

Elections in the Tshisekedi Era

A Bad Start?





The [Congo Research Group \(CRG\)](#) was founded in 2015 to promote rigorous, independent research into the violence that affects millions of Congolese. This requires a broad approach. For us, the roots of this violence can be found in a history of predatory governance that dates back to the colonial period and that connects the hillsides of the Kivus with political intrigue and corruption in Kinshasa, as well as in the capitals of Europe, China, and North America. Today, CRG's research aims to explain the complicated interplay among politics, violence, and political economy in the Congo to a wide audience.

[Ebuteli](#) is a Congolese research institute and partner of the Congo Research Group. Our analyses focus on politics, governance and violence. Ebuteli's mission is to promote, through rigorous research, an informed debate to find solutions to the challenges the DRC is facing. In an environment that is often clouded by easily spread rumors, we hope that our work will contribute to progress on the multiple challenges the Congo faces.



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Cover photo: a Ceni agent in front of a polling station in Goma, during the elections of December 30, 2018. *@Ley Uwera*



Table of Contents

Summary.....	6
Lessons from the 2018 Electoral Process.....	7
CENI Under Political Control.....	7
The Controversial Voting Machine: From Rejection to Acceptance?.....	8
Other Areas to Strengthen and Challenges Ahead.....	9
Electoral Reforms or Another Wasted Opportunity.....	9
Multiple Proposals for Electoral Reforms.....	9
“Ramming It Through” or Majority Rule?.....	10
The Lack of Trust Among Stakeholders.....	14
Control over Institutions Involved in the Management of Elections.....	14
CENI and the Exclusion of Stakeholders.....	16
Restrictions of Political Space.....	17
Towards a Postponement (<i>Glissement</i>) or Botched Elections?.....	17
The Electoral Timetable Delayed.....	18
A Concerning Electoral Map.....	18
The Imbroglia around Combining Voter Registration and the Census.....	18
Redrawing Electoral Districts.....	20
Irregular Disbursements of Funds.....	20
Torn Between Complying with Deadlines and Holding Good Elections.....	21
Conclusions and Political Recommendations.....	23
Endnotes.....	24



About the “Mukalenga wa Bantu” Series

In October 2022, the Congo Research Group (CRG) and its research partner Ebuteli launched a series of reports on democracy in the Democratic Republic of the Congo. This project focuses on structures of mobilization as a means of scrutinizing conduits of accountability in the country.

Congolese overwhelmingly believe in electing their leaders—in our recent poll with BERCI, 77% said this was the best form of governing; very few would like to return to the days of single-party or military rule. And yet, most Congolese are not happy with what democracy has provided. Only 37,5% express some degree of trust in the central government; that same figure is 32% for the national assembly.

What explains this gap between democracy’s popularity and dissatisfaction with the government and elected officials? There are many factors that contribute to the country’s democratic weaknesses. Much of the focus has been on the electoral process itself—the electoral commission, the court system, and allegations of vote rigging. Indeed, CRG and Ebuteli will soon be publishing such an analysis in preparation for the upcoming 2023 polls. Other analyses have highlighted the need for civic education and the dysfunctions of the media ecosystem in the Congo.

This series of reports takes a different approach, focusing on the various channels of popular mobilization in the country that influence the government’s behavior. The title of this series—“Mukalenga wa bantu, bantu wa mukalenga” (the leader exists thanks to the people, and vice versa)—a saying from Kasai, indicates the need for leaders to be accountable to the people, while at the same time citizens have a duty to mobilize and make themselves heard.

Political parties themselves are the most obvious example of this kind of structure—we will soon be publishing two reports in this series, on the Union pour la démocratie et le progrès social (UDPS) and the Parti du peuple pour la reconstruction et la démocratie (PPRD), the two most important parties to arise since democratization began in 1990. The argument here is clear: the degree to which political parties can forge internal mechanisms of accountability and a coherent ideology will influence how they govern.

Our first report will examine the role of the Catholic Church in the country’s democracy, while another will analyze the state of civil society in this current democratic moment. The Congo is a plural society, and these kinds of institutions—and we will highlight their strengths and flaws—have contributed to the vitality of its democracy: protestors have ensured term limits had to be respected, and a majority of parliamentarians are not reelected when citizens go to the polls.



Glossary of Acronyms

AAB	<i>Action alternative pour le bien-être et le changement</i>
ANR	<i>Agence nationale de renseignements</i>
ARMP	<i>Autorité de régulation des marchés publics</i>
BERCI	<i>Bureau d'études, de recherche et de consulting international</i>
CENCO	<i>Conférence épiscopale nationale du Congo</i>
CENI	<i>Commission électorale nationale indépendante</i>
CEPPS	Consortium for Election and Political Process Strengthening
CLCR	<i>Centre local de compilation des résultats</i>
CNPR	<i>Centre national de centralisation et de publication des résultats</i>
CRG	Congo Research Group
ECC	<i>Église du Christ au Congo</i>
FCC	<i>Front commun pour le Congo</i>
IFES	International Foundation for Electoral Systems
INS	<i>Institut national de la statistique</i>
M23	<i>Mouvement du 23 mars</i>
MLC	<i>Mouvement de libération du Congo</i>
MSR	<i>Mouvement social pour le renouveau</i>
ONIP	<i>Office national de l'identification de la population</i>
PAJ	<i>Commission politique, administrative et juridique</i>
PPRD	<i>Parti du peuple pour la reconstruction et la démocratie</i>
SYMOCEL	<i>Synergie des missions d'observation citoyenne des élections</i>
UDPS	<i>Union pour la démocratie et le progrès social</i>
UNDP	United Nations Development Programme
USN	<i>Union sacrée de la nation</i>



Summary

The ongoing electoral process got off to a bad start in the Democratic Republic of the Congo. Despite the many criticisms of the previous elections held in 2018, the country's new voting cycle was launched with a *Commission électorale nationale indépendante* (CENI) staffed by leaders whose mandate had lapsed since 2019. Corneille Nangaa's team continued to lead CENI, waiting for its membership to be renewed. However, deprived of operational funds, this transitional CENI failed to deliver much in terms of preparations for the upcoming elections. The whole electoral process was practically suspended until a new CENI team took office in October 2021, creating a significant delay. Recurring controversies around the appointment of those in charge at CENI have eroded trust in CENI and have contributed to this lag, which has raised fears that the elections, initially planned for the end of 2023, would be postponed.

Yet, after the 2018 contested elections, the new government expressed a will to repair the system. To remedy the weaknesses of previous electoral cycles, proposals to improve the electoral system were tabled for debate. The new incoming parliamentary majority dismissed nearly all of them. Many proposed safeguards against the politicization of CENI were not included in the amended law on the organization and functioning of CENI. For example, the proposal to require a balance between the various stakeholders in the electoral commission was rejected. The awaited reform of the electoral law was also unable to guarantee the transparency of future electoral operations. Also, the draft law submitted by a group of thirteen politicians and civil society leaders, the G13, which contained relevant remedies to this, was emptied of its substance before being adopted.

The constitutional court, the custodian of the electoral process, was not left unscathed by the government's determination to control the elections. Since 2018, several constitutional judges have had their mandates terminated, sometimes by unorthodox means; others were appointed to other positions against their will.

This is the worrisome context in which the next elections are being prepared. The institutions involved in the electoral process are under constant fire, including from the coalition in power. Many are questioning their independence. Grave doubts are also emerging about the country's ability to hold credible elections within the constitutional deadlines. As the lessons of 2018 appear to not have been learnt, there is a risk that the same mistakes will be made.

The main challenge is to reestablish trust in the electoral process. All stakeholders, especially CENI and the ruling coalition, should focus on finding a way to reassure everyone involved. The current government has a heavy responsibility to foster a clean break with electoral cycles mired in controversy. And, if a political dialogue does come about, the various actors should prioritize seeking concrete and bold solutions to improve the electoral system, rather than sharing political spoils.



Lessons from the 2018 Electoral Process


The 2018 elections were historic. For the first time in Congolese history, it led to the peaceful transfer of executive power between an outgoing president and the declared winner of the elections.¹ “However, the alternation of power does not make democracy, even if it has a role to play,” noted Jean Otemikongo Mandefu.² This is particularly true because the results of the elections held on December 30, 2018 lacked transparency and were marred by numerous other irregularities.

CENI Under Political Control

It all starts with the body in charge of managing the elections. As with the previous electoral cycles, from the outset CENI found itself at the heart of controversies. Between 2012-2019, CENI had been negatively impacted by its changing membership, which is named by a mixture of the ruling coalition, the opposition, and civil society.

After having led CENI during the 2006 elections, Father Apollinaire Malumalu was reinstated at its head in 2012. However, the Catholic Church, of which he was a member, was unhappy about his nomination, disputing his membership in civil society, as well as his independence and neutrality. Before and after the 2006 elections, he worked for the presidency.

With regard to the delegates of political parties, six are named by the majority and four by the opposition. Together with the two remaining members chosen by civil society, they all have a six-year term and are expected to be independent of their various parties, according to the organic law on CENI. In practice, the parties often retain control over their delegates and tend to replace those who do not follow their wishes. The battle for control of the body resurfaced again in 2015, when Malumalu retired due to illness. Corneille Nangaa was eventually chosen to take his place following a vote held by the various religious denominations but boycotted by the Catholic Church, which complained of irregularities. This change at the head of CENI brought about other changes in the body, particularly that of André Mpungwe, who was replaced as vice-president by Norbert Basengezi on behalf of the ruling majority.



