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ASSESSMENT OF ELECTORAL PREPARATIONS IN THE DEMOCRATIC REPUBLIC OF THE CONGO (DRC)

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LIST OF ACRONYMS

ABA RoLI	American Bar Association Rule of Law Initiative
AETA	<i>Agir pour des élections transparentes et apaisées</i>
AFDC	<i>Alliance des forces démocratiques du Congo</i>
AFIS	Automated fingerprint identification system
BVR	Biometric voter registration
CAFCO	<i>Cadre permanent de concertation de la femme Congolaise</i>
CEJP	<i>Commission épiscopale justice et paix</i>
CENCO	<i>Commission épiscopale nationale du Congo</i>
CENI	<i>Commission électorale nationale indépendante</i>
CEPI	<i>Commission provinciale nationale indépendante</i>
CEPPS	Consortium for Elections and Political Process Strengthening
CLC	<i>Comite laïc de coordination</i>
CNDP	<i>Congrès national pour la défense du peuple</i>
CNFE	<i>Commission nationale des femmes entrepreneures du Congo</i>
CNSA	<i>Conseil national de suivi de l'accord du 31 Décembre 2017 en RDC</i>
CSO	Civil society organization
EPT	<i>Espoir pour tous</i>
FENAPHACO	<i>La fédération nationale des associations des personnes handicapées du Congo</i>
IFES	International Foundation for Electoral Systems
IRI	International Republican Institute
JED	<i>Journalistes en danger</i>
LE	<i>Ligue des électeurs</i>
MLC	<i>Mouvement pour la libération du Congo</i>
MONUSCO	<i>Mission de l'organisation des nations unies pour la stabilisation du Congo</i>
NDI	National Democratic Institute
NSCC	<i>Nouvelle société civile congolaise</i>
OECD	Organization for European Cooperation and Development
OIF	<i>Organisation internationale de la Francophonie</i>
PACEC	<i>Projet d'appui au cycle électoral congolais du PNUD</i>
PALU	<i>Parti lumumbiste unifié</i>
PEDUC	<i>Programme d'éducation civique de l'université d'Uélé</i>
PPRD	<i>Parti du peuple pour la reconstruction et la démocratie</i>
PROCEC	<i>Projet de renforcement de l'observation citoyenne des Élections au Congo</i>
PWD	Persons With Disabilities
RAJOC	<i>Réseau des associations congolaises des jeunes</i>
REGEC	<i>Réseau gouvernance, élections et citoyenneté</i>
REGED	<i>Réseau gouvernance économique et démocratique</i>
RENOSEC	<i>Réseau nationale pour l'observation et la surveillance des élections au Congo</i>
ROC	<i>Réseau d'observation des confessions religieuses</i>
SADC	South African Development Community
SYMOCEL	<i>Synergie des missions d'observation citoyenne des élections</i>
UDPS	<i>Union pour la démocratie et le progrès social</i>
UNC	<i>Union pour la nation congolaise</i>
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNJHRO	<i>Bureau conjoint des nations unies aux droits de l'homme</i>
UNSC	United Nations Security Council
VIADH	<i>Action internationale de développement pour la défense des droits humains</i>

I. EXECUTIVE SUMMARY

In March 2018, the Consortium for Elections and Political Process Strengthening (CEPPS) assessed the status of electoral preparations in the Democratic Republic of the Congo (DRC) ahead of the presidential, legislative, and provincial assembly elections scheduled for December 23, 2018. The goal of the assessment was to suggest potential interventions that the United States Government (USG) and other international actors could support to achieve key benchmarks of credible electoral preparation. CEPPS reviewed the voter registration and broader elections preparations from the perspectives of multiple stakeholders, the legal and procedural framework, political and security considerations, and the inclusion of marginalized groups including women, youth, and people with disabilities. The assessment identifies specific opportunities and vulnerabilities for stakeholders to consider in light of these findings, and presents a series of actions that may be taken (or are already underway) to capitalize on opportunities to close the credibility gap stemming from DRC's previous election history as well as the ongoing political, socioeconomic, and security crises affecting the country.

When President Joseph Kabila's mandate expired in November 2016, the government said no handover of power could be arranged because elections were stalled on technical and financial grounds. The Constitution required presidential and legislative elections to be held by November 27, 2016, but the CENI petitioned the Constitutional Court and obtained authorization to postpone elections to compile a fresh voter register. The Saint-Sylvestre Agreement was signed on December 31, 2016 and set out a power-sharing roadmap for the transition period until elections be held by December 31, 2017. The agreement binds President Kabila to forgo a third term, bars constitutional amendments during the transition period, and sets out certain measures meant to ease political tensions, including the release of political prisoners and nomination of a member of the opposition to serve as Prime Minister. However, most of the Saint-Sylvestre Agreement's terms, intended to ease political tensions, have not been met. The President has appointed two prime ministers, but both were rejected by large parts of the opposition. Meanwhile, the CENI published an electoral calendar in November 2017, setting the election date for December 23, 2018, almost a year past the deadline set by the Agreement. While it is still not clear if President Kabila will run for a third term, at least two opposition blocs ("Ensemble" led by Moïse Katumbi and a coalition of UDPS, UNC, and MLC) have so far separately coalesced, with each agreeing to support its own unified presidential (and other) candidates. A close race cannot be ruled out.

Achieving confidence in the voter roll is a necessary first step for DRC in holding credible elections. In 2016 and 2017, the Congolese government funded a \$400 million voter registration exercise that collected 46 million entries from 17,784 registration sites. The CENI's registration centers undertook to exhibit daily registration lists, which allowed citizens, political parties, and civil society observers to file claims and objections within seven days of relevant registrations. According to CENI information, the exhibition process led to the invalidation of 1.2% of registrations and flagged more than 2 million potential duplicates. Moreover, the CENI has identified several hundreds of thousands of suspected underage registrations. The ongoing operation could thus be the DRC's most extensive voter registration list cleaning operation to date.

CEPPS' examination of the voter registration process yielded two broad conclusions. The first is that the final voter list could ultimately be accepted as credible if the CENI allows independent review and verification. The methods and tools adopted by the CENI for the voter registration exercise resulted in the most populated list in the country's electoral history, and the ongoing internal screening process also seems to have captured a record number of potential duplicates and under-aged registrants. A highly accessible and responsive list display and claims process will need to ensure that all legitimate registrants are present on the list and to minimize the number of false registrations. Current plans for

this process are unlikely to meet this requirement, as the CENI only plans to display the cleansed list at centralized levels and will not accept claims to remove voters.¹

The second conclusion is that there remains broad-based skepticism regarding the government's willingness to adequately support elections preparations and ensure the structural and procedural integrity of the elections. Interviews with representatives of government institutions, civil society, political parties, and other key stakeholders revealed that unresolved legal, constitutional, and Saint-Sylvestre Agreement compliance questions form obstacles to key actors' effective participation. The team's interlocutors invoked serious security and human rights concerns which, if not adequately addressed, could lead to party boycotts and/or low voter turnout. Elections with limited participation and a high incidence of intimidation and violence would not meet the basic standards for credible elections.² Moreover, procedural irregularities, deliberate or accidental, will be magnified in the event of minimal voter participation, and will further distort the elections' outcome and credibility.

While the CEPPS mission found that many stakeholders seem to be working in good faith towards elections in December 2018, there remain serious concerns that such elections will take place or be credible if they do transpire. Political tensions continue to mount and **potential flashpoints** include:

- The announcement of accepted political parties and coalitions;
- The announcement of accepted political party candidate lists;
- Provisional and final voter list publication and subsequent audits;
- Final decision regarding the use of electronic voting machines (and subsequent purchase, programming, testing, and national distribution);
- Missed deadlines in the electoral calendar;
- Continued suppression of peaceful protests;
- Any indication by President Kabila that he may run for a third term; and
- Any suppression of candidates/parties' rights to campaign during the campaign period.

Many stakeholders expressed serious concerns that the elections will be delayed yet again. Some political parties say they will boycott the process should they be unhappy with the final party list published by the Ministry of the Interior and Security, should the efforts to defuse political tensions fail, or should voting machines be used. Potential reasons most cited for **delay of elections** beyond December 2018 include:

- **Voting Procedure Decisions:** If electronic voting machines will be used nationwide, some party members expressed doubts that the more than 100,000 voting machines and systems would be ready in time and resisted their use. However, if it is decided that voting machines will not be used, there are also risks of delay because the CENI would have to design, procure,

¹ In 2006 and 2011, omissions from the register were not remedied, and the CENI responded by allowing millions of voters to cast votes on ad-hoc supplementary lists. This allowed omitted but legitimate voters to cast ballots, but also permitted voting by many people who had otherwise been removed from the list for multiple registrations or other reasons.

² A recent Congo Research Poll survey found that 95% of Congolese plan to vote, but this may change if they do not have sufficient confidence that their votes will count or their security will be guaranteed. <http://congoreserchgroup.org/new-bercicrg-poll-congolese-lack-faith-in-electoral-process-critical-of-government/>

and transport paper ballots - preparations that have not yet begun as of the drafting of this report.

- **Security:** Ongoing or increased violence could also prevent elections from being held in some locations and the government may use instances of civil unrest and/or population displacement as a reason to push back the date of the elections, as it did with the voter registration exercise. Recent violence in Ituri, as well as ongoing unrest in the Grand Kasaï, Tanganyika, Nord-Kivu, Sud-Kivu, and ex-Équateur provinces, demonstrate instability and volatility.
- **Resource flows:** To date, preparations for the elections have been largely funded by Congolese coffers. Considering the Kabila administration’s public claim that it will not accept external funding,³ the amount, availability, and timely disbursement of funds will directly affect further preparations and all related procurements, recruitment, training, and operations deadlines.
- **Lack of Political Will:** Levels of distrust between opposition political parties, civil society, and the DRC government are extremely high. Many opposition party and civil society members point to the number of electoral deadlines that have been missed over the years, as well as the failure to implement the December 2016 Agreement as intended, and fear that any of the points above could be used as a pretext for further delaying the election beyond December 2018.

Based on its analysis and conclusions, CEPPS evaluated a range of potential interventions and policies that would strengthen the DRC’s electoral process. The interventions summarized below are further detailed in Section VI of this report with recommended actors, illustrative activities, and associated impact/risk factors. These priorities are ranked based on CEPPS’ assessment of near-term feasibility, urgency, and potential for positive impact on the electoral process. Those ranked as low may be unlikely to yield results in the available timeframe or pose risks to successful implementation; alternatively, they may require an early but lower investment to ensure later results. As elections come closer and circumstances change, some of the low priorities could become more feasible and urgent.

FOR ALL STAKEHOLDERS	
High Priority	<ul style="list-style-type: none"> ● Foster dialogue among parties, stakeholders, and election administration bodies, either through the CENI <i>Cadres de Concertation</i> or separate discussion forums
Medium Priority	<ul style="list-style-type: none"> ● Conduct civic and voter education campaigns, including activities about the list-display process (CENI, CSOs, and political parties) ● Mainstream the inclusion of marginalized populations in all interventions
Low Priority	<ul style="list-style-type: none"> ● Institute a conflict early warning system (CENI, political parties, and civil society in conjunction with Ministry of Interior and Security)

³Reuters. “Congo Says it Rejects Foreign Aid to Fund Elections” Thomson Reuters News Foundation, March 26, 2018. Accessed March 28, 2018 <http://news.trust.org/item/20180326142159-y6zti/>

POLITICAL PARTIES	
High Priority	<ul style="list-style-type: none"> ● Help political party members understand the electoral law, review findings from credible voter list audits, and carry out other interparty activities – especially at the provincial level – that both prepare them for elections and foster interparty interactions. ● Organize candidate or interparty debates (with media and civil society) ● Support for political party poll watching
Medium Priority	<ul style="list-style-type: none"> ● Provide interested parties with coalition management training
Low Priority	<ul style="list-style-type: none"> ● Ensure that the Consensual Code of Conduct is shared and enforced (with civil society)

CIVIL SOCIETY	
High Priority	<ul style="list-style-type: none"> ● Encourage peaceful participation in the electoral process ● Sensitize multilevel stakeholders, including local security forces and the media, on their roles in the electoral process ● Facilitate domestic and international observation of the electoral process
Medium Priority	<ul style="list-style-type: none"> ● Facilitate monitoring of the list-display process by citizen observers
Low Priority	<ul style="list-style-type: none"> ● Facilitate capacity-building for the <i>Conseil Supérieur de l'Audiovisuel et de la Communication (CSAC)</i> ● Support independent media monitoring

CENI	
High Priority	<ul style="list-style-type: none"> ● Provide access to toll-free SMS / online checks on voter registration to better enable voters to check their registration ● Support the CENI with technical assistance to develop and enforce safeguards for supplementary voting ● Facilitate the accreditation of international and citizen observers and party poll watchers to observe elections
Medium Priority	<ul style="list-style-type: none"> ● Provide technical assistance to CENI to secure transmission of sensitive elections results and materials ● Support the courts on dispute resolution through an evidence management system that synchronizes in real time with CENI results management tracking and that allows barcoded logging of received results documents
Low Priority	<ul style="list-style-type: none"> ● Provide capacity-building for CENI staff and trainers

US GOVERNMENT & OTHER DEVELOPMENT PARTNERS

There are some areas in which programmatic interventions from international implementers (CEPPS or other actors) would have limited impact, as their achievement is primarily related to political will. To promote credible elections, CEPPS recommends that the USG and other development partners exert diplomatic pressure on all stakeholders to:

- Maintain the electoral calendar,
- Make the voter list accessible in machine-readable format,
- Allow deletions from the voter list through claims and objections,
- Insist original party leadership be recognized, and
- Allow candidates from all parties to campaign freely in the country.

Section II of this assessment report reviews the CEPPS mission terms of reference, methodology, and presentation of benchmarks. Section III provides an overview of key issues and is combined with a short political context subsection, which together set the stage for deeper analysis. Section IV expands upon the overview by drilling down into the voter registration process and the experiences of stakeholders in an analysis of performance and intentions to date; this section raises integrity and potential vulnerabilities that would affect the credibility of the elections. Section V describes recommendations and illustrative activities, along with potential actors.

II. MISSION GOALS AND METHODOLOGY

The CEPPS DRC 2018 Elections Assessment was conducted with the goal of identifying potential interventions to improve the transparency, credibility, and inclusivity of voter registration and other components of the electoral process in the DRC.

Three independent international analysts with regional experience in the areas of election administration, electoral dispute resolution, civil society engagement, and political party strengthening conducted the assessment and drafted this report. The team's methodology included an initial desk study of the DRC's legal framework; previous electoral cycles, including historical election observation and voter register audit reports; and documents describing current election planning and preparations. In-country stakeholder interviews informed the mission's gap analysis and allowed identification of procedural vulnerabilities affecting finalization of the voter register and its use during polling.

In line with its findings, the CEPPS team developed recommendations on complementary electoral support activities to enhance the credibility and transparency of the electoral process with regard to civil society participation, inclusion of traditionally marginalized populations, election administration, results management, electoral dispute resolution, partisan and nonpartisan monitoring, security, new and/or alternative approaches to political party engagement and dialogue, advocacy efforts related to the electoral process, and civic and voter education.

In addition, CEPPS identified the following thirteen benchmarks, which offer a lens through which to view the analytical sections of the report, and which are essential to the conduct of credible elections in the DRC:

- **Constitutional freedoms and human rights are protected by the State:** Congolese citizens are permitted to demonstrably exercise their constitutional freedoms of expression, assembly, movement, and association without fear of intimidation, violence, repression, reprisal, or unlawful detention before and after elections. The government of the DRC recognizes freedoms conferred by international instruments governing the conduct of elections, to which it is a party. The government recognizes and exercises its duty to protect civilians from attacks, forcible removal and/or intimidation by armed groups seeking to manipulate the number of constituents and/or their party allegiance in a particular area or voting district.
- **Electoral calendar is respected by the CENI:** The government of the DRC facilitates the timely provision of human, material, and financial resources to complete all election preparation processes listed in the timeframe established by the CENI.
- **The CENI finalizes a voter list that is accurate, transparent, inclusive, and credible and abides by it on election day:** The deduplicated voter list is published for review on time and in a format that enables citizens, civil society, and political parties to analyze and use the data for voter education and outreach efforts. The CENI issues a report detailing the results of the internal scrutiny and any subsequent efforts to remove duplicates and underage registrations from the list. Independent audit findings confirm that the voter registration process provided reasonable opportunities for citizens throughout the country to register, while precluding

systemic fraud. The CENI posts the deduplicated voter register for SMS and online checks. The CENI also exhibits the deduplicated list at registration center level, so that registrants are given reasonable access to file claims against omissions caused by data loss during transfer from kits to the server. The CENI remedies significant voter registration shortcomings that might be identified by a citizen audit, as well as by claims procedures.

