CIRGL) whose purpose is to support CENI and make the electoral process and the ballots more credible. No invitation has been issued to the African Union or the European Union to send an electoral observation mission. And numerous obstacles to the work of local observers have been reported. These factors risk undermining the holding of transparent and credible elections and the recognition of the results of the elections by the various opposition parties, civil society and the population.

1 International Organisation of La Francophonie (IOF), Final Report of the Audit of the National Electoral Roll of the Democratic Republic of the Congo, 6-25 May 2018, https://www.francophonie.org/IMG/pdf/rapport_final_audit_fichier_electoral_rdc_2018_.pdf

2 Op. cit.

2. Take action to reopen the political and civil space and for free and fair elections

There is every reason to believe that Congolese authorities have no intention of authorising the holding of a free, inclusive and credible electoral process in which everyone could express his/her choice without fear of reprisals. The main concerns of our organisations with respect to continuing repression and the closing of the political and civil space are detailed below.

An increase in human rights violations

The situation of rights and freedoms remains extremely worrisome. In August, the United Nations Joint Human Rights Office in the DRC (BCNUDH) registered a strong increase in human rights violations in the country. BCNUDH recorded 620 human rights violations in the country as a whole and a **doubling of abuses committed by State agents**, who were responsible for 66% of the violations.

Attacks on the freedom of expression and peaceful assembly

The authorities have not taken the necessary measures to create a climate conducive to the holding of peaceful and free elections. Public freedoms remain considerably reduced. Congolese citizens are still **unable to enjoy their right to freedom of expression and peaceful assembly**. Demonstrating to express one's opinion, including political opinions, remains prohibited. The Internet continues to be regularly blocked. Human rights defenders, members of citizens movements, opponents and peaceful demonstrators continue to be victims of repression by the authorities, in particular the disproportionate use of force by security services and arbitrary arrests and detentions.

Peaceful gatherings of civil society and the opposition are still prevented or violently dispersed by Congolese security services. Twenty-eight activists from the youth movement l'Engagement citoyen pour le changement [Citizens' Commitment for Change] (Eccha) were arrested by police in Kinshasa on 28 September while participating in a solidarity rally on behalf of the victims of violence committed in Béné. They were released the same day. On 18 September, activists demonstrating in Kinshasa for the return of their leader, Moïse Katumbi, and the rejection of the voting machine were violently dispersed, and some were arrested before being released. On 3 September, a peaceful march demanding the abandonment of the voting machine was violently dispersed by law enforcement in Goma. Seven activists from the citizens' movement La Lucha were arbitrarily arrested, then released on 5 September.

Human rights defenders and opponents in prison

Many **human rights defenders and opponents are still imprisoned and subjected to judicial harassment**. For example, [four militants from the Filimbi movement](#) (Carbone Beni, Mino Bompomi, Grace Tshiuza and Cédric Kalonji) were sentenced on 23 September to one year in prison and arbitrarily detained in Makala Prison. They were arrested on 30 December 2017 as they were raising awareness among the public about the peaceful marches organized by the CLC to take place the following day. Carbone Beni was reportedly tortured during his detention for the purpose of obtaining confessions about his commitment to democracy and the Filimbi movement support network. Seven members of the citizen movement "Congolais Debout" are arbitrarily detained since early September. They were arbitrarily arrested by police officers while they were raising awareness about the voting machines in Kinshasa. Opponents Franck Diongo and Diomi Ndongala are also still detained, and their so-called "emblematic case" has still not been discussed and been the subject of a consensual resolution, as provided in the Agreement of 31 December 2016.

Media outlets closed down and journalists harassed

Freedom of the press and of information is also extremely limited. The policy of widespread repression of dissenters carried out by the Congolese authorities has led to the **closure of several press groups** (newspapers, radios, television channels) seen as close to the opposition or as independent. While the 31 December 2016 Agreement provides for the re-opening of private media which were closed or banned and

fair access to public media, none of these measures has been implemented. The main opposition leaders have recently denounced **unfair access to official media** in favor of President Joseph Kabila's party, the Common Front for Congo (FCC)³.

Similarly, **journalists are victims of censorship, threats, judicial harassment and attacks**. Between 1 January and 31 August 2018, Reporters Without Borders recorded 35 arrests and 22 cases of assault against journalists, most of which were conducted outside any legal framework. For example, between late August and early September, three media professionals were unfairly dismissed for filming, and on 22 August 2018, attempted to broadcast on a public channel, the video of a political demonstration by opposition activists⁴.

3. Preventing and limiting violence in the most volatile areas

With regard to security, violence continues in the east, north and south of Kivu, Ituri and Kasai with total impunity. In these zones, as in all large cities in the country, the situation could quickly deteriorate if measures are not taken to prevent violence which could occur during the elections and after the results are announced.