CENI Replacements from 2012-2019

	Role	Initial member	Replaced by	Reason	Component
1	Président	Apollinaire Malumalu	↔ Corneille Nangaa	Illness	Civil society
2	Vice président	André Mpungwe	↔ Norbert Basengezi	Resignation	Majority/ <i>Parti du peuple pour la démocratie et la reconstruction</i> (PPRD)
3	Questeur	Chantal Ngoie Tshite	↔ Pierrette Mwenze et Gerardine Kasongo	Resignation and reshuffle of CENI recommended by the CENCO dialogue	Majority/ <i>Parti du peuple pour la démocratie et la reconstruction</i> (PPRD)
4	Deputy Questeur	Micheline Bie	↔ Nadine Mishika	Reshuffle of CENI recommended by the CENCO dialogue	Opposition/ <i>Mouvement de libération du Congo</i> (MLC)



In reality, there was political pressure on nearly all of the commission's members, with each side wishing to place their most loyal delegate. Accused of collusion with the government, the rapporteur, Jean-Pierre Kalamba, initially appointed on behalf of the opposition for *Union pour la démocratie et le progrès social* (UDPS), was also requested to be replaced by his party, without success. Most likely shielded by those who ended up co-opting him, he remained in post until elections were held. Only the deputy rapporteur, Onésime Kukatula, appears to have evaded such political fighting.

As can be seen, the electoral commission, required to be independent by law, seems to be under political control, which has undermined trust in its ability to hold credible elections.

The Controversial Voting Machine: From Rejection to Acceptance?

During this period, CENI's choices were also hotly disputed, starting with the voting machines. These were introduced during the 2018 elections. They were presented as simple printers by CENI. Voting machines "will only be used to print ballots,"³ said Corneille Nangaa, then CENI president. In his view, using voting machines in no way meant holding an electronic vote, an opinion for which the opposition and a significant portion of civil society organizations admonished him, denouncing CENI for wanting to infringe on the provisions of the electoral law, which prohibited the holding of even semi-electronic voting.⁴

CENI also presented voting machines as a means of limiting the already exorbitant costs of the elections, limiting electoral fraud and reducing the time required to publish the results. This did little to convince the opposition, which renamed the machines "[vote] stealing machines"⁵ (machine à tricher), introduced to favor the ruling majority presidential candidate and to win a large victory in the general elections. In fact, many feared massive fraud since the voting machines presented many pitfalls, including their "functionality [...], which ranged from mere ballot printing to digital tallying and transmitting results; the manner in which the machines could be monitored by stakeholders; and the digital literacy of Congolese voters."⁶ CRG, for example, cited the risk of "long queues" for "an electorate [which] has no experience with touchscreens," and warned that "in light of experiences with similar equipment in other countries, the measures pro-

vided for in case of failure or malfunction may not be sufficient."⁷ Compounding this was the problem of the country's poor electricity coverage and the lack of transparency surrounding the voting machines procurement contract.⁸

In order to reassure the various stakeholders, CENI agreed to implement the recommendations of a voting machine study by the Westminster Foundation for Democracy. Their proposals included to turn off the Wi-Fi by default, to limit the total number of ballots authorized on each machine, and to review the selection and confirmation of candidates.⁹ After the elections, although the ruling coalition retained an overwhelming majority at the national assembly, its candidate for the highest office, Emmanuel Ramazani Shadary, was not declared winner of the presidential elections. In the end, electoral observation missions praised the advantages of the voting machines which turned out, according to them, to be more important than the fears raised. "Despite the technical problems which were fixed as soon as they were reported, the voting machines worked well overall, which can be seen as encouraging given the challenges that their use posed," noted, for instance, the *Synergie des missions d'observation citoyenne des élections* (SYMOCEL) in its final report.¹⁰

In concrete terms, for CENI the purpose of the voting machines was first and foremost to enable ballot results to be verified twice: first with the data recorded by the machines and then with the results of the hand count. This last method took precedence over the results from the machines in case of inconsistencies.¹¹ This approach "allowed election officials to double-check manual tallies against electronic results, which might have discouraged tampering and allowed officials to more easily identify potential fraud," indicated the Carter Center.¹²

When the results were announced, however, the numbers provided by CENI were different from those leaked by the same electoral commission and those from parallel compilations of specialized structures of the *Conférence épiscopale nationale du Congo* (CENCO). Electoral missions were relatively positive about the reliability of the voting machines. For example, the electoral observation mission report of *Justice et Paix Congo*, the CENCO electoral observation mission, highlighted that: "92.31% of ballots cast show that voting machine results were consistent with the hand count. Whereas 7.09% of the reports indicate that these results were inconsistent with those of the hand count." In this last case, 96.03% of those reports indicated that voting officials drafted the minutes of the count and the detailed results based on the hand count.



During the electoral process, the voting machines should have simplified the presentation of candidates. This was the case, according to the Carter Center. “[T]he machines facilitated a more voter-friendly presentation of candidates and ballots as compared to the previous elections,”¹⁴ the report concluded. But it regretted that “voter education regarding their use proved insufficient.”

This was why, in the end, the various observation missions did not advise against using voting machines in the next elections. In the view of SYMOCEL, what was required was rather a “participative assessment on the use of the voting machines, with a view to their potential appropriation and the safeguarding of their data against external attacks.”¹⁵ Along the same lines, the Carter Center recalled “international best practices,” which require “information on the possible introduction of the electronic voting system [to] be made available to the public well in advance.” CENI had not done this.

etween March and April 2022, a United Nations mission visited the DRC to assess electoral needs; it noted that the use of voting machines was an area of agreement among the various actors involved.¹⁶ Another study, commissioned by the International Foundation for Electoral Systems (IFES), concluded that “the existing legal and regulatory framework [should be] updated to ensure that the use of technology produces its promised benefits in terms of results transparency and actionability.”¹⁷

Other Areas to Strengthen and Challenges Ahead

Several steps of the electoral process have taken place without eliciting much criticism. The revision of the voter registry, the registration of candidates, and the holding of elections themselves have not raised many suspicions. It is clear that CENI has been able to improve these stages of the process.

The Consortium for Election and Political Process Strengthening (CEPPS) claimed, for instance, that the latest review of the voter registry “distinguished itself positively from its predecessors, notably in using technologies that allegedly reduce data loss between field kits and the database – which was the biggest challenge to list credibility in 2006 and 2011 and resulted in millions of voters using off-the-list voting.”¹⁸ Some flaws remained, particularly the registration of at least 16% of electors without fingerprints during the preceding electoral cycle.

Another area to strengthen is the registration of candidates. This also took place according to the electoral timetable and the electoral law. Nonetheless, from a political viewpoint, some opposition candidates were excluded from the process (Moïse Katumbi) and others had their candidacies invalidated (Jean-Pierre Bemba and Adolphe Muzito). It is important that civil society organizations monitor this step of the electoral process for the upcoming polls.

The most critical flaws of the 2018 electoral process were in how the results were compiled and published. In the new version of the electoral law, even lawmakers recognized this when mentioning the “weakness in tabulating and tracing [voting] results,”¹⁹ among their criticisms of the previous electoral cycle. By way of illustration, according to the SYMOCEL electoral observation mission, during the 2018 electoral process, CENI “announced the results without waiting for the end of tabulation in the various *Centres locaux de compilation des résultats* (CLCRs) throughout the country.”²⁰ Those published results were never broken down by polling station, another example of the lack of transparency when it comes to publishing election results.

Electoral Reforms or Another Wasted Opportunity

Clearly, the 2018 elections did not put an end to the legitimacy crisis from which political institutions in the Congo have suffered. Bold reforms were therefore needed to redesign the Congolese electoral system and ensure that the next elections after the peaceful change in power were credible and transparent. “Our electoral system needs some appropriate adjustments,” President Félix Tshisekedi himself admitted on January 24, 2019, in his inaugural address. his is a huge undertaking, particularly as it touches on both discussions around particular laws²¹ and on some constitutional provisions.²²

Multiple Proposals for Electoral Reforms

The first speech of the new president of the republic sparked a surge of electoral reforms. Several recommendations were already on the table. These included, among others, the recommendations from the CENI 2012-2019



report on the electoral process and those from electoral observation mission reports. Several civil society organizations pooled their reform proposals in September 2020²³ and a group of 13 political and civil society actors (G13²⁴) launched on July 11, 2020 “a call in favor of a national consensus on electoral reforms.”

The willingness to move towards bold and consensual reforms took shape in April 2021 at the investiture of Jean-Michel Sama Lukonde’s government. The new prime minister committed “to convene *ad hoc* political dialogues” on the matter. However, the process of scrutinizing the proposed amendment to the law on CENI had already started at the national assembly, not without controversy. The text was adopted by parliament, then promulgated on July 4, 2021 by the president of the Republic. It was devoid of any movement towards the desired reforms. Quite the opposite, the new law confirmed the politicization of the electoral commission and allowed the ruling majority to name a majority of members of the *bureau* of CENI, the most important organ of this democratic institution. This was the first missed opportunity for reform.

Attention then turned to the work in progress to reform the electoral law. On September 17, 2020, ten members of parliament, mostly G13 members, submitted a draft law with several bold recommendations. This included a ban on running in two different races at the same time, the introduction of an admissibility threshold—political parties would have to run legislative candidates in at least 60% of races instead of winning a certain number of those—the creation of an exhaustive legal framework for electronic voting, a ban on candidates having alternates who are related to them, the requirement to publish the results by polling station and the institution of sanctions against the CENI president in case of refusal to publish this breakdown of results.

Three months after this draft law was submitted, President Tshisekedi and his new government were no longer in a hurry to carry out electoral reforms, particularly since, in December 2020, the head of state had managed to change the balance of power. Tshisekedi had been locked into a coalition with his predecessor, Joseph Kabila, since he arrived in power. Even though Kabila had relinquished the presidency, he had taken care to keep control of parliament, the government, as well as the security services and the constitutional court. After two years, however, Tshisekedi was able to forge a new alliance, the *Union sacrée de la nation* (USN). Carrying out electoral reforms no longer seemed to be a priority. Two parliamentary sessions—those of March and September 2021—opened and closed without the draft law initiated

by the G13 being examined by the national assembly. The “*ad hoc* political dialogues” on electoral reforms announced by the government were also no longer on the agenda.

“Ramming It Through” or Majority Rule?