- **The CENI makes reliable electoral information accessible in an inclusive and timely manner:** The CENI provides comprehensive, corrective, and continuous information about each step of the election preparation process, including legal and regulatory provisions, for all electoral officials, voters, candidates, political parties, and CSOs to use and share freely. The polling station list is published in line with the election calendar, and in a format that can be readily analyzed by CSOs and political parties. The media is free to independently report on all election-related issues without censorship and repercussion. The government of the DRC actively uses all forms of media that are popularly accessible in the country to transmit election-related logistical information to citizens. The government does not restrict access to the internet or prevent citizens from communicating via SMS before, during, or after scheduled protests or demonstrations.
- **Independent observation takes place by civil society and political parties:** International observers, political party poll watchers, and citizen observers can observe all key stages of the process, including the pre-electoral environment, polling, and results compilation. Observers adopt transparent methodologies, share results of their analyses with key stakeholders, and adhere to established codes of conduct.
- **Stakeholders engage in regular dialogue on the electoral process:** The CENI and other government agencies preparing elections engage stakeholders – particularly political parties and civil society – in regular dialogue about the electoral process. More than providing information, this dialogue allows for two-way communication in which external stakeholders can provide feedback on the information they are receiving or help influence policy before it is set, particularly on controversial questions. Political parties also have an opportunity to dialogue amongst themselves to reduce inter-party tensions. These dialogue efforts can contribute to a more peaceful election atmosphere.
- **Legitimate political parties are duly recognized by Ministry of Interior and Security:** Ballot qualification criteria are released in a timely manner and provide equal opportunities for aspirants from any party to stand for office. Open legal questions about party leadership are resolved as soon as possible, but no later than June 24, the date by which parties can begin submitting candidate lists for provincial assemblies. The final list of political parties that are accepted to compete in the elections is demonstrably free of political interference.
- **Nomination and campaign rights are protected by the State:** The nomination and campaign periods, including deadlines, are established and publicized in accordance with electoral legislation, regulations, and codes of conduct. Candidates from all parties, as well as independent candidates, can register as candidates provided they fulfill the requirements for qualification. Exiled political leaders are permitted to return to the country to campaign. Candidates and supporters must be allowed to campaign freely without fear of intimidation, harassment, reprisal, or unlawful detention.
- **Inclusion of women, persons with disabilities, and other marginalized populations is ensured in state and political party actions:** Voter registration, ballot access, campaigns, polling station access, and election management are each demonstrably implemented according to institutional policies (established or modified) that ensure equitable opportunities for participation of marginalized populations including (but not limited to) women, internally displaced populations (IDPs), minorities, and persons with disabilities (PWDs).

- **Adequate logistics are provided by the CENI:** Sufficient voting materials are procured according to existing laws and regulations, and the CENI delivers them on time and without exception to polling stations across the country. Polling places are adequately staffed, secured, and accessible to voters; they open according to published hours on election day.
- **Transparent and accountable voting, counting, and results transmission procedures are followed by the CENI, Constitutional Court, and Provincial Appeals Courts:** The CENI updates as necessary and publishes voting, counting, and results transmission regulations, circulars, manuals, and decisions in a timely and publicly accessible manner. Supplementary lists close 15 days before polling, as the law stipulates. Voting procedures suited for broad participation are adopted. The procedures are widely publicized and followed, provide reasonable safeguards for secrecy of the ballot, and promote a transparent and accountable process. Robust nationwide voter education campaigns, including campaigns targeting historically marginalized populations, inform potential voters about the function of, and practical application of, all tools and methods on election day.
- **Disputes resolved through evidence-based decisions by the Constitutional Court and Provincial Appeals Courts:** Disputes related to the election process and results are handled impartially and within the time limits provided by the law. The CENI provides election dispute resolution (EDR) tribunals with complete and tamper-proof sets of original results documents by the time the CENI publishes preliminary results, and thereby before preliminary results can be appealed. EDR decisions are based on objectively and transparently examined evidence, and remedies granted are proportionate to the extent of irregularities found. Results management irregularities are remedied by recounts, whereas polling irregularities are redressed by partial annulments and reruns, and only so if either irregularity could have affected election outcomes. EDR tribunals refrain from disproportionate wholesale annulments.
- **Results that are traceable by polling station are published on time by the state:** Election results are posted at each polling site following the count on election day, and they are subsequently made available online, disaggregated by polling station. Results are declared within the timeline set by the electoral code.

III. FINDINGS AND ANALYSIS

If elections are held in the DRC, those polls could usher in the DRC's first democratic and peaceful handover of power. Yet many political, financial, and technical obstacles still must be overcome. While the CENI released the long-awaited electoral calendar in November 2017, the calendar was accompanied by a list of 15 legal, financial, and logistical caveats or constraints that might prevent it from holding elections starting on December 23, 2018 with the presidential, legislative, and provincial polls. Many political and civil society actors fear that the elections will not be organized on time, or that the processes leading up to them will not be credible or widely accepted, either because of the CENI's constraints or because the widespread political tensions in the country will not be resolved satisfactorily.

This section presents CEPPS' main analytical findings related to the major challenges for election preparations in DRC. They serve as the basis for recommendations on interventions that USAID and other international actors could support. The section begins with a review of the voter registration process in the DRC, and an examination of the operational challenges that are likely to be experienced in other forms as election preparations continue. It then lays out the main political, security, and legal framework challenges to elections, as these will be the most difficult to overcome. The section continues by underlining the importance of civil society in serving as a partner and watchdog for the

electoral process, before concluding with a summary of other planned international interventions that will support the elections.

Operational Challenges to Elections

Voter Registration

History of Problematic Registration

The most serious problem in both the 2006 and 2011 registration exercises was a significant loss of voter data. Many CD-ROMs sent from registration sites to the central CENI were ultimately not included in the final list. It is unclear whether CD-ROMs were lost, damaged, or deliberately destroyed. Furthermore, because of the CENI's practice of displaying the list daily as it was collected in an "*album quotidien*," rather than displaying a more final version altogether at the end of the process, these losses could not be detected and corrected during the display period, thereby resulting in hundreds of thousands of legitimate voters being dropped off the list during both cycles. As the CENI did not effectively reinstate omitted/lost registrations *prior* to election day, it had to implement last-minute emergency measures to enfranchise omitted registrants. These emergency measures ultimately eroded not only the value of, and the trust in, CENI's costly biometric voter register, but also the credibility of the overall election, as is described further below in the "Supplementary List Voting" section.

2016/2017 Registration Procedure

The CENI's voter registration campaign in 2016 and 2017 shared several characteristics with previous efforts, such as its geographically staggered approach dividing DRC into four subsequent registration areas, and consecutive, rather than concurrent, deduplication procedures that stretched the overall timeline. The national voter database appears to remain segmented along initial registration areas, so that deduplication has captured multiple registrations only within each registration region, but not nationally. However, improved software and communication methods over past registrations are likely to lead to an improved result. The registration exercise produced a preliminary list of 46 million registrants from 17,784 registration sites, resulting in the country's most populated voter roll to date.

Possible Over-Registration

According to official results, the CENI registered approximately 46 million voters. While high registration rates could be expected because the new voter cards are attractive, free, and used as a national identification in DRC, some preliminary reported registration rates were extreme. If one accepts the CENI's population estimates, registration rates exceeded 100% of the population in nearly every province, including Sankuru with 230%. However, because the latest population census was conducted in 1984, the CENI's provincial population estimates are based on past electoral lists and voter turnout, and so these figures are likely off.

Potential Procedural Successes of the Registration Process

The 2017 registration exercise distinguished itself positively from its predecessors, notably in using technologies that allegedly reduce data loss between field kits and database – which was the biggest challenge to list credibility in 2006 and 2011 and resulted in millions of voters using off-the-list voting. It also appears that the CENI's new matching software is potentially more effective in detecting and eliminating illegitimate entries, especially those of minors and duplicates. The 2017 scrubbing exercise could ultimately remove an extrapolated 4 to 5 million duplicates (more than 10% of the total list), as well as up to 500,000 minors. At the time of the mission, the CENI had checked less than half of the list.⁴

⁴ The matching process first compares each individual file (1) against all other files (n). To double-check whether it has caught all duplicates, it then performs a more complex operation, by which it compares all files (n) against

Procedural Shortcomings of the Registration Process

The 2017 exercise repeated some of the 2006 and 2011 registrations' procedural shortcomings; most importantly, provisional lists were posted at registration centers daily in an *album quotidien*, but the CENI does not plan to post them at registration center level after centralization and deduplication – only at antenna level, far removed from many of the registrants. The CENI reported that 540,641 voters were "invalidated" nationwide during the initial list display (representing 1.2% of registrations), but it is unclear on what basis and along what procedure these registrations were invalidated. No national or international observers tracked claims and disputes, so there is no independent verification of this figure. Registration centers did include details about claims and objections in the relevant registration files in the database, but the CENI has not extrapolated these datasets from the register.⁵

If daily displays indeed triggered more than half a million objections, one can imagine how many more objections would transpire if the complete list of individuals registered at each registration center were displayed after the exercise, rather than daily during the registration. Sporadic daily displays and objections processes must now be remedied with centralized, computer-based cleaning. But this mechanized approach cannot detect omissions of legitimate registrants or inclusion of illegitimate ones, such as the deceased, emigrants, convicts, members of the police and the armed forces, or non-citizens, including more than 500,000 refugees from neighboring countries. These are all categories of registrants that can only be screened using community knowledge. The CENI is reluctant to reopen and staff its 17,784 registration centers for a final display, claims, and disputes period, citing a high cost in both money and time for adjudication.

Registered Voters Missing From the List?

In 2006 and in 2011, omissions of legitimate voter registration entries were caused *not* on the day or week of field registration, but during the *centralization* of field data from the kits to the server. These omissions hence cannot be detected during daily *album quotidien* display, but will only be apparent through the display of the centralized and deduplicated list. While the CENI assured the CEPPS mission that massive CD-ROM data losses suffered in 2006 and in 2011 did not recur in 2017, the CEPPS mission was informed by third parties that some CENI registration agents did not receive timely payment, and hence withheld registration data from centralization. No reliable statistics were available at the time of CEPPS deployment to determine whether and to what extent field registration data was destroyed, lost, dropped off, or withheld from the centralization process.

In 2006 and in 2011, significant omission of legitimate registration files forced the CENI to authorize widespread voting by individuals who were not listed in the official biometric voter registers. The efforts stakeholders put into the CENI's second display of the centralized and deduplicated list could affect not only the inclusivity and accuracy of the final list, but also the degree of public confidence in the final list during polling. Despite this history, the CENI is currently planning to display the list only at its 171 antennas, rather than at the 17,784 registration centers. This approach is not an effective remedy against omissions because it severely restricts registrants' ability to inspect the list. Moreover, this approach will not produce geographically representative statistics on omissions. Omissions cannot be detected by third parties, but only by omitted registrants themselves, for example by SMS or online check, or by geographically accessible display. International and regional good practice recommends both types of checks.

all other files (n). At the time of the mission, the CENI had checked less than half of the list 1:n, and none of the n:n.

⁵ Pertinent information would include 1) How many people claimed omission and were included; 2) How many people requested corrections, and how many corrections were made; 3) How many objections were filed against duplicates, and how many duplicates were removed; 4) How many objections were filed against non-citizen registration, and how many aliens were removed; 5) How many objections were filed against registration of members of the armed services, and how many of those were removed; and 6) How many objections against underage registration were filed and how many were removed.

If the planned citizen audit (see citizen observation section below) shows that the 2017 voter registration exercise avoided the significant data losses suffered in 2006 and in 2011, and/or if a system is put in place to effectively address the bulk of claims against omission, no further justification arises to allow blanket supplementary list voting in 2018. Some legally authorized supplementary list voting is expected, particularly for polling and party agents, observers, and on-duty civil servants, as well as for candidates and their spouses. The CENI informed the CEPPS mission that it is ready to introduce additional safeguards to limit widespread abuse of supplementary list voting, such as candidates and their families casting ballots in many polling stations.

Electronic Voting Machines

In September 2017, the CENI announced its intention to use electronic voting machines sourced from South Korea for the upcoming elections. According to press reports, an estimated 105,000 machines will be deployed to 90,000 polling stations to serve 46 million voters.⁶ The electronic voting machines would be equipped with a touch screen, scanner, and thermal printer. Voters would insert a paper ballot, select a single candidate from pictures on the screen, and confirm the selection. The machine would then print their choice on the paper ballot, which the voter would place into the ballot box. At the end of voting, the machine would provide an electronic tally of each election, but poll workers would also count the paper ballots. These two sets of results would be compared to verify the accuracy of each count. The machines would electronically transmit results to a central database, while the manual results sheets would be physically transferred. The paper copies would be the primary legally-binding documents, but electronic results could be used to offer more rapid provisional results.

The CENI argues that the technology allows for significant savings in cost, time, and transport and is the only way that it can comply with the electoral calendar.⁷ However, the decision to use these machines has been met with protest⁸ from many political parties and civil society, all of whom cite concerns that they will be used to “cheat” or violate voter privacy, that there is insufficient infrastructure to support them, that the contracting process was opaque and not provided in the commission’s budget, and that the decision to use them at all was made in a precipitous manner.⁹ The UN Security Council expressed serious reservations in February 2018.¹⁰ South Korean officials reported irregularities in the procurement of the machines and urged Congolese officials to cancel the contract.¹¹ More generally, election management practitioners point to a significant number of weaknesses in the introduction and usage of electronic voting,¹² including a lack of transparency, difficulties in auditing results, equipment failure, need for widespread voter education, security concerns about the integrity of the ballot, and secrecy of the ballot. These concerns, as well as questions about vendor control, have been recently echoed by regional practitioners.¹³

⁶ <http://www.jeuneafrique.com/mag/538616/politique/rdc-comment-les-machines-a-voter-des-sud-coreens-ont-seduit-corneille-nangaa/>

⁷ CENI: *Touchscreen Voting System: Three Challenges, One Answer*. Undated Brochure

⁸ <http://congoresearchgroup.org/wp-content/uploads/2018/04/Electronic-Voting-Controversy-1.pdf>

⁹ See <http://www.jeuneafrique.com/534527/politique/rdc-la-tres-controversee-machine-a-voter-enfin-presentee/> and <https://www.radiokapi.net/2017/09/14/actualite/politique/rdc-les-ong-aeta-et-odep-opposes-au-vote-semi-electronique>

¹⁰ <https://cd.usembassy.gov/remarks-un-security-council-open-arria-formula-meeting-drc/>

¹¹ See <http://www.jeuneafrique.com/549217/politique/affaire-des-machines-a-voter-en-rdc-le-chef-de-l-association-mondiale-de-gestion-des-elections-vise-par-une-enquete-en-coree-du-sud/> and <http://www.jeuneafrique.com/mag/547415/politique/rdc-coree-du-sud-seoul-dezingue-les-machines-a-voter-de-miru-systems/>

¹² See IFES, NDI, *Implementing and Overseeing Electronic Voting and Counting Technologies*, USAID, 2013 p22 for a clear definition. Also International IDEA, *Introducing Electronic Voting: Essential Considerations*, 2011, p9

¹³ <http://inecnews.com/inec-chairman-advocates-deployment-of-appropriate-technologies-for-credible-elections/>

The vast size of the DRC, lack of infrastructure and very limited time ahead of the elections collectively pose real challenges for the introduction of electronic voting. A recent paper by the Congo Research Group points to a number of procedural, operational and logistical questions that will need to be addressed before electronic voting can be introduced with any confidence in the DRC.¹⁴ The CENI would have to take concrete, visible steps to implement a largely untested technology, teach voters how to use unfamiliar technology, overcome infrastructure challenges, and improve on already low public trust to meet electoral timelines and prevent election day chaos.

Inclusiveness of Women and Marginalized Populations in the Registration Process

During voter registration, the CENI ordered its agents to prioritize several categories of eligible voters, including women and pregnant women, aged voters, and persons with disabilities, to increase their levels of registration.¹⁵ Agents were also instructed to reserve Sundays for the registration of women. The JPC/CENCO electoral observation mission stated that priority was given to these categories of eligible voters in 88% of observed cases, but it and other observers noted that registration centers did not observe priority queuing for pregnant women and that women-only Sundays were not uniformly implemented. According to the CENI, women made up only 47.3% of the total registered population before the cleaning of the registry. This is a significant drop from previous electoral cycles (52.0% for 2006, and 49.7% 2011). In conflict-affected provinces, the percentage is lower, especially in Kasai (44.3%) and Lomami (44.8%). CENI officials stated that this percentage could change after the deduplication process is completed, but several CSOs confirmed that the overall level of women's participation was lower than it was for men. The United Nations Joint Human Rights Office (UNJHRO) explained that lower-than-expected turnout was caused by the fragile security situation in a number of provinces¹⁶ and reported cases of sexual violence and/or the threat of sexual violence perpetrated by police against female registrants. In addition, the distance to registration centers, bad road conditions, the lack of affordable transportation, and the practice of "*monnayage*" (paying the CENI registration staff or the security forces to have priority in the queue) all negatively impacted women's participation in the registration process.

