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# **Elections in the Democratic Republic of the Congo**

## *2018 General Elections*

Frequently Asked Questions

Africa

International Foundation for Electoral Systems

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December 28, 2018

## Frequently Asked Questions

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### *Disclosure:*

*These FAQs reflect decisions made by the Congolese elections authorities as of December 28, 2018, to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.*

*Please note that the figures included in these FAQs are provisional. The election date was set by the Independent National Electoral Commission on December 20. These FAQs were published by the International Foundation for Electoral Systems on December 28, 2018, and reflect information available as of that date.*

## **When is Election Day?**

According to the update given by the Independent National Electoral Commission on December 20, 2018, the Democratic Republic of the Congo's presidential, national and provincial elections are scheduled to be held on December 30, 2018.

## **What is the legal framework governing these elections?**

The national legal framework governing the elections consists of the following:

- The 2006 Constitution of the Democratic Republic of the Congo (DRC) and its amendments;
- The DRC 2006 Electoral Law and amendments passed in 2011, 2015, 2017 and 2018; and
- The Law No. 11/001 of January 10, 2011, related to the composition, attributions and functioning of the Higher Council for Audiovisual and Communication.

The regional framework for elections consists of the following:

- The Southern African Development Community (SADC) Norms and Standards for Elections;
- The Principles for Election Management, Monitoring and observation in the SADC region; and
- The SADC Principles and Guidelines Governing Democratic Election.

Article 211 of the Constitution of the DRC empowers the Independent National Electoral Commission (CENI) as the sole legal body authorized to conduct and supervise free, democratic and transparent elections in the country. As the principal institution in charge of electoral conduct, the CENI receives its mandate from Law No. 04/009 passed on June 5, 2004.

## **Why are these elections important?**

If the elections are peaceful, this will be the first peaceful democratic transfer of power in the Democratic Republic of the Congo (DRC) since it gained independence from Belgium in 1960. Moreover, the election would renew DRC institutions and set a path for return to regular democratic governance. After the second general elections organized in 2011, the DRC was embroiled in major conflicts such as the M23 crisis, which lasted from 2012 to 2013.<sup>1</sup> Since 2016, the Kasai region has endured intense conflict and displacement.<sup>2</sup> By 2017, there were over 60 militia groups operating in the Kasai, some related to the Kamuina Nsapu, others allied with the government and still others that have emerged from the chaos. This violence resulted in the Independent National Electoral Commission's decision to postpone voter registration for a period after April 2017.<sup>3</sup> Violence continued to intensify and spread

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<sup>1</sup> <https://www.bbc.com/news/world-africa-11108589>

<sup>2</sup> <https://reliefweb.int/sites/reliefweb.int/files/resources/Kasai-report-IRRI-ENG.pdf>

<sup>3</sup> <https://www.dailymail.co.uk/wires/afp/article-4463642/DR-Congo-postpones-vote-registration-Kasai-killing.html>

rapidly; at its height, the conflict covered parts of five provinces and affected wider areas. To date, the crisis has displaced roughly 1.4 million people, out of a total of 4.5 million displaced in the DRC.<sup>4</sup> The government has come under considerable regional and international pressure due to this violence and associated human rights abuses.

On December 31, 2016, the DRC's ruling political party coalition known as the Alliance of the Presidential Majority and the opposition signed the Comprehensive and Inclusive Political Agreement, commonly known as the Saint Sylvester Agreement, mediated by the Congolese Catholic Church.<sup>5</sup> The agreement clearly stated that elections should be held in 2017 and that the constitutional provision on presidential term limits should not be changed. The elections could not be organized in November 2017 and were rescheduled to take place on December 23, 2018, and rescheduled again for December 30, 2018. The presidential inauguration is scheduled for January 18, 2019.