It was not until the March 2022 parliamentary session that the G13 draft law was considered during a national assembly plenary session, on April 14. In the meantime, the short interval between the tabling of this text and the start of its examination in the lower house of parliament did not allow stakeholders in the electoral process to come together for a measured debate. As a result, the opposition decided to boycott the proceedings. A senior member of the *Front commun pour le Congo* (FCC), Kabila’s coalition, explained: “There was no question of us supporting this pressure by the *Union sacrée de la nation*. The electoral process is biased both upstream, with the appointment without consensus of CENI’s new leaders, CENI and downstream with the appointment of constitutional judges in violation of the constitution. And, in the midst of all this, we knew that the electoral law was going to be tailor-made [for those in power].”²⁵

Still, the boycott did not prevent the parliamentary majority from imposing its line. The USN set up a working group, which met on April 26 to “consider its options” with regard to this text. In other words, it would decide what should be adopted, reworded, or rejected outright in the final version of the G13 draft law to be voted on by the parliamentarians. Another trend within the ruling coalition simply considered that the electoral law in force at the time of the debates was “generally good and could be kept.”²⁶ In their view, not reforming the law was “largely advantageous to the current USN majority.”


Then, on May 12, the Commission politique, administrative et juridique (PAJ) of the national assembly, headed by deputy Augustin Mulumba Kanza (Cap pour le changement, majority), was given the task of conducting a thorough review of the draft law. Talatala, a tracker of parliamentary activity and government action led by CRG and Ebuteli, was able to consult the nineteen-page report of the PAJ committee filed on May 31 at the office of the national assembly.²⁷ Unsurprisingly, in reviewing the 64 articles concerned, the committee had mostly followed the proposals made by the parliamentary majority in plenary or by the working group set up by the USN.

In this context, it was unlikely that the eighteen major



innovations of the G13 proposal - apart from those involving constitutional revision - would find support within the majority. The G13 - at least those of its members who remain in parliament, as some have been appointed ministers - even denounced a “lack of debate” during the examination of its legislative initiative. This did not change the situation. The text was adopted by the national assembly on June 15 and promulgated on June 29 even before the report of the joint national assembly-

senate commission had been adopted, according to several parliamentarians consulted by CRG/Ebuteli.



The table is a compilation of the decisions and debates on the main ideas within the G13’s proposal

	Reforms Proposed	G13 Motives	Union sacrée de la nation Counterargument	Decision (Enacted law)
1	Removal of the representativeness threshold and its replacement with an admissibility threshold of candidacies in proportion to 60% of the seats available	Fight against the inflation of political parties and multiple candidacies	Makes it difficult for independent candidates to run	Partly adopted
2	Change from proportional voting to a simple majority vote	Contribution to the creation of larger movements and to a greater elected official legitimacy	Weak representation of all the existing political trends in public opinion	Rejected
3	Introduction of sponsorship by provincial parliamentarians in the indirect election of governors	Fight against corruption	Infringement of the secrecy of the vote, a proposal contrary to article 13 of the constitution	Rejected
4	Introduction of sponsorship of provincial parliamentarians in the indirect election of senators	Fight against corruption	Infringement of the secrecy of the vote, a proposal contrary to article 13 of the constitution	Rejected
5	Ban on the same province having more than one senator from the same territory, same town, and for more than two years for a group of municipalities for Kinshasa	Rotation to respect representation	Discriminatory proposal	Rejected
6	Ban on combining candidacies for two elections at the same level	Moralization of political life and the fight against nepotism	Violation of democratic competition. Candidacy does not necessarily mean election.	Rejected
7	Ban on proposing alternates of direct kinship with ascendants and descendants to the second degree	Moralization of political life and the fight against nepotism	Discrimination in access to the civil service	Rejected

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	Reforms Proposed	G13 Motives	Union sacrée de la nation Counterargument	Decision (Enacted law)
8	Ban on distributing money, property with a monetary value during the electoral campaign	Fight against corruption	Matter already largely covered by article 36 of existing law	Rejected
9	Inclusion of gender in preparing lists of candidates according to article 14 of the Constitution	Inclusivity	Meritocracy and competi-	Adopted if reformulated
10	Distinction between permanent and temporary disqualifications	Inclusivity	Decline of morality in the political sphere	adopted
11	Definition of a comprehensive legal regime for electronic voting	Consolidate the gains made by the adoption of voting machine L	Safeguard the primacy of a hand count over an electronic one	adopted
12	Obligation to publish the electoral map prior to publishing the electoral timetable	Electoral transparency	Risk of dispute prior to the elections	Adopted if reformulated
13	Obligation to publish the results at polling station level and to compile them into provisional results in CLCRs	Electoral transparency and the credibility of results	The authority to publish is accorded to the CENI president	Adopted if reformulated
14	Establishment of a national center for the centralization and publication of the results (CNPR)	Electoral transparency and the credibility of results	Risk of unrest prior to the publishing the results	Rejected
15	Obligation to distribute the minutes to all witnesses and observers	Transparence et crédibilité électorale	Only witnesses are entitled to the minutes under existing law	Adopted if reformulated
16	Establishment of a sanction against the president of CENI in case of refusal to publish the results of the vote at polling station level for all polling stations	Electoral transparency and credibility	Matter already provided for in the organic law on CENI	Rejected
17	Obligation to recount votes in all electoral disputes in which CENI is involved reserved by the Court	Electoral transparency and credibility	Recount of votes is an exceptional measure	Rejected
18	Posting of the individual polling station results on the CENI website or the election would be canceled	Electoral transparency and credibility	Sanctions are already provided for in the organic law on CENI	Adopted if reformulated



Seven main lessons can be learned from this episode and seven amendments were finally made to the electoral law.

- 1. Strengthening the electoral threshold.** The admissibility threshold proposed by the G13 was adopted without removing the representativeness threshold introduced in 2017. The latter consists of a percentage (1% for legislative, 3% for provincial, and 10% for local elections) of validly cast votes that each list or independent candidate must reach to be eligible for the allocation of seats. The new mechanism - the admissibility threshold - requires parties or political movements to run candidates in at least 60% of seats in competition.
- 2. The adoption of some, or not entirely, new innovations and the omission of others.** The new law has retained the requirement to publish the electoral map thirty days before the beginning of the election campaign. This provision was, however, present in the previous version of the same law. The same applies to the requirement to transmit the envelopes to the courts and tribunals in charge of electoral disputes. On the other hand, while claiming to innovate on issues already settled, lawmakers probably forgot, as in 2017, to amend article 146 of the electoral law, which maintains the determination of the number of parliamentarians according to the number of inhabitants of the province instead of the number of voters. This unfortunate omission dates back to the controversial amendment of the electoral law in 2015, when those in power tried to link a population census to the holding of elections.
- 3. The publication of election results solely by the CENI president.** This is a regression with regard to the previous version of the electoral law, which provided that the CENI president or his replacement were the two persons empowered to make the results of the vote public. This provision of article 71 has now been amended to grant this responsibility only to the head of the electoral commission. On the one hand, this strengthens the powers of the CENI president over the rest of its members; on the other hand, it distances itself from best practices in electoral management. In this case, best practice would strive to avoid the emergence of an all-powerful CENI president and instead encourage balance in the decision-making process within an electoral commission.²⁸

However, a timid step in this direction can be seen in the new organic law on CENI by creating the position of a CENI second vice-president in charge of electoral education (*sensibilisation*).

On the other hand, not allowing the CENI president's alternate (*suppléant*) to make vote results public may lead to a conflict with the organic law on CENI. The latter provides for the replacement of the president in case of impediments or absence.

- 4. Contradictions in the electronic voting legal regime.** In the event of a discrepancy between the results of the voting machine and those of the hand count during an electronic or semi-electronic vote, which of the two will be taken into account? On this fundamental question, lawmakers dithered: while Article 47 grants CENI the power to rectify mistakes after having carried out verifications, Article 67 enshrines the primacy of the manually compiled results over the electronically approved ones.
- 5. Obligations without sanctions.** These are, undoubtedly, timid advances. Lawmakers have created many obligations for CENI members. For the first time, for example, the electoral commission is legally required to display, on its premises and on its website, the provisional results by polling station.

However, the law does not specify how quickly this requirement must be fulfilled and does not provide for any sanctions in case of non-compliance. In its initial draft law, the G13 advocated for the invalidation of results that were not published by polling station at the local compilation center. Legislators justified the rejection of the proposed sanctions by the fact that the organic law on CENI already provided for them. However, the nature of these sanctions is different: those of the organic law on CENI are generally related to the administrative and financial management of the electoral commission as well as to the ethics of its members. As such, they are limited to the automatic resignation or disqualification of CENI members. In contrast, those proposed in the initial version of the text amending the electoral law were specific to the results of the polls with penal consequences. In fact, without sanctions, these requirements resemble mere recommendations made to CENI.

- 6. An optional incentive for women's representation on (party) lists.** The new electoral law exempts any list that includes at least 50% of women in a constituency from payment of the deposit. This is certainly a step forward, as parties with limited financial means will resort to this mechanism, but it will not be enough to guarantee women's representation in elective assemblies after the elections.

Another more concrete mechanism to promote women candidates, recommended by the G13, was



not retained. It consisted in requiring political parties or groups to draw up lists “taking into account gender representation by requiring at least one third of the candidates to be women and taking into account persons living with a disability” in a constituency of more than two seats. The initial version of the draft law also established the non-representation of women and of persons living with disabilities as “grounds for inadmissibility of the list.”

- 7. Nominal electoral transparency.** “The innovations made [to the electoral law] generally concern the transparency of voting operations, the voting method and the certification of results, which contribute to the improvement of the electoral system,” the new electoral law claims at the outset. However, all these initial innovations have been rejected or amended, or emptied of their substance. For example, the requirement to publish the results by polling station at the CLCRs, failure of which would lead to the cancellation of those results, was transformed into the simple requirement to display the provisional results published by polling station at the CENI premises and on its website.