The deduplication process revealed that women represent only marginal percentages of duplicate registrants. Moreover, the CENI's current deduplication process detects higher percentages of duplicates than in 2011, so that the ongoing cleaning process is likely to rebalance the voter register's gender parity, once it completes the scrubbing process.¹⁷

Women and other marginalized populations were underrepresented as CENI personnel, including as registration staff, according to JPC/CENCO, which observed that there were women registration staff present in just 26% of observed instances. SYMOCEL reported that in 17% of observed cases no women served as registration staff, while in 41% of observed cases there was just one woman member of the registration staff at a given center.¹⁸

Persons with disabilities face significant barriers to full participation in electoral and democratic processes in the DRC. However, FENAPHACO, a network of more than 530 associations that deployed voter registration observers as part of the national platform AETA, affirmed that in the provinces where they were present to observe, all the PWDs who attempted were ultimately able to

¹⁴ Congo Research Group, *The Electronic Voting Controversy in the Congo*, Congo Research Group Election Brief No 1, April 2018.

¹⁵ Circulaire N°005/SEN/17 du 30 janvier 2017 sur les femmes, les femmes enceintes et les personnes de 3ème âge et à mobilité réduite.

¹⁶ Kivu Security Tracker website, accessed March 28, 2018. <https://kivusecurity.org/map>

¹⁷ The preliminary list released April 6 did not contain gender-disaggregated figures.

¹⁸ SYMOCEL, Rapport Préliminaire sur l'observation des opérations d'identification et d'enrôlement des électeurs dans les aires opérationnelles 3 et 4.

register and were given a voter ID card. That said, FENAPHACO noted that registration centers were not always easily accessible, a fact which may have dissuaded potential registrants.

According to SYMOCEL, the lack of specialized registration centers in the proximity of Pygmy villages negatively impacted their ability to participate in the voter registration exercise.¹⁹ However, statistics on this aspect are not yet available. The indigenous Pygmy population has historically experienced various forms of political exclusion, social discrimination, and harassment by the government and police. As reported by the Carter Center election observation mission in 2011, Pygmy communities do not feel engaged in the political process. That situation further deteriorated in 2016 and 2017 due to conflict between the Bantu, Luba and Pygmy Twa communities in Tanganyika province. The conflict led to significant levels of violence that displaced more than 340,000 people just months before the voter registration process, which took place between December 2016 and March 2017 in that area.

Out-of-Country Registration and Voting

Congolese citizens living overseas are made up of 1) the expatriate diaspora, which has voluntarily emigrated; and 2) refugees who involuntarily fled the DRC because of the threat of violence and civil war. Both the legal framework and the CENI's election calendar require registration of those Congolese citizens residing abroad holding a valid passport.²⁰

Previous election cycles have not honored out-of-country suffrage rights. Interlocutors informed the CEPPS mission that the CENI may seek a parliamentary moratorium on out-of-country voting due to fears that politically militant expatriates could damage Congolese diplomatic missions, as have occurred during past protests in several European capitals.²¹ But in direct discussions, the CENI requested technical assistance for out-of-country voting (OCV) planning and operations.

A major challenge to effective OCV is that the DRC's current framework would enfranchise only a small fraction of out-of-country Congolese. Many do not hold a valid biometric passport which, at €195 (US \$240), is the second most expensive passport in Africa; the validity of any passport issued before 2015 has lapsed.²² Most Congolese refugees living in neighboring countries therefore do not hold a valid passport.²³

Identification restrictions thus disenfranchise most Congolese citizens currently outside the country. The OECD estimates the Congolese diaspora residing in OECD member states at 254,000, with the largest concentrations in France, the United Kingdom, Canada, the United States, Belgium, Italy, and the Netherlands.²⁴ By comparison, the United Nations projects by the end of 2018 the number of Congolese refugees in Africa could reach 800,000.²⁵

¹⁹ RFI, "Enrolement difficile dans la province de Tanganyika." Accessed March 28, 2018

<http://www.rfi.fr/afrique/20170119-rdc-enrolement-difficile-province-tanganyika-pygmees-lubas-ceni>

²⁰ Article 109 of the election Law and Article 10 of the 2016 Amendment to the Voter Registration Law

²¹ Phlanz, Mike. "DRC Elections Lack Credibility." The Telegraph, Dec. 11 2011. Accessed March 28, 2018

<https://www.telegraph.co.uk/news/worldnews/africaandindianocean/democraticrepublicofcongo/8949048/Democratic-Republic-of-Congo-elections-lack-credibility.html>

²² Kibangula, Tresor and Roxburgh, Greg. "Carte: Combien coutent les passeports en Afrique?" Jeune Afrique, June 8, 2017. Accessed March 28, 2018 <http://www.jeuneafrique.com/445904/societe/carte-combien-coutent-passeports-afrique/>

²³ <http://www.congo-autrement.com/page/congo-voyage/rdc-les-anciens-passeports-semio-biometriques-seront-invalides-a-partir-du-16-octobre.html>, Accessed March 28, 2018

²⁴ https://www.keepeek.com//Digital-Asset-Management/oecd/social-issues-migration-health/resserrer-les-liens-avec-les-diasporas/chiffres-cles-sur-la-diaspora-originaire-de-la-republique-democratique-du-congo_9789264178069-graph154-fr#page1

²⁵ <http://www.unhcr.org/en-us/news/press/2018/3/5ab4d6d84/unhcr-partners-seek-us504-million-congolese-refugees.html>, Accessed March 28, 2018

For purposes of potential proof of citizenship and voter identification, UNHCR assured the CEPPS mission that over 85% of refugees have been issued UNHCR ID cards. However, host countries must authorize the CENI to poll refugees, and some may not be inclined to permit it given DRC's lack of reciprocity.²⁶ The only international instrument that covers OCV is the Convention on the Rights of Migrant Workers, which the DRC itself has neither signed nor ratified. Of its neighbors, only the Republic of Congo and Uganda have signed, but none of the major OECD host states have done so.²⁷

Even if legal and diplomatic hurdles were overcome, the maximum estimated number of Congolese out-of-country registrants would not exceed 400,000, and a lower turnout rate among them is to be expected than among in-country voters. Out-of-country voting would hence likely make up less than 1% of total votes cast. Considering that the CENI would implement OCV for first time, and would use biometric registration and voting machines for it, the question arises whether doing so would not entail a disproportionate risk of electoral calendar slippage, as well as an exorbitant cost per vote cast.

In its latest draft PACEC project document, UNDP offers support to legal reform to allow refugee voting, as well as technical support for OCV implementation.

Supplementary List Voting on Election Day

As described above, DRC's previous voter registration exercises suffered significant voter data losses. Because consequent omissions could not be sufficiently rectified through display, claims, and appeals procedures, voters were generally allowed to vote "off-the-list" in 2006 and in 2011. Polling agents hand-wrote on blank paper the names of any voter whose card showed their polling station, but whose name did not appear on the list. In practice, the approach allowed everyone who had registered more than once, but whose second registration had been cleaned through deduplication, to nevertheless cast multiple votes. Moreover, restricted classes of special voters, such as party agents; candidates and their families; and civil servants and their families, could consequently vote multiple times outside their polling station of registration.

Unless this practice is limited to controlled groups of pre-identified special classes of voters, it defeats the purpose of compiling and of cleaning voter registers, especially costly biometric voter rolls. In DRC's 2011 presidential election, 3.2 million votes were cast off-the-list, or 18% of all votes cast. This number exceeded the winning margin for the election, and it handed grounds to international observation missions to declare results "not credible."²⁸

Because the 2017 voter registration exercise has allegedly avoided the kind of data loss suffered in 2006 and in 2011, and if a robust display is implemented, as well as effective remedies for results for omission claims provided, then there will be no justification to allow blanket off-the-list voting in 2018. The CENI informed the CEPPS mission that it is prepared to introduce additional safeguards to rein in abuse of lawfully authorized supplementary list voting by party agents, observers, and on-duty civil servants, as well as for candidates and their spouses. Suggested measures are included in the Recommendations section.

²⁶ For 2015/2016 elections in neighboring CAR, UN Agencies actively supported Central African refugee registration and voting in neighboring countries. The US Embassy in Bangui drove advocacy for refugee voting with reluctant Central African authorities. The DRC was CAR's only neighbor not to allow Central African refugees to vote on its soil.

²⁷ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, New York, December 28 1990. Accessed March 28, 2018.

https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-13&chapter=4&clang=en

²⁸ EU EOM Final Report, DRC 2011 https://eeas.europa.eu/headquarters/headquarters-homepage/24387/eu-election-observation-mission-democratic-republic-congo-2011_en

Without measures in place to rein in off-the-list voting, a projected 4 to 5 million detected potential duplicate registrants would be allowed to vote on *ad-hoc* supplementary lists, and an unknown but large number of additional “special” voting classes could vote multiple times. Given that provincial assembly candidates will compete on the same day as parliamentary and legislative candidates, the number of supplementary list votes could easily skyrocket, far exceeding the 3.2 million recorded in 2011. Continuation of the 2011 off-the-list voting practice would feed directly into perceptions of systemic manipulation and would discredit the 2018 elections in the eyes of many stakeholders. Moreover, such a process would lead to legal challenges and the annulments or recounts that they attract. More reactionary aggrieved parties might also resort to post-election violence.

Results Management

DRC’s 2006 and 2011 elections suffered significant chain-of-custody lapses during collection of sensitive election material, especially in transmitting, processing, handling, and storing ballots and results sheets (results management). In 2018, the CENI will for the first time conduct three elections combined in one polling exercise; Figure 1 lays out the chain of custody for the results. Provincial elections will attract greater numbers of candidates and lists than National Assembly elections; there will be more than double the usual strain on results management systems in terms of the number of documents and data to process and to secure. It will also multiply the number of stakeholders motivated to tamper with the results process. Both the CENI and the Constitutional Court plan on honoring the paper-based ballots as the only results evidence of legal value. The CENI and the Constitutional Court both requested technical assistance to transmit, track, triage, and archive sensitive results documents, for example by using bar coding.

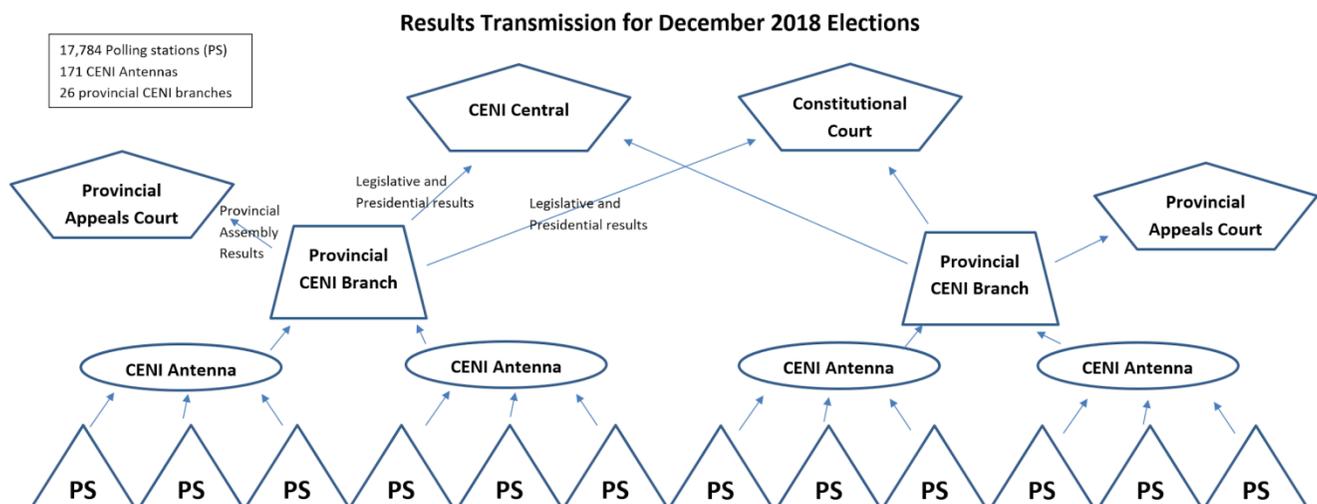


Figure 1. Flowchart of planned results transmission for December 2018 elections

Political parties and civil society networks will also require additional capacity to seamlessly monitor the three parallel results chains, and to simultaneously keep track of concurrent collection/reception via concurrent paper and VSAT transmission. State institutions and non-state actors must also be prepared to effectively conduct and observe a paper-based recount, should the Constitutional Court determine that one is needed to verify the regularity of the vote. DRC has never undertaken recounts in the past, so all actors would need support to carry out or monitor it effectively.

As last year’s presidential election in Kenya showed, over-reliance on electronic results transmission, aggregation, and storage can lead to complacency in the centralization of paper results, contributing to an annulment decision. Technical assistance could help safeguard the original paper-based evidence pool, and thereby protect the court’s option to order a recount, rather than annul the election outright.

Article 71 of the election law devolves deliberative power over provisional results publication from the CENI's 13-member plenary to its 7-member bureau, a dynamic not all stakeholders appeared aware of. Once the bureau establishes written provisional results, only the CENI president, or in his absence the vice president, can single-handedly publish provisional results.

In addition, Article 71 holds that provisional results are displayed and posted online, but it does not require their disaggregation by polling station. The CENI could legally choose to post only aggregate results, which would constitute a serious lack of transparency and would be difficult for stakeholders to accept. Timely online publication of disaggregated results could be facilitated by an evidence-tracking system like the one suggested in the recommendations section.

Electoral Dispute Resolution (EDR)

Once the CENI publishes provisional results, it transmits its set of results sheets to the Constitutional Court. In 2006 and 2011, the Supreme Court adjudicated electoral disputes in lieu of the not-yet-appointed Constitutional Court.²⁹ This means the 2018 elections will constitute the three-year-old Constitutional Court's first experience with electoral results disputes.³⁰ The Court's nine members are appointed for one non-renewable nine-year term, but three must rotate out after three years (and another three after six years, so that not all nine members rotate out at the same time). Each member who rotates out is to be replaced by a new member, respectively appointed by the head-of-state, the Parliament, and the *Conseil Supérieur de la Magistrature*. The members to rotate should have been drawn by lots in early April, but one judge passed away on April 8 and two resigned on April 9. The resignations were of two of the Court's four judges that have consistently ruled in the minority against government-friendly decisions. Their replacements could swing the political balance of the Court.

The Constitutional Court will adjudicate presidential and legislative results appeals, while the Appeals Courts (*cours d'appel*) in each of the 26 provinces will receive provincial assembly election results appeals. DRC redrew its administrative boundaries in 2015, adding 15 new provinces to the previous 11, but the 15 new provinces do not yet have fully constituted Appeals Courts. The Ministry of Justice was still reassigning magistrates to these Appeals Courts at the time of the Mission. ABA RoLI, OIF and UNDP plan joint training of EDR magistrates once they are assigned; each organization will train the judges of certain provinces. OIF has assisted in the EDR of numerous presidential elections appeals around the world (including most recently in Gabon). It helps mediate between the court and political stakeholders.

In terms of technical, rather than political, assistance, the sheer mass of the DRC's results volume will require careful planning for examining evidence, requisitioning clerical help, and designing the Appeals Courts' fact-finding workflow. The Appeals Courts will also need logistical and operational support to help them receive and track their respective copies of the provincial assembly polling station results sheets. Barcoding could facilitate this work; this is explored further in the recommendations section.

Both the provincial Appeals Courts and the Constitutional Court have two-month timeframes to adjudicate provincial and national assembly results appeals. In 2011, more than 115 parliamentary results appeals were filed, and it took the Supreme Court close to a year to adjudicate them.³¹ This

²⁹ The Inter-Parliamentary Union published a lengthy report on the Supreme Court's decision to unseat a number of MPs. One of its decisions is archived here: <http://archive.ipu.org/hr-e/195/drc71.htm>

³⁰ However, one of the court's members Judge Jean-Louis Esambo, served as a framer of the original 2006 election law.

³¹ Radio Okapi online. Updated August 8, 2015. Accessed March 28, 2018.

suggests that the Constitutional Court may also exhaust its two-month deliberation period for parliamentary results appeals.

The seven-day deliberation period for presidential appeals,³² in turn, is patently insufficient for the Constitutional Court to examine 85,000 polling station results sheets streaming in from the 17,784 polling sites. The quality of presidential appeals petitions could also suffer from the short two-day filing period following the CENI's publication of provisional results.

The Constitutional Court's recently revised internal regulations reduce EDR panels to three of the Court's nine members.³³ It is unclear whether all nine members will be allowed to vote on, and to dissent from, the reduced panel's opinion. While it makes sense to split the nine justices into panels of three to handle high numbers of parliamentary election appeals, the Court president's handpicking three of the nine justices to hear a sole presidential results appeal could attract charges of stacking the panel according to the selected members' political leaning.