Conflict zones

People living in the city of **Beni** have been victims of an escalation of violence since September 2017 without any action having been taken to stop and prevent attacks by armed groups. On 22 September, unidentified armed men killed 17 civilians in Beni. Two days later, 16 people were abducted in Oicha, mostly children, and are still missing. According to the [Kivu security tracker](#), more than 235 people were killed between January and September 2018, during more than 100 attacks in Beni.

In **Ituri**, especially in the Djugu territory, violence also broke out in December 2017 and intensified in 2018. Dozens of civilians, mostly women and children, have reportedly been killed in the past 10 months as a result of repeated attacks by armed groups and retaliation by the Congolese defense forces. On 29 September, fighting took place in the city of Linga and caused the death of several civilians. The Congolese army claimed to have killed 30 fighters between 18-30 September 2018, and to have lost two men in combat, reflecting the level of violence in the region.

In the **Kasai** region, the team of international experts mandated by the Human Rights Council to lead investigations was shocked by the continuing catastrophic situation in this area, in a [report](#) published last July. The report highlights the commission of large-scale murders, torture, mutilation, rape, population displacement, recruitment of child soldiers, which, in the opinion of the experts themselves, constitute crimes against humanity and war crimes. The situation is far from having stabilized. Strong tensions persist between the different ethnic groups involved in the conflict and the defense and security services continue to commit human rights violations in the Kasai. **The prevailing situation of insecurity is likely to jeopardize the smooth-running of elections** in these regions and the free exercise of citizens' right to vote.

From this moment on, more than 4.5 million people are displaced within the country, and more than 100,000 have fled to neighboring countries since January 2018. This also poses the question of their participation in the forthcoming elections.

Urban centers

It is to be expected that **large-scale violence may arise during and after elections**, especially if the results of the votes are strongly contested. Mass rallies, in particular, could be organized in the country's main cities and be violently repressed. If this were the case, it would lead to serious human rights violations, mainly against civilians, and a risk of spreading violence in an already extremely volatile country and sub-region.

3 RFI, Elections in DRC: new candidates challenge the machine, 3 October 2018,

<http://www.rfi.fr/afrique/20181003-elections-rdc-nouveaux-candidats-recusent-machine>

4 Reporters without Borders, DRC: RSF and JED request the reinstatement of three journalists after their unfair dismissal, 17 September 2018, <https://rsf.org/fr/actualites/rdc-rsf-et-jed-demandent-la-reintegration-de-trois-journalistes-apres-leur-licenciement-abusif>

4. Recommendations to the Security Council

1. Following consultations on the situation in the DRC on 11 October 2018, the United Nations Security Council should take a strong public stance and deploy the necessary diplomatic efforts to ensure a transparent, inclusive and credible electoral process. The Council should **make a public statement** which:

With respect to the electoral process, calls on the Congolese authorities and the CENI to:

- Implement Council Resolution 2409, in particular to enable MONUSCO to fully implement its mandate, including to "provide technical and political support to the implementation of the agreement of the 31 December 2016 and the electoral process";
- Take the necessary measures to ensure that the use of paper voting at the ballot box is possible in the event that difficulties are encountered with the voting machines both before and on election day;
- Review the voter register before the elections and implement the recommendations of the OIF audit;
- Take the necessary measures to guarantee the exercise of the right to vote of displaced Congolese citizens and refugees;
- Establish the team of international experts (UN, SADC, AU, EU, OIF) to support the CENI and allow them to work unhindered.

With respect to the human rights situation in the pre-electoral context, calls on the Congolese authorities to:

- Condemn serious human rights violations committed in the country, including by the Congolese security services, particularly in conflict zones and in the context of elections;
- Put an end to the repression of peaceful assemblies and allow peaceful demonstrations throughout the country;
- Release human rights defenders, activists and political opponents arbitrarily detained and authorize the return to Congolese territory of those who are forced into exile;
- Enable private media which was arbitrarily closed down or suspended to freely distribute information and ensure fair access to public media for all political parties and civil society actors.

With respect to election observation, calls on the Congolese authorities to:

- Seek support from the international community and send an electoral observation mission to observe the presidential and legislative elections as a matter of priority;
- Allow local and, as the case may be, regional and/or international election observers to operate unhindered throughout the Congolese territory both before and on polling day.

With respect to the International Criminal Court:

- Indicate that the Council stands ready to provide any information relevant to the work of the ICC on the situation in the Democratic Republic of the Congo.

2. The Council should also **take strong measures** if the conditions for transparent, inclusive, credible and peaceful elections are not met before mid-November 2018, including:

- Convene a high-level meeting of the Council and take a strong public position denouncing the conditions under which elections are held;
- Adopt targeted individual sanctions against the main individuals responsible for serious human rights violations in the electoral context and/or impede the holding of transparent, inclusive, credible and peaceful elections;
- Implement a strategy for the prevention and management of electoral and post election violence, including the deployment of MONUSCO in the most volatile areas during and after the polls, in order to protect civilians from any act of violence.