As can be seen, compared to the expectations of the various stakeholders in the electoral process (CENI, civil society, and political parties) expressed in their various above-mentioned documents and in the G13 draft law, the long-awaited improvement of the electoral system did not take place. Not only was it not consensual; it was flawed and made few changes that would enhance the credibility of the electoral process.

The Lack of Trust Among Stakeholders

Given these flaws in the reforms carried out, some political parties and civil society organizations remain unconvinced that the electoral process underway will be different from previous ones. This perception has been strengthened by their lack of trust in the institutions involved in elections, the non-inclusivity of the process, and the upsurge of restrictions in the political space.

Control over Institutions Involved in the Management of Elections

Under Kabila, the political control of institutions involved in the management of elections was criticized during every electoral cycle. These denunciations have persisted under his successor, Tshisekedi. Since the end of 2020 when he managed to reverse the balance of power, President Tshisekedi has made moves to obtain the support of CENI and the constitutional court. This raises serious fears of bias in these institutions, as was the case during previous electoral cycles.

The reform of CENI through the amendment of its organic law on July 4, 2021, did not put an end to the imbalance between the three components represented on the electoral commission. Although civil society was increased from three to five delegates in the text, the ruling coalition and the opposition each retained six and four representatives, respectively, within the electoral commission. Similarly, the confusion between the bureau and the plenary body of CENI has been cleverly maintained in the organic law: the members of the first, the management body, are also members of the second, the supervisory body.²⁹ This makes internal checks and balances difficult.


These systemic weaknesses at CENI have been reinforced by the appointment process of its current leaders.³⁰ The lack of consensus between religious denominations on the appointment of the CENI president has weakened its credibility. Both Protestant and Catholic churches contested the nomination of Denis Kadima. His detractors suspected him—a renowned electoral expert—of being close to President Tshisekedi. And the fact that UDPS, the presidential party, supported his candidacy for the CENI presidency behind the scenes has only reinforced these suspicions of collusion. In a poll published in August 2022³¹ by CRG, Ebuteli, and *Bureau d'études, de recherche et de consulting international* (BERCI), only 28% of respondents had a favorable opinion of CENI. And 45% of Congolese surveyed did not trust CENI to organize credible, free, and transparent elections.

The political opposition does not officially have delegates in the current CENI. When approached by the office of the national assembly to designate its delegates, it declined. The FCC denounced the lack of consensus around the process of appointing the president of CENI, while Lamuka pointed to the persistent politicization of the electoral commission. In the end, Didi Manara, freshly ejected from his functions as president of the PPRD parliamentarian group and coordinator of the FCC parliamentarians in



the national assembly, spoiled the opposition strategy by submitting an opposition list of CENI candidates on December 15, 2021, despite not having a the mandate to engage the opposition. On December 23, the opposition parties boycotted the parliamentary plenary for the ratification of these new CENI members, although this did not prevent the parliamentary majority from validating the

proposed names. As a result, CENI is politically skewed: only USN is truly represented through the members it has designated or co-opted, despite some frustrations of some groups within the ruling coalition. Despite this overall political imbalance, the five civil society delegates only protested the appointment of Kadima.



Current Membership of CENI Bureau and Plenary Assembly

	Names	Position	Component
1	Dénis Kadima Kazadi	President	Civil society/religious denominations
2	Bienvenue Ilanga	First vice-president	Majority/PPRD-USN
3	Didi Manara Linga	Second vice-president	Opposition/PPRD-FCC
4	Patricia Nseyá	Rapporteur	Majority/UDPS-USN
5	Paul Muhindo	Deputy rapporteur	Majority/G7
6	Agée Aje Matembo	Questeur	Opposition/ATEC/DYPRO/FCC
7	Sylvie Birembano	Deputy questeur	Majority/AFDC-A
8	Lupemba Mpanga Ndolo	Full member	Majority/MLC
9	Boko Matondo Fabien	Full member	Majorité
10	Ditu Monizi Blaise	Full member	Opposition/ <i>Dynamique de l'opposition-Lamuka</i>
11	Roger Bimwala Mampuya	Full member	Civil society/religious denominations
12	Jean Ilongo Tokole	Full member	Opposition/AAB-FCC
13	Joséphine Ngalula	Full member	Civil society/women's organizations
14	Gérard Bisambu	Full member	Civil society/Civic and electoral education
15	Adine d'Or Omokoko	Full member	Civil society/electoral monitoring

The constitutional court has not been able to avoid these political disputes, as the current government has decided to take back the control that the former regime exercised over the high court. In fact, the history of the constitutional court has been defined by political interference. Initially, likely fearing the prerogatives granted to it by the country's various constitutions since 1960, political decision-makers perpetually postponed the court's creation. It was only in 2015 that the constitutional court was finally established. However, the government in power at the time took steps to reduce its role as a counterweight to the executive by


politicizing its membership. Judges were chosen according to their loyalty or proximity to the regime.

The same process seems to have continued after Kabila. The politicization of the composition of the constitutional court has even increased. In 2020, it was at the heart of the conflict between President Tshisekedi and his predecessor. In the midst of this battle, Benoît Lwamba, then president of the constitutional court, resigned. The minutes recording his decision were sent to the head of state on July 13. *Jeune Afrique* revealed shortly afterwards that



“Benoît Lwamba had met with Félix Tshisekedi on July 4 to inform him of his desire to resign from his post. In addition to the personal reasons given, and in particular his age—75—the magistrate in particular mentioned to the president the ‘pressures’ that he says he ‘continues’ to undergo as motivating his decision.”³² Pressing his advantage, Tshisekedi then ordered the transfer of two constitutional judges against their will: Noël Kilomba and Jean Ubulu, who tried in vain to hold on to their posts.³³ With three judges removed, the way was paved for President Tshisekedi to appoint new judges on July 17: Dieudonné Kaluba Dibwa, from the presidential quota, as well as Kalume Yasengo and Kamulete Badibanga, from the quota of the *Conseil supérieur de la magistrature*, to replace Kilomba and Ubulu, who had been appointed to the *Cour de cassation*.

Kaluba Dibwa, who had become president of the constitutional court, was subsequently dismissed in May 2022, following the opaque replacement of the three members of the court. The other two judges replaced were Évariste-Prince Funga Molima and, from the parliamentary quota, Judge Polycarpe Mongulu, who died in early April. The national assembly and the senate fought over this last judge’s replacement, with each chamber’s president wanting to appoint someone loyal to him.³⁴ This was another example of an attempt to exert political control over the constitutional court. In mid-June, Tshisekedi appointed three new judges to complete the ranks of the court.



Current Composition of the Constitutional Court

	Names	Date of oath	Appointing authority	Quota of origin
1	Corneille Wasenda N’songo	April 4, 2015	Joseph Kabila	Parliament
2	Mavungu Mvumbi-di-Ngoma Jean-Pierre	April 4, 2015	Joseph Kabila	President
3	Norbert Nkulu Mitumba	July 4, 2018	Joseph Kabila	President
4	François Bokona	July 4, 2018	Joseph Kabila	Parliament
5	Alphonsine Kalume Yasengo	October 21, 2020	Félix Tshisekedi	<i>Conseil supérieur de la magistrature</i>
6	Kamulete Badibanga	October 21, 2020	Félix Tshisekedi	<i>Conseil supérieur de la magistrature</i>
7	Dieudonné Mandzila	June 15, 2022	Félix Tshisekedi	Parliament
8	Christian Bahati Yuma	June 15, 2022	Félix Tshisekedi	<i>Conseil supérieur de la magistrature</i>
9	Sylvain Lumu Mbaya	June 15, 2022	Félix Tshisekedi	President

CENI and the Exclusion of Stakeholders

How can trust be restored in the electoral process in spite of the limitations described above? Upon taking office, CENI’s new management team seemed to make this issue a central objective. It promised to improve consultation between the electoral commission and the various stakeholders in the electoral process.

However, the approach taken by CENI in this regard remains unconvincing. In its communication on the electoral process of July 27, 2022, the *Église du Christ au Congo* (ECC), for example, considered that “CENI continues to carry out extremely important operations without associating the main electoral observation missions and other partners in the process.”³⁵ This same feeling of exclusion is shared by CENCO.

Are these two structures being kept at arm's length from CENI activities for having opposed the appointment of Kadima as president of the commission? This is the view of some within ECC and CENCO, when asked by CRG and Ebuteli. Others are convinced that it is indeed a case of revenge by the CENI leadership. This led ECC to state that "CENI manages the electoral process as a private matter, in spite of the universal principles of electoral transparency."³⁶ In the same vein, Jean-Claude Sady, a member of SYMOCEL, lamented that the electoral commission "only invites friendly organizations to [participate in] its activities."³⁷

Some political organizations are also denouncing this exclusion. This is the case, among others, of the *Action alternative pour le bien-être et le changement* (AAB), led by the parliamentarian Boniface Balamage, who has remained loyal to former president Kabila. This political group wrote to the CENI president on July 27 to denounce that the electoral commission had invited representatives of ABB who were not mandated by the party to engage with CENI, according to the party's internal texts. "Such an attitude creates confusion and only exacerbates the distrust and fears of the opposition and civil society regarding the partiality of the CENI president," according to the AAB.³⁸

Restrictions of Political Space

As the elections draw nearer, the repression of dissent has increased. Tshisekedi's ascent to power in January 2019 had raised hope that the new government would respect fundamental freedoms. And signals of a break from the former regime were visible: the release of political prisoners, the return of political exiles, the opening of some media outlets close to the opposition. The national radio and television station, RTNC, even began to report on the activities of the opposition.

But in 2020, repression increased. The government took advantage of the COVID-19 pandemic to limit political demonstrations. Between January and July, Human Rights Watch said it had documented "at least 39 cases of threats and harassment related to freedom of expression and press freedom in half of the country's twenty-six provinces."³⁹

The next year, following the implementation of a state of siege in two provinces, North Kivu and Ituri, respect for fundamental freedoms did not improve. "Military authorities have instead used their extraordinary powers to

further undermine people's rights with impunity, including freedoms of expression and assembly, and the right to justice," denounced Amnesty International.⁴⁰ Since the introduction of this measure, several people, including national and provincial parliamentarians, have been arrested for criticizing this security policy.