## **What is the electoral system?**

The Democratic Republic of the Congo applies a variety of electoral systems for different elected seats. The presidential election is organized under the first-past-the-post (FPTP) system. After a modification to the Electoral Law on June 25, 2011, Article 101 was reformed to state that "The President of the Republic is elected by direct universal suffrage and by a simple majority of votes cast for a five-year term, renewable once only."<sup>6</sup>

For the national legislative election, both FPTP and proportional representation (PR) systems apply. In single-member constituencies, the winner is decided by simple majority via FPTP. In other words, the candidate who obtains the greatest number of votes is elected. In multi-member constituencies with two or more seats, a single vote is cast for open PR lists. In an open PR list system, the voter is provided with all the names put forward by political parties, which often results in large ballots. This differs from a closed list system where the party decides the order of candidates, and voters only have a choice between parties, resulting in a smaller ballot.

After an Electoral Law review was conducted in 2017, a new requirement in Article 118 was introduced that mandated a representation threshold of 1 percent, meaning only candidates who have received at least 1 percent of the total number of valid votes cast are eligible for seat allocation. The Electoral Law also states that candidates who obtain half of valid votes cast in the constituency are automatically assigned a seat. In circumstances where there is only one seat, the vote takes place by simple majority vote; and the candidate who obtains the greatest number of votes is declared elected. In constituencies with two or more seats to be filled, the vote shall be held by PR of lists open to a single preferential vote with the application of the rule of the highest remainder and in accordance with the conditions set out in Article 119.

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<sup>4</sup> <https://www.unhcr.org/democratic-republic-of-the-congo.html>

<sup>5</sup> <https://www.crisisgroup.org/africa/central-africa/democratic-republic-congo/257-time-concerted-action-dr-congo>

<sup>6</sup> The Electoral Law No. 11/03 of June 25, 2011, modifying the electoral No. 06/006 of March 9, 2006, related to the presidential, national legislative, provincial, urban, municipal and local elections.

For the 2018 national parliamentary elections, there are 62 single-member constituencies, which amounts to 12.4 percent of the total 500 seats in the National Assembly. Each deputy is elected with two alternates.<sup>7</sup> For the provincial parliamentary election, the provisions under Articles 118 and 119 referred to above also apply. However, only the lists of parties, political groups and independents who have obtained at least 3 percent of the total votes validly cast at the provincial level are admitted to the allocation of seats. There are 780 seats of provincial assembly members distributed so that the minimum seats per province is 18 and the maximum is 48. Seats are allocated according to population size. Within the provinces there are 36 single-seat constituencies (4.61 percent of the seats) and 13 of these seats are located in the province of Kinshasa. After provincial parliamentary elections take place, members of the Senate are then indirectly elected by provincial assemblies.

## **What is the structure of the government?**

The government in the Democratic Republic of the Congo consists of three independent branches: the executive branch, the legislative branch and the judicial branch. The institutions within these branches are as follows:<sup>8</sup>

Executive Branch: President of the republic (head of state) and cabinet;

Legislative Branch: National Parliament and other provincial legislatures; and

Judicial Branch: Constitutional Court and other courts of law.

### ***The Executive Branch***

The president is the head of state, representing the nation and ensuring respect for the Constitution. The president also ensures the regular functioning of public authorities and institutions. The president is the guarantor of national independence, territorial integrity, national sovereignty and respect for international treaties and agreements.

The government is composed of a cabinet that includes the prime minister, ministers, vice ministers and, as the case may be, deputy prime ministers, ministers of state and deputy ministers.<sup>9</sup> The government is led by the prime minister, also known as the head of government. In cases where the head of government is unable to assume their duties, the interim head is the highest-ranking member of government.

Before taking office, the prime minister presents the government's program to the National Assembly. When this program is approved by an absolute majority of the members of the National Assembly, the government may then proceed with carrying out its plan.

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<sup>7</sup> Article 101 of the Constitution

<sup>8</sup> Article 68 of the Constitution

<sup>9</sup> Article 90 of the Constitution

### ***The Legislative Branch***

The Parliament consists of two houses: the National Assembly and the Senate. There are 500 seats in the National Assembly and 108 seats in the Senate. The Parliament writes and votes on legislation particularly with regard to public corporations and public services. In addition to the Parliament, there are 780 provincial assembly member seats. Provincial members are responsible for electing the members of the Senate indirectly via proportional representation.