The Constitutional Court is vested with the power to order partial or full recounts, which pose logistical and operational challenges of their own. The legal standard of proof for partial or full annulment is lower in the DRC than elsewhere – an election can be annulled outright, if irregularities *could* have impacted the outcome - not only if they are proven beyond a reasonable doubt to have *in fact* impacted the outcome.³⁴ With only seven days to examine evidence (if no recount is ordered), the court could benefit from an international "buffer" during disclosure of evidence. This buffer would deter armed forces and political actors from disturbing the Court's work by trying to exercise undue influence over its members.

Operational / Technical Assistance Requested by the CENI

Considering these operational challenges, the CENI's leaders outlined the following specific areas in which it would like technical assistance:

1. Digitizing its archives and organizing its paper-based archives;
2. Inventorying sensitive election material stored in its central, provincial, and training center warehouses;
3. Managing supplementary list voting by compiling closed supplementary lists 15 days before polling, and/or by conditioning supplementary list voting to classes of persons holding individualized CENI-issued pre-authorizations (*ordres de mission*); and
4. Devising or improving the CENI's tracking systems for deploying and redeploying sensitive election material to and from the field (potentially using bar coding to secure chain of custody).

<https://www.radiookapi.net/actualite/2012/08/18/rdc-legislatives-2011-la-cour-supreme-reprend-le-contentieux-electoral>

³² This limit was legislated before the abolition of the presidential election run-off in 2011, in order to accommodate the then-constitutionally capped period between the two rounds.

³³ Politico.cd online. September 6, 2017. Accessed March 28, 2018.

<http://www.politico.cd/actualite/la-une/2017/09/06/huis-clos-revision-reglement-interieur-de-cour-constitutionnelle.html>

³⁴ Article 75 of the election law

Political, Security, and Legal Framework Concerns and Challenges

In addition to the operational challenges outlined above, there are also significant political, security, and legal challenges that could impact the holding of inclusive and credible elections in the DRC, as described below.

Political Concerns about the Electoral Process

Political Agreements and Freedoms Have Not Been Respected

After President Joseph Kabila's mandate expired in 2016 without elections being held to replace him, the CENCO facilitated an agreement among majority and opposition political parties to set out a power-sharing roadmap for the transition period until elections are held. Several of the government's obligations under the Saint-Sylvestre Agreement, which was signed on December 31, 2016, have not been met. For example, both the Agreement and the Congolese Constitution rule out a third term for President Kabila, but he has never explicitly stated he would not seek reelection. The government was to have released political prisoners and allowed exiled political leaders to return to the country, but it has only released a small number of political prisoners and failed to address the cases of certain high-profile political prisoners and exiles.

In March 2015, seven political parties (the G7) seceded from the governing coalition, calling on President Kabila to publicly forsake a third term. In response, the majority induced some members of the seceding parties to rejoin the majority coalition. This fragmented the parties constituting the opposition bloc, whose current and most-recent leaders each claimed the same party names and logos and legal rights to the party's management. This process has been dubbed *dédoublement* or doubling. A key provision of the Saint-Sylvestre Agreement was to resolve this problem by recognizing the original leadership, but the problem has arguably gotten worse rather than better. The publication of the official political party list should address this issue, but it has yet to be published despite the legal deadline to do so at least 12 months before the election. The Prime Minister was to have been "presented by the opposition", but President Kabila instead appointed a Prime Minister from a dissident and unrecognized faction of the UDPS, which subsequently claimed rightful title to the party and held a parallel leadership election. These and other points have led to continuous disagreement between majority and opposition parties, with the latter questioning the majority's good faith.

Peaceful protests against the non-fulfillment of these commitments, as well as separate demonstrations demanding legitimate elections take place, have been held regularly over the last year and have been met each time with refusal, repression, and violence by government security forces and political opponents. While protests held in 2017 were led by opposition parties and civil society without the participation of the Catholic Church, 2018 demonstrations have so far been sanctioned by the Catholic Church or its affiliated "*Comité laïc de Coordination*" (CLC). A primary focus of those demonstrations has been to call for President Kabila to publicly affirm that he will not run in the upcoming presidential election and for the government to respect the published electoral calendar. Both the Congolese and the international communities reacted with shock to security forces' attacks on those demonstrations, which included the use of tear gas and live bullets against peaceful protesters, some of whom were still in church at the time. Unless citizens' rights and freedoms of assembly and of expression are respected, particularly prior to and immediately following the elections, neither the Congolese nor international communities can consider the electoral process to be credible, fair or open.

Political and Civic Actors Lack Trust in the CENI

Most of the political groups and CSOs whose representatives spoke with the mission – including those from the political majority – expressed a lack of confidence in the CENI's relationship management skills, and questioned the CENI's commitment to delivering transparent, open, and democratic

elections. This translated into mistrust of the overall electoral process. Actors expressed their lack of trust in the CENI for various reasons:

- ***They feel that the electoral process has been scheduled and organized without consideration of the various concerns raised by political parties and civil society.*** The *Cadre de Concertation des Partis politiques*, which is meant to serve as a discussion forum for the CENI and political parties, has not been used since 2015.³⁵ In the context of its ongoing USAID program (“Tomikotisa”), NDI and the CENI are discussing ways to revive and strengthen the *Cadre de Concertation*.

CENI technical staff also found collaboration with political parties to be challenging, saying that parties too often raise political questions that the CENI cannot resolve, rather than technical questions about the elections that are within its purview. To address the confidence gap, the CENI has been holding bilateral meetings with DRC’s main political parties. In these meetings, the CENI and the parties analyze the current election environment and preparations, share concerns on the need for and functionality of voting machines, and visit the computer equipment room to learn the clearance process of the electoral list with the use of the AFIS software, which identifies duplicates and errors. The CEPPS mission attended one such bilateral meeting – between CENI and the opposition coalition *Dressons nos Fronts* – and found that the CENI’s approach was focused more on delivering information than on two-way discussions, listening to concerns, or developing cross-party consensus about how to address frequent concerns. Following a meeting between CENI and UDPS, in early March, the UDPS sent the CENI a list of 45 questions about the electoral process and registration of voters; the party was still awaiting response during the Mission’s time in country.

Moreover, several CSO members lamented the fact that the CENI did not sufficiently engage with civil society during the voter registration process and that the separate *Cadres de Concertation* between the CENI and CSOs (of which there are approximately 10 separate forums for the CENI to interact with youth groups, women’s groups, groups of PWDs, media, etc.) do not regularly work or meet and are not sufficiently inclusive. This forum needs to be revitalized to bolster the legitimacy of the process and to strengthen the CENI’s engagement with relevant stakeholders.

- ***There is a public perception that the CENI is not a neutral actor and is too close to the ruling party.*** Civil society and opposition parties are concerned with what they see as inappropriately close ties between the CENI and the government. As its funding is not independently guaranteed, the CENI must work closely with the executive branch to ensure that it receives the funding it needs. It has been widely speculated throughout the electoral process that this closeness has led to actions that have put the CENI’s integrity and independence into question. In its report on the political process, SYMOCEL³⁶ stated that civil society considers the CENI to be under the control of majority-affiliated political parties.
- ***Parties saw the proposed use of electronic voting machines as a means to commit fraud during the elections and prevent democratic handover.*** They felt that the elections in Kenya showed that electronic voting is unreliable and that electronic results could be tampered with during aggregation. Even if no fraud were to occur in the aggregation process, it would be difficult to dispel public concerns that fraud may have occurred. Some of those in the presidential majority also were not convinced that voting machines should be used. They were

³⁵ After the mission’s visit in Kinshasa, the CENI held a meeting of the *Cadre de Concertation* to validate a political party code of conduct; however, this meeting was not based on a larger political agreement to revive the structure.

³⁶ SYMOCEL, Rapport intérimaire sur l’évaluation du processus politique pré-électoral en République Démocratique du Congo de février 2015 à janvier 2017.

unconvinced by the CENI's arguments that the machines could save time and resources as well as keep track of election results electronically.

- ***The CENI communicates information poorly.*** The majority of CSOs interviewed condemned the CENI's external communications. They reported that basic information has not been adequately shared with the public. This was particularly the case regarding the dissemination of information during the voter registration process. SYMOCEL reported that CENI officials generally restricted its observers' access to daily registration statistics, while other CSOs lamented that the procedures for deduplication have not been sufficiently publicized. If the CENI does not publicize the details of the deduplication process, the difference in the pre- and post- deduplication figures will not be understood and could be exploited to delegitimize the process. This lack of information has so far led to a real mistrust of the CENI and, more generally, of the broader electoral process among the general population, as many citizens feel excluded from public affairs.

Over-Registration Erodes Trust in the Voter List.

Most political parties did not send observers to witness the registration process, citing both resource constraints and poor understanding about how such observation could function. This limited their ability to make informed assumptions about the reasons for the apparent over-enrollment in certain provinces, described above. In the absence of effective communication by the CENI on this issue, all parties asserted that the high enrollment was a result of political maneuvers to reach higher registration numbers by political actors at the provincial level who have an interest in maximizing registration numbers. Higher registered populations translate into a higher number of provincial assembly representatives that can be captured, as the 2017 electoral law amendment provides greater numbers of seats in provincial assemblies representing larger numbers of constituents.

Parties across the political spectrum indicated concern that the high enrollment rates in some provinces, duplicate entries, and presence of minors would lead to an inaccurate voter list. They were awaiting the publication of voter list statistics to assess the quality of the work done; these were ultimately released on April 6, 2018 at a very summary (provincial) level. They also expressed hope that civic and international partners would conduct independent audits with the CENI's agreement. Political parties want an accurate list not only to ensure election day operations will be credible, but also to help the parties in developing voter mobilization strategies and in checking the presence of their members on the final voter list.

Some parties, including the MLC and UNC, have sent the CENI their lists of computer scientists to be accredited as observers for the internal audit process in which the CENI will find and clear out duplicates in the electoral list. No list had been accredited by the end of the mission, and the CENI was carrying out its cleaning efforts (identifying potential duplicates) without the presence of party or CSO observers.

Parties were also concerned that the CENI would not be able to respect deadlines for the other steps in the process of identification and enrollment of electors:

- *March 27 to April 5: validation of results and deletion of duplicates**
- *April 6: publication of statistics**
- *May 6 to May 25: audit of the updated voters list*
- *May 27 to December 7: printing, deployment, and posting of the temporary and final electoral lists*

**The CENI met these deadlines following the CEPPS Mission's departure.*

The list of political parties and coalitions could exclude key actors.

One of the external constraints that the CENI provided as a caveat to its electoral calendar was obtaining a list from the Ministry of the Interior and Security of all political parties in good standing that

can take part in the elections; the deadline for the publication of this list was December 20, 2017. The ministry's secretary general for political parties told CEPPS that it had shared a working document with CENI, but that the official version had not yet been published. Not only could an individual party be excluded from participation in elections, but party coalitions are concerned that they may not be recognized if even one of their member parties is not recognized on the final list.

This list has been a source of controversy and ire among political parties, especially those in the opposition. These parties accuse the current administration of causing rifts within their parties and allowing multiple factions to operate using the party name. The ministry defended its actions by saying it was only following the administrative procedure and precedent by recognizing multiple factions. DRC does have precedent for recognizing multiple factions of the same party – for example, multiple UDPS tendencies were recognized the day after the Sun City Accords. However, the Saint-Sylvestre Agreement (in point V9) requires the Ministry to recognize only one party, the original party leadership structure from before the phenomenon of “*dédoublement*” began. Opposition parties say this is the rule that should be respected. The Agreement (in points V5 and V6) also requires the Ministry of the Interior and Security to cancel its recognition of MLC's and MSR's dissident party factions. However, the ministry has not demonstrated the same understanding of the requirements of the Agreement.

There is an elevated risk that the government will not respect these dispositions, which could significantly raise political tensions. Some political parties and groupings are ready to boycott the elections if a list is released that does not respect the Saint-Sylvestre Agreement. The Ministry of the Interior and Security has directed all complaints towards the *Conseil National de Suivi de l'Accord* for mediation and/or to the courts, but there has been no resolution from either. Meanwhile, the ministry has recognized several dissident party factions close to the presidential majority. Opposition parties claim this is in violation of Article 7 of the 2004 Law on the Organization and Functioning of Political Parties: “*The political party that adopts the names, abbreviations, symbols, and other signs of another, already-approved party may not, in any form whatsoever, be approved or operate throughout the national territory.*”

The Law regulating Registration and Operation of Political Parties allows first instance tribunals three months to adjudicate parties' internal disputes, like those that have divided member parties of the G7 coalition. One such dispute remains pending before the court, which has held up the Ministry of the Interior and Security's publication of the list of parties eligible to contest the present electoral cycle. The election law requires publication of the party list at least 12 months before polling.

The New Electoral Law Imposes Burdensome Requirements.

Many parties – including both in the opposition and in the majority coalition – are deeply concerned about the implications of the new electoral law. Parties are facing difficulties creating large enough coalitions to guarantee they will meet the new vote thresholds. Some parties organized political coalitions ahead of a March 24 deadline (per the electoral code, this is three months before the first date for candidate nominations). For example, MLC, UDPS, and UNC have agreed to build common lists for all the elections, a coalition that could be one of the most serious contenders in the elections. At least twelve parties recently joined the “*Ensemble pour le Changement*” coalition in support of Moïse Katumbi's presidency.

Parties also find the new registration fees to be exorbitant and difficult to pay. Party representatives told CEPPS that these amounts would surely exclude a high percentage of youth, women, and PWDs from standing for election, as these groups of people are much less likely to be able to mobilize both the fee and the funds needed to lead a campaign. Some of them decried a “democracy of the elites, the rich.” These financial challenges are particularly pronounced given that the law requiring public funding for parties has never been implemented, and parties largely rely on candidates to pay their own way. The Ministry of the Interior and Security cited the failure of the country to hold a complete electoral cycle for all elected positions – without this, the Ministry said it could not create a fair calculation for distribution of resources, which are meant to be divided by parties' share of all elected offices.

More generally, the new law contains a number of new, sometimes complicated, regulations that party members across the country will need to better understand to ensure they accept that vote counting and seat-allocation processes have been followed according to the law. The current number of councilors is likely to change in most places based on the population of registered voters, which could cause concern if not explained beforehand. Most importantly, the threshold requirement could lead to someone who wins a majority of votes not being declared elected.³⁷ It is also likely to create delays in determining the legislative results, as the CENI must wait for the completion of the nationwide tally to determine which parties meet the national threshold before allocating the seats at the constituency level. This delay could frustrate voters and candidates, and further fuel distrust in the actual results once they are declared. These and other new clauses could lead to protests and violence if they are not well understood in advance.

In January, several National Assembly members and senators filed a complaint in the Constitutional Court about the constitutionality of certain clauses in the new law, including the threshold and the increase of fees. The Constitutional Court subsequently rejected the complaint.

Efforts to Relieve Political Tensions Have Been Inadequate.

The political parties that met with CEPPS – especially those in the opposition – consider the government’s efforts to reduce political tensions and facilitate an inclusive electoral process to be largely inadequate. Article V of the Saint-Sylvestre Agreement lays out several measures to ease tensions, including:

- The release of political prisoners and resolution of “emblematic cases”;
- Approval of political party requests to change their CENI delegate;
- Abstention of the Ministry of the Interior and Security from interference in parties’ internal disputes, which are the purview of the judiciary;
- Recognition of the original party leadership for opposition parties that experienced “*dédoublement*” – fissures that created pro-majority party factions that were officially recognized over the original leaders; and
- Assistance to the victims of peaceful protests that turned violent on September 9 and 29 and December 19 and 20, 2016.

These points remain unresolved, in many cases awaiting government action. Additionally, some opposition-leaning radio and television stations that had been shut down by the government prior to the agreement being signed were permitted to reopen after its signature. The government, opposition and civil society disagree on whether the prisoner releases are responsive or sufficient to meet this obligation. The duplication of political parties has not been resolved. Opposition members feel that the government’s efforts are only cosmetic, and fear that a failure to follow through on these commitments or allow public demonstrations may undermine the credibility of the electoral process.

Parties Could Boycott Elections.

Political parties that met with CEPPS laid out the following conditions to their participation in the upcoming elections:

³⁷ According to the new law, a political party must win at least 1% of the national popular vote to win any election to the National Assembly. This means that a candidate who earns 80% of the vote in her constituency from Party A could actually lose to a candidate with 20% from Party B, if Party A does not earn at least 1% of the total votes cast nationwide in the National Assembly elections. Similar thresholds exist at the provincial assembly level (3%) and local council level (10%). The addition of higher candidate registration worsen the situation, as a party which would otherwise be competitive may not be able to reach the required threshold simply because it doesn’t have enough money to run enough candidates.

- The Ministry of the Interior and Security must release a political party list that affirms original party leadership for opposition parties that have experienced “*dédoublement*.”
- The government must implement the measures to ease political tensions, as described above, especially allowing exiled opposition political leaders to return to the country and releasing all political prisoners.
- The CENI must not use electronic voting machines, which parties believe will be unusable because of logistical and training problems (at best), or be functional but used to rig elections (at worst). Parties were also concerned that there is no legal basis for the machines,³⁸ that the approved elections budget does not provide for them, and that the procurement process was not followed.
- The CENI must take measures to improve parties’ confidence in its role as a credible and nonpartisan actor. This would include consulting parties on decisions about the electoral process, and not just imposing decisions made unilaterally.
- Political parties paid candidate fees during candidate registration for the 2015 provincial elections; these fees must be credited to their “accounts” with the CENI and used for the upcoming elections.