In Kinshasa, there have been an increasing number of prosecutions for offenses against the head of state, for damaging imputations or public insults against the authorities. This is the case of Jean-Marc Kabund-a-Kabund, former vice-president of the national assembly, who is being prosecuted, among other things, for spreading false rumors, and Jimmy Kitenge, the national secretary of PPRD, former President Kabila's party, who was detained for several days by the *Agence nationale de renseignements* (ANR).

Faced with this resurgence of restrictions of political space, a number of Congolese and foreign organizations, as well as national and international experts, sent an open letter to Antony Blinken, US Secretary of State, on August 8, on the occasion of his working visit to the DRC. In particular, they asked him to "denounce the escalating repression against activists, protesters, and journalists and warn that growing intolerance toward critics risks free, credible, and timely elections in 2023."⁴¹

Towards a Postponement (*Glissement*) or Botched Elections?

In its roadmap, published on February 3, CENI was careful not to deviate from the deadlines prescribed in the constitution for holding elections.⁴² The electoral commission did not fail to point out that respecting these deadlines also has several constraints, particularly of a technical and financial nature.

With less than two years to go before the elections, where does CENI stand? Since October 2021, it has embarked on electoral mapping operations and announced the start of the revision of the voter registry in December. In the meantime, the electoral timetable has still not been made public and the funding of the electoral commission remains unclear. In addition, the worrying security situation in the east of the country could complicate electoral activities.



The Electoral Timetable Delayed

Are CENI leaders managing the electoral process in the dark? In any case, without the electoral timetable, all its work is being guided by the roadmap published in February. This is an internal document, created for purposes of political advocacy with other institutions and stakeholders in the electoral process.

With specific dates for each activity, the long-awaited election timetable will be the only binding document. As such, it is one of the key elements of transparency for electoral operations. It reassures stakeholders that deadlines will be respected and allows them to better prepare for elections.

Without an electoral calendar, CENI will have difficulty planning certain aspects of the electoral process. For example, the voter registration law requires it to register minors who will reach 18 years of age by the date of the last election of the current cycle. This deadline is not known at the moment, as the roadmap only gives a time frame in which this last ballot could take place.

In addition to the absence of an electoral timetable, CENI has communicated poorly. Its website has not been functional for several months and it has not initiated any awareness-raising campaign regarding its activities or on the recently enacted electoral law. Stakeholders in the electoral process therefore generally do not know in advance what the electoral commission intends to do.

A Concerning Electoral Map

According to its roadmap, CENI was supposed to update the electoral map between October 2021 and March 2022. However, it decided to overhaul it completely, even though between 2013 and 2015, electoral mapping had produced an electoral atlas. According to CENI, this atlas had, moreover, “resolved issues related to the geospatial location of polling stations, the installation of polling stations in accessible places linked to well-identified villages, as well as the reduction of the distance between polling stations and voters.”⁴³

The choice by CENI not to simply update this electoral map raises questions, especially since the remapping requires more financial resources: the operation involves the deployment of teams throughout the national territory to collect data, as well as the recruitment of temporary support agents for certain sites.

Furthermore, these operations did not take place within the timeframe set out in the roadmap. Although they were supposed to end in March, they actually began in April with the deployment of the teams. They spent almost four months on the ground. At the time of publication, the first mapping, which will make it possible to determine the location of the registration centers, had not yet been finalized. Without a complete electoral map, CENI will have difficulty launching the revision of the voting registry, a prerequisite for other key stages of the electoral process.

Another flaw has been the lack of oversight of this mapping process. In its initial draft amendments to the electoral law, the G13 advocated that the publication of the map should be a participatory, open, and transparent process among all stakeholders in the elections. But lawmakers decided otherwise, leaving this operation to CENI’s discretion. CENI has not clearly defined the rules and regulations for political parties and civil society organizations who want to observe the process, thus reviving suspicions of collusion between the ruling coalition and the electoral commission. A dozen opposition members interviewed acknowledged their fear that CENI could set up more voter registration centers in constituencies sympathetic to the ruling coalition. Or that CENI might divide voter registration centers unequally between opposition strongholds and those of USN members.

The Imbroglia around Combining Voter Registration and the Census

Officially, the government is committed to “not making the holding of elections conditional on the total completion of the census and identification of the population.”⁴⁴ But behind the scenes, it is fighting a battle with CENI over the issue of combining the voter registration, population identification, and general population census. On February 15, Kadima asked President Tshisekedi to ensure the clear separation of these operations to avoid delaying the electoral process.⁴⁵ And the CENI president thought he had been persuasive until, on March 2, a decree by the prime minister on the organization of these same operations sowed doubt. The decree by the head of government specified, however, that combining the two operations in this case only means a “simple pooling of human, technical, logistical, and material resources (...).”⁴⁶

For the government, pooling these operations would “reduce costs and streamline operational timelines.”⁴⁷ Government sources speak of a possible savings of about



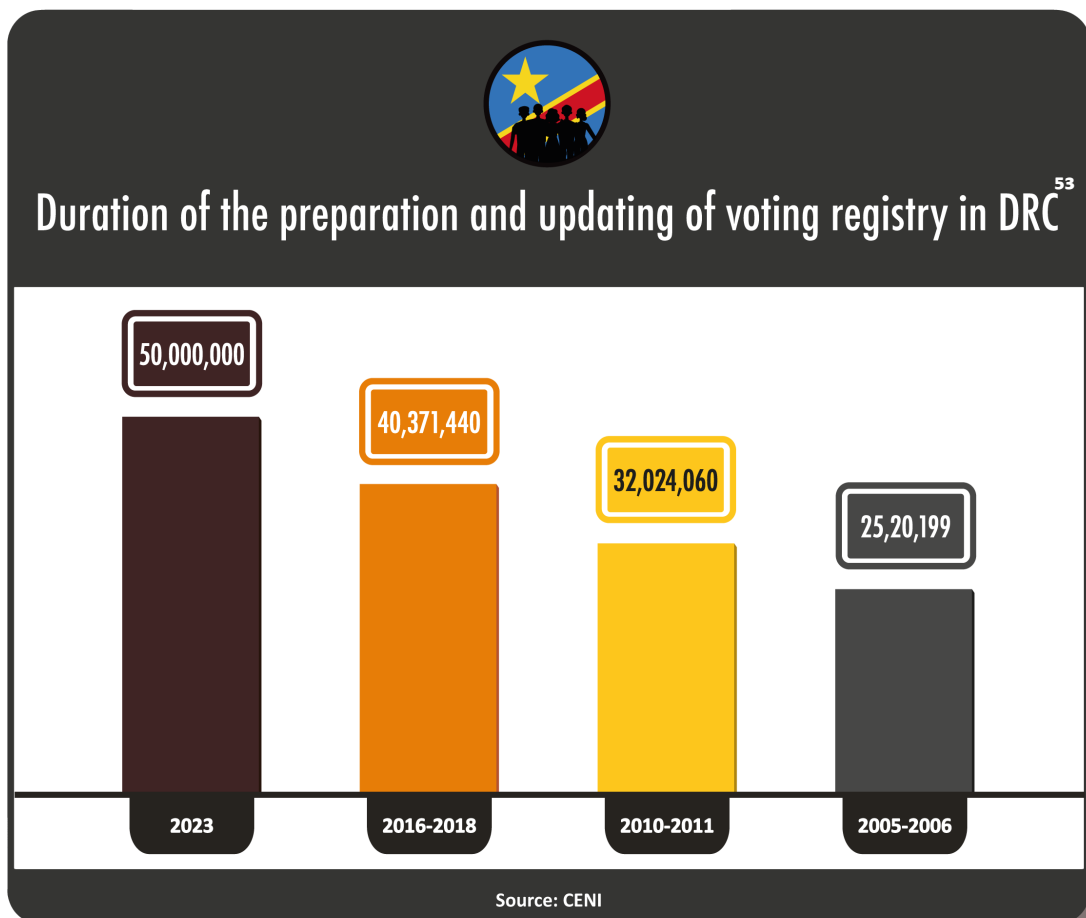
300 million USD on the overall election budget. For CENI, which is concerned about the impact of this approach for keeping to electoral deadlines, the government has provided assurances: “The electoral commission will have to give priority to the collection of data from voters in order to respect the constitutional deadlines.”⁴⁸ In other words, voter registration operations will take priority over the population census that the *Institut national de la statistique* (INS) and the *Office national de l’identification de la population* (ONIP) will have to conduct.

It is in this tumultuous context that CENI is preparing to launch voter registration operations. It has decided to acquire the registration kits from a South Korean company, Miru Systems—the same company that delivered the voting machines for the 2018 elections. The awarding of this contract was unsuccessfully challenged before the *Autorité de régulation des marchés publics* (ARMP) by the Florida-based company, Smartmatic, which said it had submitted a lower bid.⁴⁹

Having tested these kits, CENI now expects their delivery around December 10.⁵⁰ It can then start reviewing the vo-

ter registry towards the end of December. In the meantime, it will work on finalizing the recruitment process of temporary staff, which had been suspended pending the validation of the map of registration centers.⁵¹ The training of these temporary staff is scheduled to start in October 2022.

According to CENI’s projections, following the redesign of the electoral map, the revision of the voter registry could take place in nearly 22,000 registration centers, divided into three operational areas. Each of these three operational areas will have its own kits to register voters for 60 days. The operation will begin in the western provinces of the country (operational area 1), then move to those of the center (operational area 2) and then to those in the east and in the five countries—South Africa, Belgium, Canada, the United States, and France—selected for the registration of Congolese living abroad (operational area 3). CENI hopes to identify and register 45 voters per day in each registration center, resulting in between 50 and 60 million registered voters for the upcoming elections.⁵²





For the revised voting registry, CENI plans to scan voters' irises. This innovation could, however, create problems. This process is not provided for under the law on voter identification and registration. Unless the legislative framework is revised, the electoral commission would find itself in a legally ambiguous situation, similar to the introduction of voting machines for the 2018 elections.