### ***The Judicial Branch***

The judicial branch consists of the following courts: the Constitutional Court, Court of *Cassation*<sup>10</sup>, Council of State, High Military Court, civil courts and tribunals.

The Constitutional Court is responsible for the review of the constitutionality of laws and enforces the law. The Constitutional Court has legal oversight of presidential and legislative elections as well as referendum disputes. The Constitutional Court hears appeals challenging the regularity of candidatures and results of the presidential and national legislative elections and referendums.<sup>11</sup> It then proclaims the final results of these elections.

The Constitutional Court is composed of nine appointed judges, three of whom are appointed by the president, three are appointed by the Parliament and three are appointed by the Supreme Council of Magistracy.

Two-thirds of the members of the Constitutional Court must be lawyers from the judiciary, the bar or a university. The mandate of the members of the Constitutional Court is a nine-year, non-renewable term. The president of the Constitutional Court is elected by his peers for a period of three years renewable once and his or her powers are vested by order of the president of the republic.

## **What is the election management body? What are its powers?**

The Independent National Electoral Commission (CENI) is the institution that administers elections in the Democratic Republic of the Congo.

The CENI's mission is to organize, independently, free, fair and transparent elections. For this purpose, it exercises the following powers:

- Organize and manage pre-electoral and electoral operations and referendums, including voter registration, voter identification, the establishment and publication of the voter register, voting operations, counting of votes, and centralization and announcement of provisional results;
- Forward the provisional results to the court assigned to proclaim the final results;

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<sup>10</sup> The Court of Cassation is the final court of last resort for appeals with respect to the justice system, excluding cases of administrative justice, which are decided by another body.

<sup>11</sup> Article 81 of the Law No. 13/026 of October 15, 2013, related to the organization and the functioning of the Constitutional Court

- Enter into contracts related to pre-election operations, elections and referendums in accordance with the legislation in force;
- Contribute to the development of the legal framework for electoral and referendum processes;
- Develop the budget estimates and timetable for the organization of electoral and referendum processes;
- Promote the Electoral Law and referendum process in French and other national languages;
- Coordinate voter education efforts, including a comprehensive voter information and awareness campaign in French and other national languages;
- Provide training for national and provincial officials and local authorities responsible for the preparation and organization of elections and referendums;
- Develop and disseminate a code of conduct and ethics;
- Assign the electoral districts according to the updated demographic data;
- Identify and publish the number and locations of polling and counting stations as well as those of local centers for compilation of results by electoral constituency;
- Enforce compliance of election and referendum campaigns;
- Review and publish the lists of candidates; and
- Accredite witnesses, national observers and international observers.

## **Who are voters voting for on Election Day?**

During the 2018 elections, eligible voters will vote for president of the Democratic Republic of the Congo, 500 members of the National Assembly and 780 provincial assembly members. There are a total of 21 candidates for president, of whom one is a woman, 15,369 candidates for the National Assembly, of whom 1,797 are women, and 19,538 candidates for provincial assemblies, of whom 2,299 are women. This will be the first time the Independent National Electoral Commission is conducting three elections at once.

## **Who can vote in these elections?**

According the Voter Registration Law, to be registered in the electoral roll a voter should be:<sup>12</sup>

- A citizen of the Democratic Republic of Congo (DRC);
- Eighteen years of age at the date of the last election;
- Residing in the DRC at the time of voter registration; and
- Not prohibited from exercising civil and political rights.

The following people cannot be registered in the electoral roll:

- Anyone “with a medically proven total mental incapacity;”
- Anyone prohibited by an irrevocable judicial decision from exercising civil and political rights;
- and

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<sup>12</sup> Law No. 04/028 of December 24, 2004, identifying and enlisting voters in the Democratic Republic of Congo as amended and supplemented by Law No. 16/007 of June 29, 2016

- Any active member of the military and police.