Electoral Violence and Human Rights Violations

Even at this early stage of the election cycle, the DRC has seen numerous instances of political and election-related violence and human rights violations. The UN Peacekeeping Mission to DRC (MONUSCO) and others attribute much of this violence to the failure to hold elections in accordance with the DRC constitution.³⁹ The risk of continued election-related violence is high. Moreover, the security situation remains unstable in several areas of the country and the number of armed groups engaging in violence has recently grown to 120, according to the Congo Research Group.⁴⁰ Violence not specifically related to elections could nonetheless impact the electoral process, and armed groups could be manipulated by political actors into disrupting elections processes.

Recent election-related violence and human rights violations

The human rights situation has severely deteriorated over the past year, and the number of cases of human rights abuses targeting the political opposition, civic activists, and media professionals has increased.⁴¹ In its November 2017 report on monitoring demonstrations and public meetings, the JPC/CENCO⁴² specified that demonstrations organized by opposition political parties and CSOs have been systematically forbidden, repressed, or forcibly dispersed by police through the utilization of tear gas and lethal weapons, leading to several cases of serious human rights violations. These findings have been corroborated by Human Rights Watch and SYMOCEL, each of which affirmed that freedoms of association and demonstration have been deeply violated through arbitrary detention and disproportionate use of force and lethal weapons. While it is difficult to chart the full impact of these practices, police violence (and the threat of it) directly and negatively affected turnout during the voter registration exercise, especially of women, as emphasized by the CNFE.

³⁸ However, the 2015 amendment to the electoral law does provide for electronic voting in Article 47 : “Le vote s’effectue soit au moyen d’un bulletin papier soit par voie électronique.”

³⁹ <https://www.un.org/press/en/2018/sc13156.doc.htm>

⁴⁰ A [map](https://kivusecurity.org/) of 120 armed groups active in North and South Kivu as of October 2017, Kivu Security Tracker <https://kivusecurity.org/>

⁴¹ Adaye, Julien. Deutsche Welle (French). March 6, 2018. Accessed March 28, 2018.

<http://www.dw.com/fr/les-activistes-congolais-craignent-pour-leur-vie/a-42852150>,

⁴² Justice et Paix Congo/CENCO. *Rapport sur le monitoring des manifestations et réunions publiques en République Démocratique du Congo*, November 2017, p. 5. <http://cejprdc.org/wp-content/uploads/2018/01/Rapport-MPP-final.pdf>

Human Rights Watch reported that security forces have killed over 300 people during largely peaceful protests since 2015, while hundreds of opposition supporters and democracy activists have been jailed. In 2017, the UNJHRO documented 1,375 human rights violations (25% more than in 2016) related to unjustified and disproportionate restrictions of civic and public freedoms. Three recent demonstrations (on December 31, January 21, and February 25), which were organized by the CLC in Kinshasa and other major cities in the country, were violently repressed by the security forces. According to the CENCO, at least 23 people died during the December and January demonstrations, though the government initially claimed many fewer casualties (a subsequent report by the DRC Ministry of Justice and Human Rights, in collaboration with civil society groups identified 14 deaths in the first two of these demonstrations, and many more injured or deprived of their civil liberties⁴³). There have also been reliable reports of police or other security services firing live ammunition and tear gas near and into churches as a deterrent to would-be protesters. These practices contribute to the further restriction of democratic space and are likely to increase the risks of election-related violence.

Potential for Future Violations

The National Police, which oversees the security of the electoral process, affirmed that it would not be possible for its officers to be present in, and to secure all the registration centers, as it lacked sufficient personnel. Their absence portends a repeat of post-election violence in 2011, which ended with more than 27 people killed and many more injured following the announcement of results.⁴⁴ Planned recruitment of 12,000 officers was supposed to start with the release of the election calendar, but it had not yet begun at the time of the CEPPS mission. The delayed recruitment process is likely to negatively affect the number of police officers available on election day throughout the country. The National Police also expressed concern that they lacked non-lethal weapons and professional training, including sensitization on key electoral processes and in areas such as civil and human rights. The disproportionate use of force, the utilization of tear gas and lethal weapons, and the violations of human rights perpetrated during the recent election-related demonstrations in late 2017 and early 2018 likewise show that the police lack adequate human rights training. This vulnerability may significantly increase the risk of electoral violence before, during, and after election day.

Civil society played a role in spreading peace messages and developing anti-violence campaigns, especially among youth, during the voter registration process. However, due to the country's vast geography and limited funding, their area of intervention has not reached much of the population, especially those living in remote areas. Lack of adequate security and other vital services in conflict areas has prevented many civil society organizations from accessing some of the most vulnerable populations, further compounding this problem.

Turnout Concerns

CSOs reported that the population is not generally engaged in the electoral process. They said that Congolese citizens have been discouraged by the protracted delays over the past two years, as well as a perception of corruption in the whole electoral process. They also do not feel adequately represented by the political class. These sentiments could result in a lower turnout than in 2006 (70%) and 2011 (59%).⁴⁵ The turnout could also be affected by other factors, such as the misuse of absentee ballots (*vote par dérogation*), and boycotts by some political forces. The potential utilization of voting

⁴³ DRC Human Rights Ministry, Multisectoral Investigation Commission. "Enquête sur les violations et atteintes relatives aux droits de l'homme en lien avec les manifestations du 31 décembre 2017 et 21 janvier 2018 à Kinshasa." March 10, 2018. <https://fsddc.files.wordpress.com/2018/03/rapport-cem-3121-derniecc80re-version-presse.pdf>

⁴⁴ The Carter Center Election Observation Mission to DRC 2011, Final report, https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/drc-112811-elections-final-rpt.pdf

⁴⁵ International IDEA, DR Congo, Voter Turnout by Election Type. Accessed March 28, 2018 <https://www.idea.int/data-tools/country-view/132/40>

machines could also repress turnout, given the likelihood it may increase voters' mistrust of the system and new technologies – especially if they are not sufficiently educated on how to use the machine, or if technical failures are experienced. A low turnout can easily lead to the delegitimization of the election results.

Legal Framework for Elections

The DRC's 2006 Constitution can be considered one of the most detailed and progressive in the Francophone space, even after 2011 amendments that abrogated the absolute majority requirement to win the presidential election. The Constitution formally tasks many independent institutions to uphold the country's democratic foundations. The CENI, and not the head of state, is empowered to call for elections.

The DRC's legal framework for elections straddles a myriad of instruments, as well as generations of amendments; this complicates its public accessibility and thereby hampers its wider comprehension and respect. The Official Gazette has undertaken to legally codify the laws but has not yet released a final version. The Ministry of Justice must still vet the consolidated text, so that it can be published in a single volume and be disseminated to each polling station. In the meantime, NDI has consolidated the electoral law's four generations of amendments into a single (unofficial) text, which has been shared with the CENI..

This section discusses the legal operating environment of DRC's election-related institutions and identifies specific vulnerabilities that could impact achievement of the benchmarks for credible elections.

The CENI

The CENI's executive operates along thematic directorates specialized in: legal affairs; public relations; operations; logistics; telecommunications/results/data center; training/voter information; voter and candidate registration/accreditation; and finance. Each directorate subdivides into thematic divisions. The CENI maintains executive secretariats at the level of each of the 26 provinces (of which 15 are new since the country's redistricting). These provincial branches oversee 171 *antennas*, and which in turn double as local results aggregation centers. An additional 61 sites are used as needed in remote areas, making a total of 232 training sites. In practical terms, this means more than doubling the number of CENI officials at the provincial level. Every province is subdivided into territories or cities, for a total of 145 territories and 96 cities, further divided into municipalities or groups of municipalities. The 2018 elections will be the first time the CENI operates a single day national election (involving an unprecedented triple ballot); this untested expanded footprint will likely pose operational and communication challenges.

Inclusion of Marginalized Groups

The national legal framework, as well as several international treaties signed by the DRC, oblige the state to eliminate any form of discrimination regarding the right of all citizens, including the elderly and people with disabilities, to fully participate in public affairs. The Constitution allows the state to take specific measures to protect vulnerable classes according to their physical, intellectual, and moral needs. Moreover, the Constitution guarantees equal access to public resources regardless of origin, social conditions, political opinions, ethnicity, tribe, and linguistic or cultural minority, and promotes the presence of people living with handicaps in national, provincial, and local institutions.

The electoral law does not specifically guarantee the electoral rights of IDPs and there is no indication that measures have been taken to guarantee this population the right to register and, consequently,

to vote. According to UNOCHA, there are 4.49 million IDPs in the country, of whom 52% are women.⁴⁶ SYMOCEL confirmed that no special registration centers for IDPs were set up by the CENI.

Women's Political Participation

The DRC's 2015 Gender Parity statute derives from article 14 of the Constitution and promotes fair representation (*représentation équitable*) of women in elected and appointed bodies. However, it lacks binding measures to raise women's representation in these bodies.⁴⁷ The parity law has thus been widely criticized as ineffective.⁴⁸ Moreover, DRC's political party and election legislation lacks enforceable temporary special measures in favor of gender inclusion, and the election law expressly states that candidate lists cannot be rejected because they lack gender parity.⁴⁹

The DRC's legislative abdication of its international, regional, sub-regional, and constitutional gender commitments keeps it ranked at 167 of the 193 countries tracked by the Inter-Parliamentary Union.⁵⁰ The 2011 legislative elections seated only 44 women among 492 members of the National Assembly (8.9%), and the last senatorial elections saw only five women elected among 108 senators (4.6%)—far below the 23.7% average for Sub-Saharan Africa. Of 26 governors, only one is a woman (of Nord-Ubangi), and of 576 political parties, women head only 41. All nine judges of the Constitutional Court are men, and only four of 35 cabinet ministers are women, and one of ten vice ministers.

Cognizant of this deficit, the CENI has invited UNWomen to embed a permanent focal point for gender affairs in its headquarters, as well as regional focal points in select provincial branches. The CENI and UNWomen jointly developed an institutional Action Plan in 2017, which they have since aligned with the CENI's electoral calendar.

Key Vulnerabilities in the Legal Framework

The following problems create an unclear legal framework that leave the results of any election open to challenges.

- **A separate voter registration law conflicts with the electoral code.** Voter registration is governed by a separate 2004 statute, which was amended in 2016. The CENI's voter registration regulations and guidelines derive from the standalone voter registration statute only, which conflicts with provisions in the electoral law, both in terms of voter list display and of claims and objection periods.⁵¹ Lack of harmonization of the parallel statutory regime contributed to a largely ineffective voter list display and claims and objections process in 2017, as is described in further detail below.
- **Three different statutes regulate political parties, although none of them is effectively applied in practice.** Neither the three political party laws, nor the election laws, require campaign finance transparency. The provision of the 2004 law on political party operation calls on parties to file annual accounts, a requirement that appears unenforced by the Ministry of the Interior and Security. A standalone law grants political parties public funding, an entitlement with which the government has not yet complied. The Ministry of the Interior and

⁴⁶ UNOCHA DRC Factsheet, 31 Jan 2018. Accessed March 28 2018.

https://reliefweb.int/sites/reliefweb.int/files/resources/drc_factsheet_trim4_2017_fr_07022018.pdf

⁴⁷ Loi n° 15/013 du 1^{er} août 2015 portant modalités d'application des droits de la femme et de la parité.

Accessed March 28, 2018. <http://leganet.cd/Legislation/Droit%20Public/DH/Loi.15.013.01.08.html>

⁴⁸ Observatoire de la Patrie, date not given. Accessed March 28, 2018. <http://riensanslesfemmes.org/wp-content/uploads/2016/10/ANALYSE-CRITIQUE-DE-LA-LOI-PORTANT-MISE-EN-%C5%92UVRE-DE-LA-PARITE-Version-pr%C3%A9sentation1.pdf>

⁴⁹ Article 13 of the Election Law

⁵⁰ Inter-Parliamentary Union, Women in National Parliaments as of January 1 2018. Accessed March 28, 2018. <http://archive.ipu.org/wmn-e/classif.htm>

⁵¹ Compare article 6 of the electoral law with articles 40-44 of the voter registration law, which respectively prescribe 30 versus 7 days of list display and claims and objection periods.

Security explained that the law awards public funding based on seats each party holds at national, provincial, municipal, and chiefdom levels. However, the DRC has never held chiefdom elections, and so the ministry says it is unable to disburse funding in line with the statutory distribution scheme.

- **Recent amendments to the election law have set popular vote thresholds for parties to take seats in directly elected legislative bodies; in practice, this means that candidates winning a majority in their constituencies might not win their polls.** The stated goal of these thresholds is to reduce the number of parties represented in national, provincial, and local legislatures; while it will not dissolve any of the 576 currently registered parties, it will make their survival more difficult. The threshold will also thwart all independent candidacies, as well as exclude the myriad parties that currently hold between one and four seats in the legislature, unless they coalesce.
- **A contradiction in the election law could permit off-the-list voting.** As noted earlier, the conflict between the deadline for accreditation of party agents and the permission of party agents to vote in polling stations where they are not registered means that party agents are likely to vote off the voting list.
- **New provisions on assisted voting.** The election law provides that voters can be assisted “by a person of their choice who is a registered voter” (article 58); however, the 2017 amendment removed a clause that limited the number of voters that could be assisted by the same person. This raises the possibility that polling staff could “assist” an unlimited number of voters on election day– which is likely to be the case if the voting machine is used.

Lastly, in addition to the challenges the DRC stakeholders face regarding the legal framework for elections, the pace of resource flows to the responsible institutions from the government of DRC cripples the institutions’ full implementation of their legal mandates and calls the autonomy of each institution into question. Whether strategic or circumstantial, the failure to meet this benchmark has already affected the quality and credibility of the election process, notwithstanding the funds that were provided for the voter registration system.

Civil Society Concerns

The DRC’s Constitution, as well as several international covenants and conventions to which the DRC is a party, guarantee the rights of all persons to participate in public affairs. This includes the right to vote and to stand for election; freedom of assembly; and the right of citizens to participate in public affairs through CSOs and non-governmental associations.

Civil society plays a vital role in enhancing the credibility, peacefulness, and transparency of the electoral process.⁵² In the DRC, civil society can make an extremely valuable contribution to the support of the electoral process by way of its access to different layers of the population, including historically marginalized groups and those most vulnerable to becoming victim to or taking part in electoral violence. It can act as watchdog to various steps of the process, thereby enhancing transparency and government accountability, increasing the level and quality of political debate, defending human rights, and providing crucial civic and voter education. Although grassroots mobilization retains a sharp ethnic character in the DRC, civil society groups benefit from widespread popular trust. For this reason, their mobilization power is much stronger than that of political parties.

⁵² S. Mottiar, The Role of Civil Society in Elections, The KwaZulu-Natal Democracy and Elections Forum – reducing conflict dynamics and promoting peace, The Journal of African Elections, Volume 9 No 1 (2010).

This can be seen in recently organized demonstrations and marches where civil society-organized or jointly organized events have seen much greater participation than those organized by parties alone.

For their part, Congolese CSOs are largely in favor of continuing with the electoral process. A small portion of civil society that met with the Mission has publicly declared that elections should not take place as long as President Kabila remains in power, believing that his continued leadership will corrupt any democratic process, but the majority of CSOs and associations agree that the conditions originally imposed by the Saint-Sylvestre Agreement remain the only acceptable path for organizing elections. However, those organizations asserted that an inclusive political consensus is needed regarding the acceptance of the voter register and on next steps in order to ensure the legitimacy of the impending elections.

Civic and Voter Education

In the DRC, several factors make civic and voter education⁵³ crucial to the conduct of credible and inclusive elections. Such factors include an extremely high illiteracy rate, especially in rural areas; a lack of access to basic information and clear messaging from the CENI; and an inherently complex electoral system. Assisted voting was a common phenomenon in the last elections; the EU EOM 2011 reported that in 57% of observed polling stations, voters asked for assistance.

The CENI, in the person of the vice president, is legally responsible for the coordination and supervision of civic and voter education activities.⁵⁴ The CENI has the duty to disseminate the details of the election's legal framework in French and four national languages (Kikongo, Lingala, Swahili, and Tshiluba)⁵⁵ through the development of civic and voter education materials, the training of trainers and creating a public portal whereby citizens and CSOs can access these materials for their own dissemination efforts.⁵⁶ SYMOCEL's observers reported⁵⁷ that this was an area of serious weakness for the CENI. Other CSOs, such as RECIC and FENAPHACO, confirmed that they had produced their own materials, which were later approved by the CENI.