Another difficulty: the announced pilot phase for registering Congolese living abroad will only target five foreign countries and excludes the nine countries bordering the DRC. This raises the question of equality among Congolese living abroad. In principle, existing legislation would require all Congolese to take part in the vote. During previous electoral cycles, since it did not have the technical and financial means to register Congolese living outside the country, CENI had to request a moratorium from the national assembly to exclude them from the electoral process.

For the upcoming elections, Congolese living in South Africa, Belgium, Canada, the United States, and France will finally be able to register to vote. But a legal loophole remains open for other Congolese living in countries not involved in this pilot phase, especially those who reside in a state where the DRC has no diplomatic or consular representation. The law allows them to "be identified and enrolled in a registration center near their place of residence."⁵⁴ This could further complicate the process in terms of the number of people to be registered and aggravate the problem of clearly determining their voting districts.

Redrawing Electoral Districts

The pilot phase of the registration of Congolese abroad has the merit of beginning the materialization of one of President Tshisekedi's promises. But technically, there is still a long way to go. The current version of the electoral law is silent on the vote of Congolese abroad for legislative elections. For the election of national parliamentarians, Congolese living outside the country are not, for the time being, attached to any voting district and there are therefore no seats for their possible representatives in the national assembly. They could nevertheless vote in presidential elections according to the modalities to be determined by CENI.⁵⁵

For the existing voting districts, adjustments are expected. According to the latest mapping carried out by CENI and the ministry of the interior, "the DRC has 33 towns, 310 communes, 145 territories, 470 sectors, 264 chefferies, 5,909 groupements, and 88,710 villages."⁵⁶ This exercise had

led to the postponement of the implementation of some decrees made in 2013 and 2015 creating new entities. Several provinces were concerned: Katanga, Kasai Occidental, Province Orientale, Equateur, Bandundu, Bas-Congo, North Kivu, South Kivu, Maniema.⁵⁷

However, since 2017, several of these new territorial entities have been inaugurated. In some of them, officials have been named. This is the case, for example, of the towns of Baraka, Uvira, and Kamituga, in South Kivu. However, these entities have not been retained as electoral districts, in accordance with the law. The same is true of Lumumba-ville in Sankuru province. Possible conflicts over whether to recognize these new towns will have an impact on the local elections and even on the national and provincial legislative elections.

Three options are available to CENI: it can request a new amendment to the electoral law to adapt to the realities of the overseas vote; it could solve some of these problems by enforcing the electoral law, since CENI also has the mandate to allocate constituencies based on updated demographic data;⁵⁸ or, as in 2015, it could seek a compromise with the government on the problem relating to the updating of territorial entities.

Irregular Disbursements of Funds

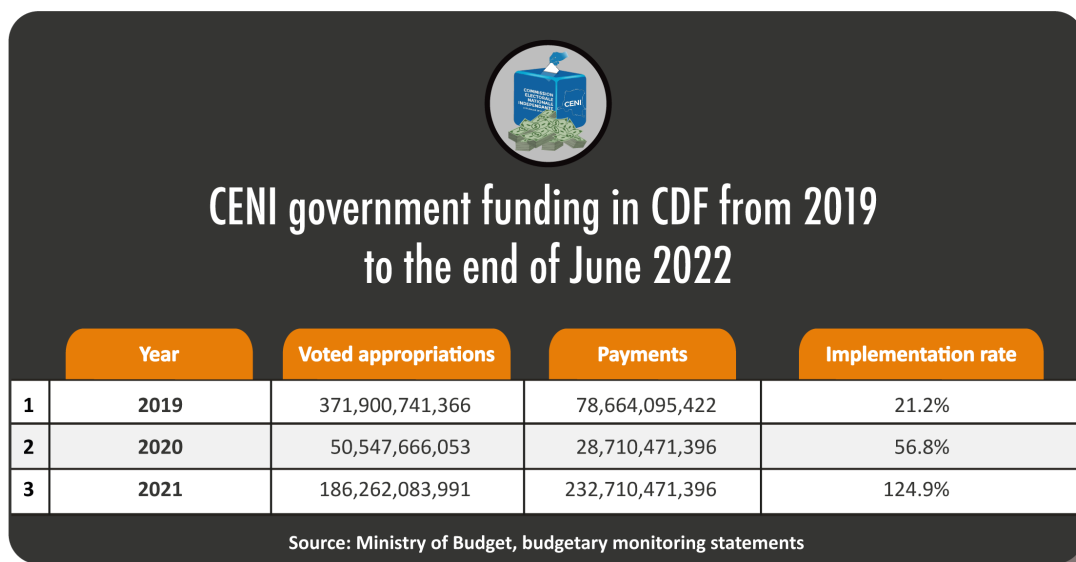
In the DRC, the funding of CENI systematically drops after elections are held. Sometimes, funds are disbursed irregularly to ensure the functioning of the institution and to pay the staff. The fact that at the end of each electoral cycle, the electoral commission must renew its leadership only reinforces this state of affairs. In this case, the process of replacing Corneille Nanga's team, which reached the end of its mandate in 2019, was launched in 2020 and was only completed in October 2021. In the meantime, CENI was no longer receiving sufficient funds from the government.

When he was sworn in at the end of April 2021, Prime Minister Sama Lukonde pledged to make provisions in each year's budget for funding the elections. To this end, he has allocated 500 million Congolese francs, or about 250 million USD, in the 2022 budget to fund electoral operations. This is to compensate for the delay in funding the electoral process. How much is the overall budget of the electoral process? Several sources consulted estimate it to be nearly 900 million USD.⁵⁹ CENI, however, has refrained from making the elections budget public. This raises serious concerns about transparency in the management of public funds.



For the time being, the electoral commission seems to favor gradual requests for funding from the government. This is to take into account cash flow difficulties in order to avoid underestimating or overestimating its needs. For 2022,

CENI has requested 624 million USD, a difference of 392 million USD compared to what it was allocated in the 2022 budget.⁶⁰



In the case of the 2022 fiscal year, which is still in progress, out of the 581,709,843,352 CDF voted for the whole year, or about 290.8 million USD, the government planned to disburse 290,855,921,676 CDF, or about 145 million USD, by June 30, 2022. However, only about 55 million USD had been disbursed by June 30. This represented an implementation rate of 37.8%.

Following contradictions between the ministry of finance and CENI reported in the media regarding the rate of disbursement of operational funds, the electoral commission no longer publicly voices its concerns on this subject. For its part, the government has repeatedly announced the transfer of funds to CENI. On October 7, for example, Nicolas Kazadi, the minister of finance, informed the Council of Ministers that, after having obtained 60 million USD in September, CENI had again received an allocation of 47 million USD.⁶¹ This brings CENI's funding to 345.8 million USD to date. Despite this, a few months before the end of the current fiscal year, the government has not yet provided the electoral commission with the funds it requested for 2022.

Torn Between Complying with Deadlines and Holding Good Elections

The government and CENI continue to reassure the public that the elections will be held on schedule, by the end of 2023. In the eastern part of the country, however, the security situation is worrying, particularly with the resurgence of the *Mouvement du 23 mars* (M23). Supported by Rwanda, according to the United Nations Group of Experts, this armed group has controlled the border town of Bunagana, in North Kivu, since June 2022. The entire province as well as that of neighboring Ituri have been under a state of siege since May 2021.

This instability raises questions about the ability of CENI to carry out election-related activities in this part of the country. The same applies to Kwamouth, in Mai-Ndombe province, where violence between the Yaka and Teke communities has been reported since August 2022. And more generally, in light of the various pockets of insecurity




city in the country, ECC has called on the government to “present a comprehensive plan to secure the elections in areas exposed to armed conflict.”⁶² In the same vein, the ministry of the interior should consider updating the decree of May 6, 2005 on the operational plan for securing the electoral process, which is now outdated.

In the meantime, various interviews with CENI members have revealed an apparent determination to catch up in order to meet the deadlines. Some sources stated that several electoral activities overlap, while others have promised to pick up the pace as financial resources are made available. But it is still possible that the cost of elections could rise two or even threefold. CENI has just concluded the registration kit contract for approximately 93 million USD, double the amount disbursed to acquire these kits in 2016 (46 million USD).⁶³ It also plans to use air transport for the delivery of its materials in order to avoid the delays associated with river transport.

However, the effectiveness of some activities depends on

the full completion of others. The draft law on the distribution of seats, for example, cannot be tabled in the national assembly before voter data is available. The same applies to the actual date of the elections, which was not included in CENI’s roadmap.

Nevertheless, CENI intends to shorten certain deadlines. Its roadmap, for example, provides for only six months for the registration operations. These could be completed in June 2023, if they start in December 2022. However, there is no mention of certain stages critical for the reliability of the voter registry, such as the cleaning of the registry and internal or independent audits. Also, if we refer to previous electoral cycles, it would be necessary to estimate eight to ten months from the delivery of the registration kits by the supplier in December 2022 to hope to have a consolidated voting registry. These are the time constraints that the assessment missions sent by the UN⁶⁴ and the Organisation internationale de la francophonie had relied on in 2016 for the constitution of the voter registry that allowed the 2018 elections to take place.



Duration of the preparation and updating of voting registry in DRC

	Electoral cycle	Registration period	Total duration
1	2005-2006	February 2, 2005 to July 15, 2006	15 months
2	2010-2011	June 7, 2010 to August 14, 2011 ⁶⁵	13 months
3	2016-2018	July 31, 2016 to January 31, 2018	17 months

In a recent study commissioned by the United Nations Development Programme (UNDP), two experts estimated that it would take about 640 days (or 21.3 months) for CENI to organize the elections following the enactment of the new electoral law.⁶⁶ In other words, without accelerating the process, direct elections would take place, at best, during the first half of 2024. The UNDP researchers, Gérard Gerold and Mathieu Mérino, are convinced that holding the elections by the end of 2023 at all costs would have a negative impact on the quality of the vote and, possibly, on their integrity.

The political stakes are also considerable. From the government’s viewpoint, holding the elections in spite of everything would give some credit to the commitment made by President Tshisekedi not to tolerate any “slippage” (*glissement*) in the electoral timetable. But above all, this would allow the incumbent to run in the elections with a favorable balance of power: he now has control over the territorial administration, the government, and parliament, as well as over certain institutions involved in the electoral process, such as the constitutional court. The current president also has the resources of the



state at his disposal. Would he therefore try to push for botched elections at the risk of seeing their results contested once again?

Failure to hold the elections on time would give the opposition and certain civil society organizations a decisive means of pressure. The government, which has refused to engage in political negotiations until now, could be forced to do so. Kabila experienced this after the postponement of the elections initially planned for 2016. The opposition which, to date, has had difficulty bringing the population into the streets to protest, seems to be waiting for this moment to remobilize and demand political dialogue. “Only in this way can we once again try to push the government on the path to new electoral reforms, to restructuring CENI, and to compromise on the composition of the [membership of the] constitutional [court],” a Kabila associate told us.⁶⁷

Conclusions and Political Recommendations

The DRC is wasting an opportunity to put its electoral process on a sound footing. Elections in the Tshisekedi era, following a peaceful handover of political power, seemed to offer the country an opportunity to remedy the situation. To ensure that the elections regain credibility, several proposals for reform proposals were put forward, including the G13’s draft law. However, political interests have managed to halt this momentum for change. Today, everything points toward an electoral process that already bears the seeds of tensions and protest.

This analytical report has also returned to the main reasons for the controversy surrounding the 2018 election results. The root of the problem lies with efforts to control the supposedly independent electoral commission. This takeover of the electoral management body has led to technical and political choices that have compromised the legitimacy of the process.

A repeat of the 2018 debacle is possible. President Félix Tshisekedi has managed to take near total control and might use this advantage to hold on to power. In a hurry, and with irregular disbursements, CENI is busy organizing elections within the deadlines, while reminding stakeholders of the constraints under which it is working. The specter of a delay (glissement) thus hangs over the ongoing electoral process. The opposition and part of civil

society are eyeing the moment when they will be able to demand political dialogue, perhaps with a view to demanding a sharing of positions and responsibilities. This could further undermine the troubled electoral process, unless these negotiations are centered only on practical ways to improve the current electoral system.

Seeking to rebuild trust in the electoral process should be today’s priority for stakeholders, starting with CENI itself. It must genuinely seek to reassure voters. This means it should communicate better with all stakeholders; publish a sensible electoral timetable and a detailed budget of all the electoral operations, as well as of the disbursement plan agreed with the government; and launch civic education outreach on ongoing electoral operations and applicable law and regulations. The electoral commission should also anticipate criticisms of its reliance on voting machines, by placing this issue at the center of public debate and by giving access to information on how they are used. Finally, its leaders should publicly commit to displaying the provisional results from all polling stations at the CENI premises and on its website.

We recommend that the government:

- ensure that CENI can access an accelerated and regular disbursement of funds according to a jointly adopted plan;
- put an end to restrictions on fundamental freedoms and to the harassment of opposition actors; and
- define an election security plan to mitigate the risks of violence likely to disturb the holding of quality elections, particularly in insecurity-prone areas in the east of the country and in Mai-Ndombe.

Quant au Parlement, nous recommandons :

- award CENI sufficient funds for electoral operations in the 2023 budget;
- ensure that the law on the allocation of seats is given priority in its next session; and
- carry out regular monitoring of the use of funds allocated to CENI.

Civil society organizations, including religious organizations, should start monitoring all ongoing electoral activities. This implies that CENI should also provide them with the access and the means to do so.



Endnotes

1. Joseph Kasa-Vubu, the country's first president, was removed from office following a coup d'état by Mobutu Sese Seko in 1965. After 32 years in power, Mobutu was ousted on May 17, 1997 by Laurent-Désiré Kabila, a rebel leader supported by Rwanda. In January 2001, Kabila was assassinated and his son, Joseph Kabila, succeeded him.
2. Jean Otemikongo Mandefu, *Élections et changement politique en République démocratique du Congo. Six décennies perdues pour le développement* (Paris: L'Harmattan, 2021), 302.
3. RFI, "'Machines à voter' en RDC : Corneille Nangaa répond aux États-Unis'" (February 14, 2018); accessed September 5, 2022, <https://www.rfi.fr/fr/afrique/20180214-rdc-ceni-vote-electronique-etats-unis-nangaa-machine-elections-decembr>.
4. See article 237 of law no. 06/006 of March 9, 2006 on the holding of presidential, legislative, provincial, urban, municipal and local elections as amended by law no. 11/003 of June 25, 2011, law no. 15/001 of February 12, 2015 and law no. 17/013 of December 24, 2017: "Voting by electronic means cannot be implemented during ongoing elections."
5. Lassaad Ben Ahmed, "RDC : 'Machine à voter' ou machine à 'tricher'?", AA (March 7, 2018); accessed September 5, 2022, <https://www.aa.com.tr/fr/afrique/rdc-machine-%C3%A0-voter-ou-machine-%C3%A0-tricher-1082156>.
6. *The Carter Center "Democratic Republic of the Congo 2018 Harmonized Presidential, Parliamentary and Provincial Elections. Expert Mission Report,"* (Atlanta: The Carter Center); accessed September 5, 2022, https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/drc-2018-election-report-final-en.pdf.
7. Congo Research Group, *DRC: A Dangerous Path to the Polls. Report 1: Politicization of the institutions responsible for the electoral process* (New York: Center on International Cooperation, October 2018); accessed September 19, 2022, https://www.congoresearchgroup.org/wp-content/uploads/2018/11/CRG_final_English-2-1212.pdf, accessed.
8. The Sentry, *Delays and Red Flags: Elections in DR Congo* (Washington, D.C., September 2019); accessed September 20, 2022, https://cdn.thesentry.org/wp-content/uploads/2018/09/CENI_TheSentry_Sept2018-final_web.pdf.
9. Westminster Foundation For Democracy, *Étude de la machine à voter. République démocratique du Congo (Voting machine study. Democratic Republic of Congo)* (London, August 2018); accessed September 20, 2022, <http://docplayer.fr/111107375-Etude-de-la-machine-a-voter-republique-democratique-du-congo-aout-sommaire.html>.
10. SYMOCEL, *Rapport final d'observation des élections directes et indirectes de 2018 et 2019 (Final Observation Report on the direct and indirect elections of 2018 and 2019)* (Kinshasa, May 2019); accessed September 5, 2022, <https://eisa.org/pdf/drc2019symocel.pdf>.
11. Article 65 of decision no. 001bis/CENI.BUR/February 18, 2018, on compliance measures for law no. 06/006 of March 9, 2006 on the holding of presidential, legislative, provincial, urban, municipal and local elections, as amended and supplemented on this day.
12. Carter Center, *Democratic Republic of the Congo 2018 Harmonized Presidential, Parliamentary and Provincial Elections. Expert Mission Report* (Atlanta, 2019); accessed September 5, 2022, https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/drc-2018-election-report-final-en.pdf.
13. Ilhame Taoufiqi, "Élections en RDC: Martin Fayulu est-il le vrai vainqueur?" », TV5 Monde, January 15, 2019; accessed August 16, 2022, <https://information.tv5monde.com/afrique/elections-en-rdc-martin-fayulu-est-il-le-vrai-vainqueur-279963>.
14. Carter Center, *Democratic Republic of the Congo 2018 Harmonized Presidential, Parliamentary and Provincial Elections. Expert Mission Report*, op. cit.
15. SYMOCEL, *Rapport final d'observation des élections directes et indirectes de 2018 et 2019 (Final Observation Report on the direct and indirect elections of 2018 and 2019)*, op. cit.
16. Simon-Pierre Nanitelamio, *République démocratique du Congo. Rapport d'évaluation des besoins électoraux* (Kinshasa: May 26, 2022), UN, 5.
17. Typhaine Roblot et al., *Recommendations for Electoral Reform in the Democratic Republic of Congo* (Washington, D.C.: International Foundation for Electoral Systems White Paper Series, August 2020); accessed October 11, 2022, https://www.ifes.org/sites/default/files/migrate/ifes_recommendations_for_electoral_reform_in_the_democratic_republic_of_the_congo_august_2020.pdf.
18. Consortium for Elections and Political Process Strengthening (CEPPS), *Assessment of Electoral Preparations in the Democratic Republic of Congo. February 28 – March 9, 2018* (Washington, D.C.: May 2018), 12; accessed October 11, 2022. https://www.ndi.org/sites/default/files/cepps_drc_2018_electoral_preparation_assessment_final_external.pdf.
19. See the explanatory statement on law no. v22/029 of June 29, 2022 amending and supplementing law no. 06/006 of March 9, 2006 on the holding of presidential, legislative, provincial, urban, municipal and local elections as amended and supplemented on this day.