During the voter registration phase, the majority of voter education was provided by civil society.⁵⁸ Several CSOs, mostly funded by international partners,⁵⁹ implemented activities targeting specific marginalized groups, such as women, youth, and PWDs. Nationwide civic education efforts were limited for logistical reasons, including the vast size of the country and immense difficulties in reaching remote areas. Nonetheless, information campaigns reached citizens in more than half of the country's 26 provinces. The issues raised in civic and voter education campaigns commonly revolved around the registration process and the importance of holding a voter card, along with the legal consequences

⁵³ Civic education is a broad concept that entails activities aimed at the comprehension and knowledge of civil rights and duties. Voter education and information target the voters' awareness about procedures to participate in voting and registration.

⁵⁴ Loi Organique modifiant et complétant la Loi n° 10/013 du 28 juillet 2010 portant Organisation et Fonctionnement de la Commission électorale nationale indépendante. Art. 25

⁵⁵ Loi Organique n° 13 /012 du 19 avril 2013 modifiant et complétant la Loi n°10/013 du 28 juillet 2010 portant Organisation et Fonctionnement de la Commission électorale nationale indépendante. Art. 9

⁵⁶ Loi Organique modifiant et complétant la Loi n° 10/013 du 28 juillet 2010 portant Organisation et Fonctionnement de la Commission électorale nationale indépendante. Art. 25 bis 9.

⁵⁷ SYMOCEL, Rapport préliminaire sur l'observation des opérations d'identification et d'enrôlement des électeurs dans les aires opérationnelles 3 et 4, pag.30.

⁵⁸ According to several stakeholders met by the mission, political parties did not largely contribute to voter education

⁵⁹ IRI contributed in civic education campaigns targeting women, youth and PWDs in eight provinces - Équateur, Kasai Oriental, Kinshasa, Kongo Central, Kwango, Kwilu, North and South Kivu; Counterpart is implementing the Congo Demokrasia project by working on the capacity building of local groups to increase citizen engagement, targeting marginalized citizens in 15 provinces including Kinshasa, Kasai central, Kasai Oriental, North and South Kivu, Équateur and Ituri.

of double or illicit registration. Information regarding the claims and disputes process was also disseminated by some CSOs, although this was more sporadic.

Congolese human rights groups and activists may also be unable to serve their role fully. According to several stakeholders, including the UNJHRO, they operate in a heavily restricted environment. Reportedly, women's organizations are often subject to very close scrutiny, such as threats of de-registration and other intimidation, by the government, especially when they receive funding by international donors.

Citizen Observation

Citizen observation of the CENI's voter registration efforts served to increase the transparency of an imperfect process. Many national CSOs and networks of citizen associations observed the registration process and released reports that revealed weaknesses in the process. Those weaknesses included the registration of underage voters, multiple registration, undue influence of security and CENI officials, unsystematic posting of daily lists, and technical problems. Consequently, CSO observers provided recommendations to the CENI for the correction of the problems they observed, many of which could be addressed through a thorough citizen's audit. CENI acceptance of CSO recommendations to enhance the accuracy of the voter list would be crucial to the transparency and legitimacy of the overall process.

Citizen observers did not effectively track the claims and objection process. Although CEJP and SYMOCEL stated that the display of *album quotidien* was not systematic (information confirmed by other stakeholders), there is no available figure related to this aspect of the observation. Such observation information could be helpful during the display of provisional voter lists at the antenna level. A capacity building intervention would be necessary for national observers to monitor this phase and review if the previous claims and disputes have been addressed.

CEJP and SYMOCEL are jointly planning⁶⁰ to carry out a citizen audit of the voter register once the provisional list is released. The citizen audit has the potential to scientifically assess the accuracy of the voter registration process. The approach that these CSOs want to adopt will include field tests,⁶¹ which could result in greater confidence in the register than the audits that have been previously conducted in the DRC, which were mainly computer-based, data-driven processes. This audit would use statistical sampling methods to determine whether registrants' records are accurate and complete⁶². The observers could pair this audit with an inventory of registration kits and unused cards, which are currently stocked at the 171 the CENI antennas.

A citizen audit will also face several challenges. To provide an accurate picture of the register, an audit that uses a field test must be done in a statistically representative way using a random sample. This requires the implementing organization to have:

- the ability to recruit and rigorously train volunteers from across the country (CEPPS estimates an appropriate sample would be approximately 2,000 to 2,500 individual voters contacted, so approximately 200 to 250 trained volunteers);

⁶⁰ The European Union, Sweden, the Department for International Development of United Kingdom will provide funding to CEJP and SYMOCEL for this initiative. while the technical assistance will be provided by the Carter Center.

⁶¹ Field tests can be conducted over two dimensions to respectively assess the accuracy and the comprehensiveness of voter register: a) List-to-people tests, to assess if people who are on the list have the right to be on it and if their information is up-to-date and accurate; and b) People-to-list tests, to determine if registered voters are present on the lists.

⁶² OSCE, Handbook for The Observation of Voter Registration, <https://www.osce.org/odihr/elections/92058?download=true>

- capacity to use new technologies (SMS, database, etc.) to transfer information rapidly from the decentralized volunteers to the central headquarters for analysis; and
- a strong reputation for political neutrality and credibility.

It seems that SYMOCEL and CEJP can meet these criteria, although presidential majority parties may question CEJP's political neutrality given the Catholic Church's support for demonstrations. A less firm requirement, but still a strong advantage, would be to have access to the voter list in machine-readable format. Otherwise, a sample would need to be drawn manually or the list be converted using optical character recognition, which is frequently inaccurate.

Given that the most recent national population data from the DRC dates back to 1984, the most likely method of conducting field tests is list-to-people tests in which a random sample of voters from the list would be drawn and enumerators/observers deployed to the addresses listed to verify that the information contained in those records is accurate and complete as well as that the registrant is truly an eligible voter. People-to-list field tests, in which a representative sample of the voting age population would be surveyed and their responses compared to the list, would be challenging without credible information about the population of eligible voters and their geographic dispersal on the basis of which a representative sample of the voting age population could be constructed.

The lack of reliable demographic data for the country would also limit the effectiveness of any complementary computerized tests of the voters list as these tests would therefore also be unable to assess whether the provisional and/or final lists are representative of the demographic spread of the country geographically and by age and gender groups.

A final significant drawback of the planned audit process is the likelihood that findings will not be integrated into the final voter list, which is likely to further inflame tensions. The timeframe for list display and claims is not well defined in the electoral calendar, and it may not permit an audit to take place in sufficient time to enable the CENI to implement widespread reforms. Furthermore, the CENI is not planning to accept challenges that result in voters being removed from the register, only additions. This means that if an audit finds significant rates of unauthorized registrants, there will be no recourse unless the CENI changes this rule. Significant political and diplomatic pressure would be needed to make this happen.

Citizen observation on election day is also a critical guarantor of transparency and deterrent against fraud. With the support of USAID and the United Kingdom's Department for International Development, CEJP has mobilized 300 long-term domestic observers nationwide and plans to deploy 15,000 short-term domestic observers on election day. Other donors, including the EU, Canada, and Belgium are also supporting or planning to support election observation activities.

The Media

Freedom of thought and expression is a basic component of the electoral process; it allows voters to make free and informed choices through receipt and analysis of a wide variety of information related to the process, the parties and the candidates. Many media outlets are present in DRC, including two press agencies, several national television channels, 213 daily newspapers, eight of which are in Kinshasa, and many radio stations (though Radio Okapi, the UN radio station, is the only one that benefits from both sufficient independence from government censorship and nationwide coverage).⁶³ Community radio is by far the dominant media in rural areas and is often the only way to reach populations living in remote zones. Many Congolese media stations, including community radio stations, are owned by politicians and used as propaganda instruments. This leads to a politicized media environment that could have a tremendous impact on the flow of information, especially during the electoral process. Radio stations seem to enjoy more freedom of reporting than TV stations for

⁶³ These figures have been provided by Internews; their last update was in 2016.

financial reasons; as their core costs are lower, they are less dependent on major or a large variety of sponsors to cover their operational costs.

The publishing of inflammatory rhetoric, serious reporting inaccuracies, and blatantly false information are common phenomena in the DRC, especially via the internet.⁶⁴ Journalists confirmed to the mission that much of the civilian population is unable to follow developments in the electoral process due to the lack of clear information being provided by the CENI. Further compounding the issue, investigative journalism is underdeveloped due to lack of training and resources, and the environment is dangerous for journalists reporting on sensitive political topics. JED stated in its 2017 annual report⁶⁵ that although no journalist was killed or kidnapped in the past year, systematic and violent harassment against journalists who covered the anti-government demonstrations was widespread.⁶⁶ Two draft laws awaiting legislative approval would protect journalists and their freedom of expression by decriminalizing press offenses and allowing more widespread access to public information.

The government's cutting off access to the internet (including Facebook and Whatsapp), SMS, and radio stations⁶⁷ in the days before and after recent political demonstrations represented a serious violation to the free circulation of information and a blatant repression of basic civil rights. Additionally, international journalists have faced challenges that included intimidation, obstacles that hindered their free movement in some areas of the country,⁶⁸ expulsion from the country, non-renewal of visas, and interruptions to their internet and radio signals.

Congolese journalists complained that they were sanctioned in a partial, partisan fashion by the CSAC, a constitutional institution intended to regulate public media, guarantee the freedom and ethic of the press, and ensure equal airtime. CSAC leaders lamented that they were unable to perform their regulatory role because the institution did not receive any budget for the electoral period and lacked infrastructure⁶⁹ and equipment. At the time of its establishment – one month prior to the 2011 presidential election – the European Union Election Observation Mission evaluated the CSAC as not impartial and affirmed that it did not fulfill its obligation to ensure the accessibility of public information.⁷⁰ While it is sufficiently functioning to sanction certain journalists, the CSAC board is not fully operational, as an ordinance to name its members has not yet been passed. CSAC officials seemed willing to fulfill their role, but have little training or resources available to do so.

The Role of the United Nations System

The international community massively supported the CENI in holding previous election cycles in 2006 and in 2011. MONUSCO provided much-needed logistical support by airlifting election materials into

⁶⁴ In DRC, as in other African countries, it is possible to use *Facebook* for free without incurring costs for internet usage. This makes it the default option for reaching large audiences.

⁶⁵ <http://jed-afrique.org/wp-content/uploads/2017/11/JED-RAPPORT-2017.pdf>, released in November 2017 in Kinshasa.

⁶⁶ The JED reported the following cases: 7 cases of imprisoned Journalists (Detained for more than 48 hours); 42 cases of stopped journalists (detained for less than 48 hours); 16 cases of aggressed, tortured, and bullied journalists; 16 cases of threatened or harassed journalists; 3 cases of administrative, judiciary, or economic pressure; and 37 cases of obstacles to the free flow of information.

⁶⁷ Journalists confirmed to the CEPPS mission that Radio Okapi's and other radio stations' signals were disrupted during the demonstrations.

⁶⁸ The Art of the Possible: Monusco's New Mandate, Congo research Group, 1 March 2018, <http://congoreserchgroup.org/>

⁶⁹ During the meeting, the CEPPS mission was informed that the CSAC was not able to pay the rent and that the electricity had been cut for the past two weeks.

⁷⁰ EU EOM Final Report, 2011, http://www.eods.eu/library/FR%20DR%20CONGO%202011_fr.pdf

otherwise inaccessible areas. The logistical and operational challenges of conducting three elections at once are also staggering. The international community's support will therefore be more critical than ever in the upcoming elections. Yet, so far, few donors have contributed to the UNDP's *Projet d'Appui au Cycle électoral au Congo* (PACEC) basket fund for the 2018 elections. They cite the political challenges listed above – in particular, the history of delays and the non-implementation of the Saint-Sylvestre Agreement (including President Kabila's refusal to confirm whether he will step down) – as fueling donor reluctance to dedicate more financial support. The UNDP has had to readjust its project document three times to reflect varying levels of donor support, with the current budget standing at just over US \$67 million. Further complicating support coordination, the CENI has yet to endorse the current UNDP draft project document. On March 26, the DRC government announced that it would conduct the 2018 elections without any international support, which seems to undercut CENI's institutional independence in seeking international expertise.⁷¹

That said, more than 30 UNDP technical advisers being funded by USAID, Canada, and the EU are currently embedded in the CENI's offices to support the CENI's operations and provide technical expertise to its staff. The sharing of technical expertise and associated capacity-building for CENI staff is vital to ensuring continued cooperation and openness between the CENI and the international community.

The UN Security Council has also mandated⁷² MONUSCO to “provide technical assistance and logistical support for the electoral process, as appropriate and in coordination with Congolese authorities, the UN Country Team (UNCT), regional and international actors... this support will be continually assessed and reviewed in accordance with the progress made by the Congolese authorities in the steering of the electoral process, particularly on presidential and legislative elections.” On January 10, the UN Secretary General reported to the UNSC that the PACEC, a multi-partner basket fund managed by the UNDP, had only been funded at 6% of the US \$123.3 million initially sought. Underfunding was in part owing to donor concerns regarding uncertainties surrounding the political transition. Because of uncertainty about its funding, UNDP has revised its project document three times based on varying budgets. As of writing, its budget stood at US \$67.5 million.

The most recent CENI capacity assessment was conducted by the UN EAD Needs Assessment Missions of 2013 and 2016. Their reports state that the CENI's central HQ directorate personnel have significant technical expertise and experience, but that it would nevertheless benefit from support in the areas of management and planning, which EAD/DFS provided during the CEPPS mission. The report further concludes that the CENI's provincial branches and antennas require substantial logistical, operational, and technical support. Lastly, the UN mission reports hold that the CENI lacks public and stakeholder confidence in terms of its financial and political dependence on government.⁷³

A joint team of electoral experts from the UN, AU, EU, OIF, and SADC was assigned to support the CENI in November 2017.⁷⁴ The CENI still had not consented to the team's terms-of-reference at the time of the CEPPS mission because it was unwilling to agree that the experts could report independently, rather than answering to the CENI.

The DRC's geographic size, lack of infrastructure, and difficult terrain pose enormous challenges in organizing national elections. The international community therefore provided the CENI with significant assistance for the 2006 and 2011 electoral cycles. For the 2018 elections, MONUSCO maintains a two-track approach to electoral assistance: the Department of Political Affairs operates an Electoral Assistance Division cell, which assists the CENI with operational planning, while MONUSCO Department of Field Support aids with logistical planning, especially in airlifting polling materials from regional hubs to designated strategic drop-off points.

⁷¹ Article 45 of the 2010 Organic Law on CENI's functioning and organization

⁷² UNSC 2348(2017): paragraph 34 ii (c)

⁷³ Paragraph 26 of the 2016 NAM Report

⁷⁴ https://monusco.unmissions.org/sites/default/files/n1746531_05012018_ev.pdf

IV. Potential Interventions / Recommendations

The CEPPS Mission identified several possible interventions that could improve the electoral process; some carry greater risk or implementation challenges than others. Potential interventions are organized below by key election benchmark. They include a list of feasibility and risk considerations. All potential interventions are listed and evaluated, but some have high probability of success while others carry significant risk, small chance of success, or little value added. These are included nonetheless to show the various considerations of each option.

For All Stakeholders

High Priority

Foster dialogue among parties, stakeholders, and election administration bodies.

<p>Specific problem being addressed</p>	<p>Lack of dialogue among stakeholders may result in election boycott or insufficiently credible elections</p>
<p>Recommended intervention</p>	<p>To facilitate dialogue between the CENI and Congolese stakeholders, the CENI has established 15 “<i>cadres de concertation</i>,” including one for political parties and many others for various sectors of civil society. These do not meet frequently and rarely involve substantially participatory discussions.</p> <p>The <i>Political Party/CENI Cadre de Concertation</i> can provide a forum for building consensus among parties, communicating about the status of progress on the electoral calendar, and seeking feedback on electoral preparations issues. The forum must also provide opportunities for high-level exchanges, including among party leaders and the CENI president, to address controversial issues. Without such a mechanism, it is more likely that parties will remain suspicious of the CENI’s actions and boycott the elections. A refreshed and consensual methodology for holding meetings that allows greater participation of parties in agenda setting and discussion would help make the forum more sustainable and useful. (NDI has proposed such a methodology under its Tomikitisa program but has not received a response from the CENI as of submission). USAID could support frequent meetings using this mechanism to foster inter-party communication, greater party involvement in electoral decisions, and greater trust.</p> <p>The CENI could also build confidence and foster stakeholder engagement through enhanced CENI-civil society dialogue, both bilaterally and within a more inclusive, structured and systematic <i>cadre de concertation</i>. Rather than isolating each category of CSO, the CENI should convene a single <i>cadre de concertation</i> that includes all CSOs involved in electoral activities, to ensure all groups have similar access to information, opportunity to interact with the CENI, and can network amongst themselves to find areas of synergy. It should be called more frequently and with a reasonable notice, especially at key moments of the electoral calendar.</p> <p>Other forums for dialogue could be established among other actors on an as-needed basis. For example, dialogue between parties and the Ministry of Interior and Security about the forthcoming officially recognized list of parties could help both sides better understand each other’s needs and positions and help the ministry understand the political and electoral consequences of the list that it produces.</p>

	<p>A priority for stakeholder dialogue should be to foster consensus on the election day voting method. Such a discussion will require examination of related technical issues, including procurement processes and CENI election day operational plans, not just the political aspects. It would benefit from the assistance of impartial technical experts.</p> <p>Additionally, a forum to discuss the application of the party finance law could lead to consensus on how the law could be implemented in the absence of past elections to create a baseline. It could also create pressure on the government to release the funds. Sensitization of CSO leaders through which they are educated on the law and the consequences of its non-implementation could provide a necessary citizen watchdog effect and further pressure the government to release the funds.</p> <p>Should official <i>cadres de concertation</i> not be held consistently or provide insufficient venue for dialogue, interparty or party-civil society dialogue sessions could take place without an official government presence.</p>
Feasibility/ risk involved	<ul style="list-style-type: none"> • Support for the <i>cadres de concertation</i> is contingent on cooperation from the CENI in determining a methodology that can be accepted by all or most members • NDI proposed a dialogue between parties and the Ministry of Interior and Security under the aegis of its Tomikotisa program in late 2017 with the former Minister. It has not yet received a favorable reply, and the new Minister seems similarly disinclined. • Dialogue still may not ultimately result in processes that are widely accepted. • It is not yet evident that political will exists to fund political parties, engage in meaningful dialogue, or abide by recommendations in a timely manner.