20. SYMOCEL, *Rapport final d'observation des élections directes et indirectes de 2018 et 2019 (Final Observation Report on the direct and indirect elections of 2018 and 2019)*, op.cit.
21. Among the legislative texts likely to be affected by the electoral reforms are: the organic law on CENI, the electoral law, the law on voter identification and registration, the law on political parties, etc.
22. Some provisions of the constitution are also affected by these reforms—particularly those which enshrine a one-round presidential election.
23. See *Référentiel de la société civile pour les réformes électorales* ("Civil society framework for electoral reform), available at: <https://audf-rdc.org/wp-content/uploads/2020/09/Forum-JJONAREF-Forum-de-la-Soci%C3%A9t%C3%A9-civile-.pdf>, accessed September 20, 2022.
24. Initially, the G13 comprised: Henri-Thomas Lokondo (*Parti lumumbiste unifié et alliés*, PALU/A, now deceased), Charles Makengo (*Alliance des mouvements kongo*, AMK), Patrick Muyaya (PALU/A) and Jean-Jacques Mamba (*Mouvement de libération du Congo*, MLC), elected parliamentarians for Kinshasa; Jean-Marc Mambidi (*Alternance pour la République*, AR), elected parliamentarian for Watsa; Juvénal Munubo (*Union pour la nation congolaise*, UNC), elected parliamentarian for Walikale; Claudel André Lubaya (AMK), elected parliamentarian for Kananga; Jacques Ndjoli (MLC), elected parliamentarian for Boende; Delly Sesanga (AR), elected parliamentarian for Luiza; Paul Nsapu, member of civil society; Daniel Mukoko, former deputy prime minister; Jean-Pierre Muongo, former managing director of the *Office congolais des postes et télécommunications* (OCPT); and Manya Riche, coordinator of the Congo Peace Center.
25. Interview with a senior FCC official, August 4, 2022, in Kinshasa.
26. See "Contribution de l'USN à la révision de la loi électorale. Proposition de réécriture de quelques dispositions de la loi n°06/006 du 9 mars 2006 portant organisation des élections présidentielle, législatives, provinciales, urbaines, municipales et locales telle que modifiée par la loi n°11/003 du 25 juin 2011, loi n°15/001 du 12 février 2015 et la loi n°17/013 du 24 décembre 2017," Kinshasa, April 2022.
27. *Talatala*, "Exclusif - Réforme de la loi électorale : ce que contient le rapport de la commission PAJ" (June 2, 2022); accessed September 21, 2022, <https://talatala.cd/eclairage/49/>.
28. Congo Research Group, *Réforme de la Ceni en RDC: de nécessaires gardes-fous à l'impossible dépolitisation* (New York: Center on International Cooperation, January 2021); accessed September 21, 2022, <https://cic.nyu.edu/sites/default/files/rapport-final-gec-01-2021-reforme-ceni-necessaires-garde-de-fous-impossible-depolitisation-rdc.pdf>.
29. Cf. EurAc, *Élections de 2023 en République démocratique du Congo : rectifier les erreurs du passé pour consolider la démocratie* (Brussels: April 2022), 17; accessed October 11, 2022, https://www.eurac-network.org/sites/default/files/eurac-rapport_2021-fr-web.pdf and Ithiel Batumike et al., "Réformes électorales et consolidation de la démocratie en RDC" in R. Ndayiragije et al., *Conjonctures de l'Afrique centrale 2021* (Paris: L'Harmattan, Cahiers africains, no. 97), 139.
30. This process took place in violation of the organic law on CENI and the internal regulations of the national assembly regarding the management and membership of the joint committee (*commission paritaire*) responsible for reviewing candidacies submitted by the delegating components. The committee never had an equal number of opposition and majority members and was chaired by a UDPS MP, André Mbata who, as the chair of a standing committee (the PAJ), should not be allowed to lead a special committee, according to the internal regulations of the national assembly.
31. CRG and Ebuteli, *Élections de 2023 : les Congolais ne se font pas des illusions* (New York and Kinshasa: August 2022); accessed September 21, 2022, <https://www.congoresearchgroup.org/wp-content/uploads/2022/08/note-thematique-elections.docx-6.pdf>.
32. See "RDC : imbroglio autour de la démission de Benoît Lwamba, président de la Cour constitutionnelle," *Jeune Afrique*, July 15, 2020; accessed September 21, 2022, <https://www.jeuneafrique.com/1015383/politique/rdc-imbroglio-autour-de-la-demission-de-benoit-lwamba-president-de-la-cour-constitutionnelle/>.
33. See "RDC : les juges Kilomba et Ubulu refusent de quitter leur siège à la Cour constitutionnelle," *Radio France Internationale*, August 5, 2020; accessed September 21, 2022, <https://www.rfi.fr/fr/afrique/20200805-rdc-juges-kilomba-ubulu-si%C3%A8ge-cour-constitutionnelle>.
34. *Talatala*, "Désignation du juge constitutionnel: pourquoi ça coince au parlement?" (May 23, 2022); accessed September 22, 2022, <https://talatala.cd/eclairage/47/>.
35. See the final communiqué by ECC of July 27, 2022, sanctioning the work of the colloquium held with the Ministère de laïcs Protestants (MILAPRO) and other civil society organizations.
36. See the final communiqué by ECC of 27 July 2022, op.cit.
37. Interview with Jean-Claude Sady, SYMOCEL member, 12 August 2022.
38. See letter Ref: RP-AAB/Sec-PN/021/2022 of July 27, 2022 addressed to the president of CENI with the subject "denunciation of usurpers."
39. *Human Rights Watch*, "DR Congo: Authorities Foundering on Rights," July 22, 2020; accessed September 22, 2022, <https://www.hrw.org/news/2020/07/22/dr-congo-authorities-foundering-rights>.
40. *Amnesty International*, *DRC: Justice and Freedoms under Siege in North Kivu and Ituri* (London: August 2022); accessed September 21, 2022, <https://www.amnesty.org/en/wp-content/uploads/2022/05/AFR6254952022ENGLISH.pdf>.



41. *American Jewish World Service et al.*, “DR Congo: Blinken Visit Tests US Support for Democracy, Rights,” August 8, 2022; accessed September 21, 2022, <https://www.hrw.org/news/2022/08/08/dr-congo-blinken-visit-tests-us-support-democracy-rights>.
42. Article 73 of the constitution provides that the presidential election must be called 90 days before the expiry of the term of office of the outgoing president of the republic.
43. CENI, 2012-2019 *General Report on the Electoral Process*, 258.
44. *Talata*, “Ne pas conditionner l’organisation des prochaines élections à la réalisation complète du recensement et de l’identification de la population,” , August 3, 2022; accessed September 22, 2022, <https://talata.cd/suivi-de-l'ex%C3%A9cutif/66/>.
45. See letter N/Ref: 064/CENI-RDC/Cab-Prés/2022 of February 15, 2022 on the pooling of the identification of the population, census, and voter registration operations.
46. Decree no. 22/09 of March 2, 2022 on the organization of the mutualization of operational operations in the framework of the registration of voters, the identification of the population and the general census of the population and housing.
47. See Minutes of the 39th meeting of the Council of Ministers, February 4, 2022; accessed September 22, 2022, <https://www.primature.cd/public/wp-content/uploads/2022/02/COMPTE-RENDU-DE-LA-TRENTE-NEUVIEME-REUNION-DU-CONSEIL-DES-MINISTRE-du-04-fev%CC%81vrier-2022.pdf>.
48. Ibid.
49. See Decision No. 23/22/ARMP/CRD of August 15, 2022; accessed August 28, 2022, <https://www.arpmp-rdc.org/index.php/fr/publications-2>.
50. See the CENI procurement plan; accessed August 28, 2022, <https://www.arpmp-rdc.org/index.php/fr/plans-de-passation-des-marches/ppm-niveau-central-3?start=30>.
51. It is planned that each registration center will be staffed by at least six people.
52. Interview with a Gérard Bisambu, member of the CENI plenary assembly, on August 17, 2022.
53. The 2023 data is only CENI projections for the moment.
54. See paragraph 8(3) of the Voter Identification and Registration Act.
55. See article 5(2) of the Electoral Law.
56. CENI, *Annual Report June 2015 - May 2016*, 42.
57. At that time, the DRC was still made up of 11 provinces. It was only after these decrees that it was divided into 26 provinces.
58. Cf. article 9 of the organic law on CENI.
59. Gérard Gerold and Mathieu Mérino, *Cartographie des risques de conflit en République démocratique du Congo avant, pendant et après les élections de 2023* , Final Report, June 2022, 59.
60. See EurAc, *Élections de 2023 en République démocratique du Congo*, op.cit., 23.
61. See the Minutes of the 72th meeting of the Council of Ministers, October 7, 2022; accessed October 12, 2022, <https://www.primature.gouv.cd/wp-content/uploads/2022/10/COMPTE-RENDU-DE-LA-SOIXANTE-DOUZIEME-REUNION-DU-CONSEIL-DES-MINISTRES-DU-07-OCTOBRE-2022.pdf> .
62. See the final communiqué of ECC of July 27, 2022, op.cit.
63. See “Miru Systems Ltd gagne le marché d’acquisition des kits électoraux de 2023 pour près de 93 millions USD,” Zoom Eco, July 26, 2022; accessed September 23, 2022, <https://zoom-eco.net/a-la-une/rdc-miru-systems-co-ltd-gagne-le-marche-dacquisition-des-kits-electoraux-de-2023-pour-pres-de-93-millions-usd/>.
64. This electoral needs assessment mission to the DRC was sent to Kinshasa from April 24 to May 10, 2016.



65. It is clear here that the 2011 elections were characterized by a small gap between the closing of the voting registry and the holding of elections. This may be one of the causes of the disorder denounced by some, especially since this voting registry has never been cleaned or audited.
66. Gérard Gerold and Mathieu Mérino, *Cartographie des risques de conflit en République démocratique du Congo avant, pendant et après les élections de 2023*, op. cit., 59.
67. Interview with a senior FCC official, op. cit.

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CONGO RESEARCH GROUP
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Congo Research Group (CRG) was founded in 2015 to promote rigorous, independent research into the violence that affects millions of Congolese. This requires a broad approach. For us, the roots of this violence can be found in a history of predatory governance that dates back to the colonial period and that connects the hillsides of the Kivus with political intrigue and corruption in Kinshasa, as well as in the capitals of Europe, China, and North America. Today, CRG's research aims to explain the complicated inter-play among politics, violence, and political economy in the Congo to a wide audience.

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Ebuteli, asbl

1, avenue de la paix, Immeuble SEDEC
Kinshasa, Commune de la Gombe
République Démocratique du Congo

 @ebuteli
www.ebuteli.org

Center on International Cooperation

726 Broadway, Suite 543
NY 10003, New York
USA

 @GEC_CRG
www.congoresearchgroup.org
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