Medium Priority

Conduct Civic and voter education campaign campaigns, including activities about the list-display process (with CSOs)

Specific problem being addressed	Limited access to information about the voter register list display process reduces confidence that register is reliable
Recommended intervention	Strengthen support and the impact of CSOs involved in civic and voter education initiatives to ensure geographical and target group coverage of the country, especially through radio programming. Capacity-building of national and local CSOs to improve their overall awareness and in-depth understanding of issues currently surrounding the voter register, the list display process and complaints procedures so that they may sensitize the wider population on the voter register. Facilitate better cooperation between the CENI and CSOs so that CSOs may adequately observe and contribute to the list-cleaning process. Inclusion of CSOs which cater to marginalized groups will aid in the inclusiveness of the list cleaning process and the overall legitimacy of the voter list.
Feasibility/ risk involved	<ul style="list-style-type: none"> • CSO geographic reach • Organizations must have legal authorization to raise awareness on electoral offenses

Specific problem being addressed	Citizens lack information about how to engage in the political process, which leads to lack of confidence in the elections
Recommended intervention	<p>USAID currently funds a civic and voter education program through Counterpart International and 35 local civil society organizations. However, due to the country's vast geographic size, high illiteracy rates and widespread lack of access to information on electoral processes, it is recommended that the current program be expanded to reach more people (through increase support to existing partners and expansion of partners) in the most vulnerable areas and to focus on educating citizens on the next steps in the electoral process.</p> <p>A comprehensive civic and voter education program would inform citizens about:</p> <ol style="list-style-type: none"> 1) how, when, and where to vote; 2) ways to get further involved in elections, as candidates, election agents/poll workers, party poll watchers, campaign volunteers, citizen observers, critical incident reporters, and more; 3) the consequences of election offenses such as double registration, multiple voting, and vote buying; and 4) procedures to file claims and disputes. <p>Campaigns could be organized through cross-country caravan tours, promotion of radio debates and discussions, and trainings of conflict monitors. These initiatives will especially target women, youth, and marginalized voters.</p> <p>Additionally, the campaign could help the public better understand the new electoral law. It would be published and shared, made available in each polling station. To further enhance the level of understanding of diverse stakeholders, the law will be broken down by specific issues and the associated messages communicated in ways which would be easily digestible to the common man and easily accessible via SMS, radio, church, market centers and other natural gathering places.</p>
Feasibility/ risk involved	<ul style="list-style-type: none"> • Such an effort would require training of CSOs and members of the media prior to any outreach to citizens, which will lengthen the time needed to implement this intervention • Geographic reach must be wide for modules to be effective • Activity must include methodology to assess impact

Mainstream the inclusion of marginalized populations in all interventions

Specific problem being addressed	Marginalized populations, including women, youth, and PWDs, often have the most difficulty accessing information about the electoral process and participating in it as voters, candidates, and in other roles.
Recommended intervention	Make certain that all interventions including voter education campaigns, training and deployment of citizen observers, and capacity-building programming for media and CSOs, actively promote ways to target these marginalized populations for inclusion -- through support for special voting procedures, tailored civic and voter education, targeted questions that observers can include in their observations, inclusion of members of these populations in CENI staffing, as citizen observers, and in dialogue processes, etc.
Feasibility/ risk involved	<ul style="list-style-type: none"> • When taken together, these marginalized populations make up a (large) majority of the electorate; overlapping identities also make targeting complicated. The assistance of CSOs with strong local knowledge of their own target audiences may be required for effective outreach.

Low Priority

Institute a conflict early warning system (CENI, political parties, and civil society in conjunction with Ministry of Interior and Security)

Specific problem being addressed	Conflict can be prevented or resolved if good communications systems are in place.
Recommended intervention	Assistance to the CENI, Ministry of the Interior and Security, and civil society to develop and staff an interagency/multi-sectoral conflict early-warning communications protocol to track incidents. Such a system should enable citizen reporters to alert authorities of potential or ongoing incidents, and should have a decentralized triage system to allow local authorities to respond.
Feasibility/ risk involved	<ul style="list-style-type: none"> • The system would only be as good as the training of its response personnel and their willingness and financial/ human resources capacity to respond. Many areas of the country will have limited capacity. • If local political and/or security authorities are key perpetrators, reporting their behavior could endanger the reporter if anonymity were not guaranteed. On the other hand, ensuring anonymity could allow spoilers to report false information to dilute resources that would then not be available for response to real incidents. • The reporting process must not expose citizen reporters or whistleblowers to retaliation or invasion of privacy. • Opening such a system to citizen reporting could overwhelm staff if they are not prepared. An alternative could be to train certain citizen observer groups in this reporting, but such an approach would limit geographic scope. • Interventions would need to be long-term and geographically tailored to areas where impact can be achieved.

For Political Parties

High Priority

Help political party members understand the electoral law, review findings from credible voter list audits, and carry out other interparty activities - especially at the provincial level - that both prepare them for elections and foster interparty interactions.

Specific problem being addressed	This type of activity addresses two major needs – 1) greater information about the electoral process for party members, especially those at provincial levels who do not have as constant access to procedural developments; and 2) interparty interactions, especially at a provincial level, which can foster a more peaceful and collegial atmosphere.
Recommended intervention	<p>Several training activities are possible, including the following:</p> <ul style="list-style-type: none"> • <u>Discussion of voter list audit analysis:</u> CEJP/SYMOCEL are planning to conduct a citizen audit with support from Carter Center. A high-level analysis of voter list data paired with the findings of this audit, and those of other internal and independent audits of the list, such as that to be conducted by OIF, can help stakeholders (especially CSOs and political parties) better understand the credibility of the list and use it to target voter outreach during voter education campaigns, get-out-the-vote drives, and party/candidate

	<p>campaign targeting. Therefore, multiple CSO, political party and citizen observer-focused sensitization workshops should be held to: 1) educate these groups on the voter registration process to date, the current status of the list and what they can do to actively assist in list cleaning efforts, thereby enhancing the overall legitimacy and their associated level of confidence in the list; and 2) train CSOs and political parties in how to best utilize the final voter list to conduct effective voter outreach activities. There should be a focus on promoting the inclusion of marginalized groups throughout these activities.</p> <ul style="list-style-type: none"> • <u>Assist political parties and CSOs to better understand key elements of the electoral legal framework.</u> A first step would be consolidating and publishing the complete legal and regulatory framework, followed by creating and sharing a “layman’s” version of the new aspects of the law (such as the threshold requirements) that can be easily understood. Political party leaders, candidates, and members at national, provincial, and local levels could then be trained on key aspects of the law. Training could help parties submit appropriate documentation for candidate registration and help them comply with legal deadlines and requirements so as to minimize unfounded elections challenges -- as well as help parties collect appropriate information to support well-founded challenges.
Congolese actor(s) to involve	CENI, political parties, recognized nonpartisan institutions such as SYMOCEL, CEJP, USAID, other international donors
Feasibility/ risk involved	<ul style="list-style-type: none"> • Limited amount of time to implement corrections per audit results, should stakeholders want to advocate for large reforms, therefore this intervention should begin as soon as possible • Lack of reliable demographic information may distort the audit results • Parties may be interested in carrying out their own audits, but this could pose threats to the elections’ credibility. Some stakeholders may misrepresent data for partisan reasons or to delay elections, or because they do not properly understand minimum thresholds for an acceptable list – even in a “good” list, there is a strong probability for false duplicates where many people share the same name and offer the same date of birth to registration officials. Repeated objections by political parties could have the effect of delaying election preparations and facilitation of political party audits thus carries a significant risk. For these reasons, a guided review of an independent and credible audit is preferable to enabling a surfeit of competing analyses. • Understanding the electoral law is a particularly important intervention to ensure stakeholders understand the collation and transmittal of election results. Parties are very interested in ensuring their members across the DRC have access to this information.

Organize candidate or interparty debates (with media and civil society)

Specific problem being addressed	Lack of culture of interparty engagement over policy and poor availability of information about candidate positions
Recommended intervention	Organize presidential debates among candidates from parties meeting certain threshold criteria. Legislative level debates could also be arranged for select races, either in competitive areas, polls with women or youth, etc.

Congolese actor(s) to involve	Political parties, media, CSAC, civil society
Feasibility/ risk involved	<ul style="list-style-type: none"> Parties may be reticent to participate in debates if they fear their participation could highlight their candidates' weaknesses.

Support for political party poll watching

Specific problem being addressed	Lack of transparency and accountability on election day depresses political parties' confidence in electoral outcomes
Recommended intervention	Parties with agents in a majority of polling stations and compilation centers are more likely to have confidence in the voting process, should it be warranted, because their agents can provide a confirmation of the quality of operations. Party pollwatching support would include assistance to parties in developing recruitment plans, deployment and reporting methodologies, and training modules. It would also support training of trainers for those who would train party poll watchers or poll watcher trainers across the country. The methodology should emphasize the importance of recruiting both men and women as party poll watchers. It would provide a standard reporting form that parties could adapt to capture the data they cared about; the form would include suggested questions about potentially troublesome aspects of the election, such as supplementary list voting.
Congolese actor(s) to involve	CENI, political parties, USAID, other international donors
Feasibility/ risk involved	<ul style="list-style-type: none"> Parties' limited capacity to step down training after initial master trainings can lead to untrained or poorly trained agents at polling stations. Providing funding directly to a party to carry out training is problematic for many reasons, including the inability to ensure it is used appropriately. Yet large-scale multiparty training by an independent group is logistically difficult, highly costly, and sometimes poses security threats.

Medium Priority

Provide interested parties with coalition management training

Specific problem being addressed	Intraparty and intra-coalition disputes have been a major source of political party instability in the country; with many new coalitions emerging hastily, this could lead to a volatile election atmosphere.
Recommended intervention	Parties have requested training on such topics as conflict management and dispute resolution techniques; creating common vision and mission; and establishing communication and decision-making protocols.
Congolese actor(s) to involve	Political parties
Feasibility/ risk involved	While they have requested this assistance, party coalitions may not ultimately be open to implementing suggested approaches for political reasons.

Low Priority

A consensual Code of Conduct is shared and enforced (with civil society)

Specific problem being addressed	Parties and candidates may be prevented from campaigning in some areas by their opponents' supporters (in parties, security services, etc.).
Recommended intervention	Should the CENI agree to reopen the question of the code of conduct at the urging of political parties, a neutral independent arbiter could assist by facilitating dialogue about the revised version of the code and help parties disseminate information about the code and their commitments to the provincial and local levels. This could also include support for a code of conduct monitoring committee that could discuss abuses of the code and sanction parties found to be in violation through agreed-upon mechanisms (such as naming and shaming). Support CSOs to distribute the Code of Conduct to citizens, including simple explanations of the code and image boxes for less literate and illiterate segments of the population, to increase citizens' access to information and to exert further pressure on political parties and candidates to remain accountable in adhering to the code.
Congolese actor(s) to involve	USG and other international partners, political parties
Feasibility/ risk involved	<ul style="list-style-type: none"> • The current Code of Conduct is not widely accepted because it was drafted by the CENI, and political parties view it as an imposition rather than a voluntary commitment developed with their input. It is not clear that political parties would prioritize even a voluntary code among the many other election issues. • A code of conduct is most enforceable when local-level party officials respect the commitments of their party leaders in the capital. However, the decentralized nature of parties in DRC means that may not feel bound by these commitments. An effort to organize local signatures could be more effective but would pose significant added expense in time and funds.

For Civil Society

High Priority

Encourage peaceful participation in the electoral process

Specific problem being addressed	There is a high likelihood of significant election-related violence occurring at each stage of the electoral process
Recommended intervention	Through radio/television debates and policy discussion, as well as in-person peace messaging (caravans, street theatre, door-to-door outreach, etc.), Congolese activists could promote peaceful election engagement. Messaging should focus on explaining the legal and societal consequences of electoral violence and should involve government leaders, security institutions and citizens to address the drivers of marginalization and conflict, build trust among diverse stakeholders and mitigate socio-politically motivated violence before it erupts. A nationwide peace messaging campaign which includes the leading political parties and encourages candidates (including presidential candidates) to sign a peace accord for non-violence and acceptance of election results. A National Peace Committee could be established to deploy eminent Congolese leaders to monitor the implementation of the accord and to further publicize it at national, regional and local levels. The creation of local

	level community dialogues would promote inclusiveness and social cohesion, as would the creation of inter-party youth platforms with local branches capable of reaching out to a broad swathe of the population in the runup to election day.
Congolese actor(s) to involve	CENI, civil society, various local stakeholders
Feasibility/ risk involved	<ul style="list-style-type: none"> • For these interventions to be effective, they must be supplemented by human rights training, international and domestic observation, and additional voter education. • Peace messaging has proven to be more effective when carried out over the long term and, given the wide territory to cover in the DRC, such initiatives may lack the necessary geographic scope to be sufficient if not begun soon. Therefore, suggest implementing these interventions as soon as possible and any intervention should carefully select the most relevant geographic target areas in which to concentrate. • When possible, messaging should be tailored to respond to situations so as not to be co-opted by a particular political group. General appeals to “peace” during active election disputes may be used to repress citizens, so messaging should be thoughtful and specific.

Sensitize local level multi-stakeholders, including local security forces and the media, on their roles in the electoral process

Specific problem being addressed	Security forces are not sensitized to the electoral process, lack opportunity to engage with civil society, and often contribute to a climate of intimidation and subsequent electoral violence. Media is not adequately informed of electoral processes and is not uniformly equipped to provide reports on electoral rights abuses.
Recommended intervention	Sensitize local level multi-stakeholders, including the media, local security forces, CSOs, and citizen groups on key electoral processes, their respective roles in those processes, issues surrounding civil rights and electoral violence, and provide them with opportunities to positively engage with each other. In addition to providing a legal primer on voter and electoral stakeholder rights, activities would include the formation of local level multi-stakeholder electoral and political rights workshops and dialogues which bring together CENI representatives, local police and other security forces, CSOs, citizen groups and, possibly, political party representatives. These workshops and dialogues would be focused on educating participants on key electoral processes, laws and civil/political rights issues (including the rights and roles of citizen observers and journalists), as well as producing local code of conduct agreements. The results would then be broadcast by radio to aid in the sensitization of the local population, build trust between citizens and security forces, and increase the accountability of CENI, government and security actors. Each of these workshops and dialogues should reflect a gender sensitive approach that acknowledges that violence against women can take alternative and hidden forms and should be designed to enhance the inclusivity of marginalized populations. Complimentary activities include training members of the media on civil and political/electoral rights laws, as well as the consequences of rights abuses, so that they can investigate and provide accurate information on such abuses to citizens and other relevant stakeholders. This capacity-building for the media will, in turn, serve to exert further pressure on government, security forces and other relevant actors to respect the electoral process and the civil rights of citizens, and to comply with national and international legal frameworks.

Congolese actor(s) to involve	Media, CENI, Civil Society, local security forces
Feasibility/ risk involved	<ul style="list-style-type: none"> • Interventions would need to be geographically tailored to areas where risk for violence is more significant and greater impact can be achieved. • USG may be limited in its ability to directly train Congolese security services or individuals who have been accused of violations, which is why the approach above is preferred and capable of achieving the most impact.

Facilitate domestic and international observation of the electoral process

Specific problem being addressed	Widespread concerns related to the inclusivity, transparency, and credibility of the electoral process
Recommended intervention	Facilitate a comprehensive (to include long term and short term observers, as well as a high level pre-election assessment mission) international observation mission to oversee the electoral process before, during and after election day. The mission would observe and assess electoral procedures to provide the CENI and DRC government with concrete recommendations to promote democracy, transparency, inclusivity and the rule of law in future elections. The international mission's long-term presence could also serve as a deterrent to fraud, electoral violence and the potential perpetration of civil and human rights abuses. Other pertinent activities could include the expansion of USAID's current support (via CEJP) to the more than 300 long-term domestic observers who have been deployed nationwide, as well as the 15,000 who will be mobilized on election day
Feasibility/ risk involved	<ul style="list-style-type: none"> • The CENI may refuse to grant accreditation to domestic and international observers; the government may refuse to extend official invitations to international observers • The government or CENI may prevent observers, directly or indirectly, from having adequate access to key locations or provide them with timely information (such as polling station locations) needed to plan their missions.

Medium Priority

Facilitate monitoring of the list-display process by citizen observers

Specific problem being addressed	Limited access to information about the voter register list display process reduces confidence that register is reliable
Recommended intervention	Facilitate citizen observation in the final phases of deduplication and of display of the voter register to verify that minors have effectively been removed and other significant shortcomings have been corrected. Identify local groups to be trained as citizen observer groups and to be fully educated on the voter registration process, complaints procedures, and the overall electoral calendar to deploy them when and where necessary.
Congolese actor(s) to involve	Civil society, USAID, other international donors
Feasibility/ risk involved	<ul style="list-style-type: none"> • CSO geographic reach may be limited / inadequate • CENI cooperation in allowing citizen observation to effectively take place

Low Priority

Facilitate capacity-building for the *Conseil Supérieur de l'Audiovisuel et de la Communication (CSAC)*

Specific problem being addressed	Media does not provide balanced coverage among candidates and parties, and the relevant regulatory body has little capacity
Recommended intervention	<p>Possible interventions should build the capacity and expand the geographic reach of CSAC to better monitor the use of media for campaign purposes, identify unfair advantages and sanction media outfits that provide unfair advantages to certain parties or candidates in violation of the law and Saint-Sylvestre Agreement throughout the country. An impartial regulatory body will increase the credibility in the whole electoral process and will provide equitable conditions and level play field to all candidates.</p> <p>The support should also include assistance to help CSAC develop a code of ethics for journalists and guidelines for election reporting to help the CSAC make clear the rules it is enforcing.</p>
Congolese actor(s) to involve	CSAC, media organizations, USAID, other international donors
Feasibility/ risk involved	<ul style="list-style-type: none"> • Limited time to review policy and regulations prior to development of capacity-building activities • CSAC legal authority not clear at field level implementation

Support independent media monitoring

Specific problem being addressed	Media does not provide balanced coverage of candidates and parties
Recommended intervention	The establishment of an impartial civil society media monitoring initiative would identify any media breaches of national and electoral laws, including excess or more favorable coverage of one or more leading political parties or candidates over others, the incitement or support of election-related violence, the propagation of misinformation or disinformation, and the intentional discrimination against marginalized groups or protected classes. This monitoring action would provide independent pressure on CSAC to work more professionally and impartially as a regulatory body and would arm CSOs with an instrument with which to hold irresponsible and unprofessional media outlets accountable. Support could also include training of media monitors to carry out critical analysis of news stories.
Congolese actor(s) to involve	Civil society (particularly media organizations), local monitors, USAID, other international donors
Feasibility/ risk involved	<ul style="list-style-type: none"> • Monitors may require security protection • Reporters and monitors could be exposed to retaliation.

CENI

High

Provide access to toll-free SMS / online checks on voter registration to better enable voters to check their registration.

<p>Specific problem addressed</p>	<p>Access to the provisional voters list during the display period could be limited to a regional level, risking exclusion/omission of voters. The 2006 and 2011 voter registration rolls were not made geographically accessible for review, claims against omission, or correction. The consequent generalized use of supplementary lists raised further suspicion that the register was not reliable, and that ineligible persons voted in the elections.</p>
<p>Recommended intervention</p>	<p>Opening the national voter register to <i>online queries</i>, individually and by polling station, while protecting personal voter data, would provide a contingent of 2.7 million Congolese with internet access the ability to check and possibly file electronic claims. Registration confirmation kiosks at registration sites could provide a low-cost temporary verification mechanism. Such kiosks (which could be set up like the temporary structures where phone cards are sold) can be accessible to the population where the original voter registration points were located. Kiosks could be equipped with a camera/smartphone to photograph the voter cards of omitted registrants, as well as collect and subsequently file paper-based claims against omissions to be adjudicated by CENI's regional antennas. ABA-ROLI has used a similar kiosk project in DRC to provide legal aid; this project could serve as a model.</p> <p>Planned citizen audits, to be jointly organized by CEJP and SYMOCEL and observed by the more than 300 long-term domestic observers mobilized nationwide by USAID via CEJP, could plug into the kiosk project to track claims forms filed at kiosks and compare them to the claims and objections captured by the CENI's central database. Observers could track whether and how those claims and objections were addressed.</p>
<p>Feasibility/ risk involved</p>	<ul style="list-style-type: none"> • The list must be available in a format decentralized to the registration center level (either in paper-based or digital format) • A significant number of staff would be needed to support the kiosks in 17,784 registration sites. Potential staff could include CENI, civil society or party agents; however, if the latter are employed there might be questions of partisanship in their support for voters. • Kiosk staff may need legal authority to assist would-be voters with information or complaints; they would certainly need training. • Voters will have little ability to follow up on their challenges if they are not directly applying at the antenna level • International pressure will be needed to drive policy change toward opening the register for review, complaint, and correction, and towards CENI claims adjudication at antenna or central level

Specific problem addressed	Access to provisional voters list is limited and voters will have little way to confirm their status and identify their polling stations
Recommended intervention	A toll-free SMS system could allow registrants to input identifying information and receive confirmation of their registration status; they could also eventually receive confirmation of their polling station locations. Public information activities could encourage use of the service and its role in increasing confidence in the process; data analytics could be used to measure uptake and use.
Feasibility/ risk involved	<ul style="list-style-type: none"> List must be available in machine-readable format

Support the CENI to develop and enforce safeguards for supplementary voting

Specific problem being addressed	The use of supplementary lists at the polling station without an apparent procedure in place to prevent multiple voting creates an opportunity for procedural irregularities, malfeasance or fraud
Recommended intervention	<p>The CENI would benefit from support to:</p> <ul style="list-style-type: none"> draft relevant CENI regulations/decisions design a plug-in tool for the central database that freezes initial registration generate authorization forms of supplementary lists, and draft relevant sections of candidate, party agent, and observer manuals on registering and voting on supplementary lists design software manuals and training modules to help CENI staff understand how to create and print approved supplementary lists that are barcoded to polling stations to prevent “ghost” supplementary lists from being introduced into the results chain. train polling staff to operate write-in supplementary lists on election day that are restricted to lawfully authorized classes only. develop a credential form to allow off-the-list voting that is copy-proof (microtext, watermark, or hologram) and must be accompanied by accreditation/registration to as a candidate, agent, or observer. Polling station staff would then invalidate (perforate, cross out), retain and attach the original authorization form to the supplementary list to prevent it from being used multiple times. Polling staff could also withhold the relevant registrant’s voter card until close of polling, to prevent casting of a second vote at the polling station of initial registration. The latter measure would not be necessary if CENI antennas could effectively freeze initial registration of all voters issued with the credential form. Train observers, party agents, and civil society in the supplementary list procedure <p>Two main options could be adopted to safeguard voting from abuse by “voting off the list.” The CENI would benefit from technical assistance in developing one of these options further into firm procedures.</p> <ol style="list-style-type: none"> As prescribed by article 59 of DRC’s election law, compilation and closure of nominative supplementary lists shall be completed 15 days before polling. The “special” classes of voters covered under article 59 would have to seek transfer from their initial polling station to their polling station of choice before this deadline. This would allow the CENI to remove their names from the original voter list at their original polling place and transfer them either to the new voter list or a supplementary list at the new station.

	<p>2. Political party agents can legally file for accreditation up to seven days before polling, and the CENI has until two days before polling to issue accreditation. Two solutions could address this problem:</p> <ol style="list-style-type: none"> a. the CENI adopts regulations that require that those party agents who wish to vote outside their initial polling station seek accreditation no later than 15 days before polling, or b. the CENI creates a special regulatory regime for party agents to be included on the supplementary list on election day, but only at the polling station to which they are assigned. All other classes of lawfully authorized voters would still have to seek inclusion in supplementary lists within the 15-day statutory deadline, most likely at the CENI's 171 antennas.
Feasibility/ risk involved	<ul style="list-style-type: none"> • Any slippage in the deadline to produce supplementary lists creates the same vulnerability as described in the analysis section • Monitors must be familiar with the procedure to confirm that it is followed • Final decision on process to be adopted for supplementary lists yet to be made • Specialized documents may require additional time for procurement

Facilitate the accreditation of international and citizen observers and party poll watchers to observe elections

Specific problem being addressed	Election stakeholders in and outside DRC are skeptical about the information they hear from official sources about election preparations.
Recommended intervention	<p>Full CENI accreditation should be facilitated for international observers, citizen observers, political party poll watchers, and election analysts with sufficient time to fulfill their mandates before and after election day. Accreditation should, at a minimum, cover the following:</p> <ul style="list-style-type: none"> • Access to voter registration centers and “antenna” offices • Access to vote tabulation and processing centers • Access to all polling stations prior to, during and through final results transmission following election day • Access to campaign activities • Access to local, regional, and national tally centers • Access to media and communications portals used by the CENI and other election-related DRC government institutions • Access to documents regarding procedural challenges, once they enter the public domain • For local monitors/party agents who will be on duty away from their original registration/polling station, a temporary registration transfer to a new station
Feasibility/ risk involved	<ul style="list-style-type: none"> • Observer methodologies must make reach and limitations explicit • Observers may still be prevented full access to observe vital activities and processes • Potentially high cost of accreditation

Medium

Help the CENI secure transmission of sensitive elections results and materials

Specific problem being addressed	Poor chain-of-custody protection of sensitive data leaves results transmission systems open to procedural irregularities, malfeasance, and/or fraud. Over-reliance on electronic means of results transmission risks an incomplete paper record of results.
Recommended intervention	<p>Securing these materials would include:</p> <p>1) planning and implementing a barcode tracking/routing system to secure chain-of-custody of sensitive election materials. The routing system would include procedures, manuals and material to help the CENI and the Constitutional Court to track incoming results sheets. The Court’s timely receipt and logging of these materials is particularly critical to ensure its justices can reach evidence-based decisions on time to conduct targeted recounts, rather than order wholesale election annulments.</p> <p>A barcode tracking system paired with tamper-proof envelopes could secure chain-of-custody for original results sheets during their deployment and collection. Such a system would be shared among the CENI, the Constitutional Court, and the Provincial Appeals Courts. Both the CENI and the judiciary must receive original carbon copies of 85,000+ results sheets from the polling stations. Each institution must log, triage, and vet these documents. If all institutions log arriving batches of original documents into the same tracking system, evidence missing at one destination could be replaced with that received by its institutional counterpart, so that at least one complete set of original results avails at central level—and within legal deadlines. Tracking the paper results chain will also allow missing batches to be detected, and trigger relevant CENI antenna officials to embark on search and rescue/retrieve missions.</p> <p>2) installation and configuration of 50-60 already procured VSAT units for local antennas and remote training locations that still lack such connectivity. VSAT-transmitted aggregation and results facsimiles would only be used to extrapolate unofficial results trends, and not to inform the CENI’s official provisional results.</p>
Feasibility/ risk involved	<ul style="list-style-type: none"> • CENI and court staff will require extensive training • Public information/communications process will require training (to manage political party/candidate, civil society and observer expectations regarding the process, pace and results)

Support the courts on dispute resolution through an evidence management system that synchronizes in real time with CENI results management tracking and that allows barcoded logging of received results documents

Specific problem being addressed	<p>Both the Constitutional Court and Provincial Appeals Courts will adjudicate election results disputes for the first time.</p> <p>Those courts are ill-prepared to examine large amounts of results evidence within statutory deadlines, which leaves the process open to lack of transparency and arbitrary fact finding, which in turn imperils exercise of judicial independence. Courts lack results tracking and/or evidence management systems that directly link to CENI’s results management and tracking chain.</p>
Recommended intervention	Ensure that EDR adjudicators avail of, to and master an evidence management system that synchronizes up with CENI’s results management system. An evidence management system would enable EDR courts to receive well-organized and

	<p>complete results documentation to empirically assess the extent and gravity of irregularities, to enable them to reach evidence-based and proportionate decisions, by ordering either recounts, or partial annulments and reruns (in other words, hedge against wholesale annulment of the presidential election for the sake of political expediency).</p> <p>Logistics, capacity-building and operational support for the Constitutional Court and Appeals Courts would help them to swiftly manage election-related logging, triage, disclosure examination and archiving of evidence. This could include training in procedures, evidence, and adjudication, as well as in case management and presiding over, managing and conducting recounts of up to 85,000 polling stations.</p> <p>Barcoded results document logging allows real time assessment of extent and provenance of missing evidence, thereby enabling targeted field follow-up through CENI antennas.</p>
Feasibility/ risk involved	<ul style="list-style-type: none"> • Judicial independence may be imperiled if staff are logistically overwhelmed by the sheer volume of evidence and/or intimidated during and after elections • Lack of a well-organized, transparent and complete set of results evidence could allow the court to reach discretionary decisions, or allow it to make politicized ones.

Low

Provide capacity-building for CENI staff and trainers

Specific problem being addressed	Limited capacity to train CENI polling station staff on complicated polling procedures and didactically ineffective manuals leaves the process vulnerable to procedural irregularities, malfeasance, and lack of accountability
Recommended intervention	<p>Assist the CENI to develop and/or review appropriate policies and manuals and subsequently train staff in the following areas:</p> <ul style="list-style-type: none"> • Develop a training of trainers methodology and manuals that highlight procedural challenges that are likely to arise, ways to ensure only eligible voters cast their ballots, and measures that should be adopted to facilitate voting for women and PWDs. • Train trainers for pollworkers on election day procedures • Mainstream recruitment of women and PWDs as CENI agents and pollworkers
Feasibility/ risk involved	<ul style="list-style-type: none"> • A minimum of 500,000 CENI officials are to be trained; cascade method may have sharply reduced impact at local level without proper implementation and contingency planning. • Decisions regarding voting procedure and supplementary list treatment are yet to be made and will impact training content. • The government recently declared it would not accept any international funding support for elections. This type of direct assistance to the CENI may be considered in that category. It is unclear how that decision will be implemented in practice. The CENI is legally empowered to independently solicit international expertise under article 45 of its 2010 Organic Law.

US Government & Other Development Partners

There are some areas in which implementers (CEPPS or other actors) would have limited impact, as they relate primarily to political will. However, the USG is among the most influential international presences in the country and has significant financial and diplomatic leverage. Its diplomatic intervention has been and will be very influential.

To promote credible elections, CEPPS recommends that the US Government and other development partners focus diplomatic pressure on the Congolese government and CENI to:

- **Maintain the electoral calendar.**
 - *Why?* A history of repeated delays in election preparation, coupled with enormous operational challenges in organizing elections, raise the concern that elections could again be delayed and further undermine stakeholder confidence in the process.
- **Make the voter list accessible in machine-readable format.**
 - *Why?* Stakeholders, particularly political parties and civil society, believe that the voter list is inaccurate and/or inflated, because it has historically not been shared in a format that allows parties, civil society, and others to analyze it and use it for education, outreach, or campaigns. Making the provisional and final voter lists available to independent, respected Congolese citizen groups would allow them to analyze the list and produce neutral findings that could build confidence in the list, if warranted. At the same time and for the same reason, the CENI should release the results of any internal or external audits and the measures the CENI had taken to correct adverse findings.
- **Allow deletions from the voter list through claims and objections – including ensuring that claims against a registrant be given a hearing and, if found to be legitimate, result in the registrant’s removal.**
 - *Why?* If an audit finds significant rates of unauthorized registrants, there will be no recourse unless the CENI changes this rule.
- **Insist original party leadership be recognized. Proper resolution of disputes about party leadership will be a critical element in assessing the credibility of the election process.**
 - *Why?* Breakaway factions of several opposition parties have supported the majority coalition, and opposition parties fear these splinter groups will be recognized as the legitimate party leaders. Elections in which major opposition parties and their leaders are not recognized and cannot compete in elections, in violation of the terms of the Saint-Sylvestre Agreement, could not be considered credible.
- **Allow candidates from all parties to campaign freely in the country.**
 - *Why?* Some opposition party leaders are in exile, prison, or otherwise prevented from running for non-legitimate reasons. Elections in which major opposition parties and their leaders are arbitrarily unable to compete in elections, in violation of the terms of the Saint-Sylvestre Agreement and Congolese law, could not be considered credible.
- **Ensure that the method of voting employed on election day is accepted by all stakeholders, enjoys broad domestic consensus, and is not a point of dispute or suspicion.**
 - *Why?* In the DRC’s highly polarized context, operational decisions adopted without a broad consensus jeopardize the credibility of the process as well as the CENI itself. In particular, the candidates and voters alike must understand and accept voting and vote-counting methods.