The Voter Registration Law contains a provision for the registration of citizens living abroad. However, on June 1, 2018, an addendum to the Voter Registration Law deferred the registration of citizens living abroad for the current elections.

## **How was voter registration conducted?**

Voter registration took place from July 31, 2016, through January 2017. Prior to the voter registration process, the Independent National Electoral Commission divided the national territory into five operational areas, which consisted of a total of 17,781 registration centers. Each registration center remained open for 90 days during the registration period and was equipped with biometric registration kits, except for a few registration centers in the Kasai region due to its instability at the time.

## **How many registered voters are there?**

At the end of the registration process, more than 45 million people were enrolled in the voter register database. After the deduplication process, a provisional voter register was published on April 4, 2018, which included 40,371,439 voters, of whom 50.52 percent are women.

## **Where will voters cast their ballots on Election Day?**

Voters will cast their ballots in 75,563 polling stations throughout 21,699<sup>13</sup> polling centers across the country on December 30, 2018, and there will be approximately 500,00 poll workers. Citizens must cast their votes in their designated polling station. However, poll workers, on-duty Independent National Electoral Commission staff and on-duty civil servants can cast their votes in the polling station where they are serving. In order to do so, these individuals must produce their voter identification cards and an official business letter that confirms their official duties.

## **Will there be out-of-country voting?**

As a result of the June 2018 addendum to the Voter Registration Law, there will not be any out-of-country voting ahead of the December 30, 2018, elections.

## **Who is managing security on Election Day?**

The main legal provision guiding election security is the May 6, 2005 decree No. 05/026. This provision established a steering committee for election security. The steering committee's mission is to:

- Adopt the general strategy for election security;
- Adopt the national plan for election security;
- Adopt the strategic communications plan;
- Give guidance to the National Operations Center on the division of tasks among security forces on the security of the electoral process;

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<sup>13</sup> A polling center groups a number of polling stations: on average four polling stations per center.



- Provide recommendations to the Independent National Electoral Commission on the electoral security process;
- Allocate logistical and financial resources to all structures of the chain of command for the security of the electoral process; and
- Propose to the government any exceptional measure deemed useful for the proper conduct of elections, including the closure of borders, closure of airspace, intervention of the Army, etc.

For the December 2018 elections, 185,000 police officers will be deployed. Of these officers, 525 will be deployed to provide security for the 21 presidential candidates.

## **Who can observe during Election Day? How can they get accreditation?**

According to Articles 42 and 43 under Section II of the Electoral Code, any Congolese citizen or foreigner assigned by a national or international organization accredited by the Independent National Electoral Commission may participate in electoral observation.

Requests for observation accreditation must be submitted no later than 15 days before Election Day. Congolese applicants must submit their voter identification cards and the mandate issued by the organization on behalf of which they will observe the electoral process. Foreign applicants must submit a valid passport containing a short-term visa in addition to the observation mandate issued by their organization. Accreditation is granted no later than seven days after receipt of request.

## **How will results be transmitted?**

After the closing of voting operations, the polling station is immediately transformed into a counting office. Counting takes place in the presence of the witnesses, observers, journalists and five electors appointed by the president of the counting office. Election officials record the results in the statement of votes. Then, election officials place the ballots attributed to the same list of political parties, the invalid ballot papers and the unused ballot papers in their separate respective envelopes.

The chief of the polling and counting center receives the envelopes from the hands of the president of the counting office. The chief is responsible for transporting them to the local compilation center located in each electoral district. The chief is accompanied by the members of polling and counting bureau, police officers, witnesses and observers.

The Compilation Center builds a results compilation sheet, and the minutes taken during the counting process are signed by Compilation Center officers and witnesses who are present. All documentation is then sent to the Independent National Electoral Commission (CENI) headquarters, where the CENI draws up a report of the provisional results.

The president of the CENI announces the provisional results and the CENI posts these results on the premises of the CENI or on the internet as appropriate. Lastly, paper results and supporting documentation are transmitted to the Constitutional Court and the Administrative Court of Appeals as evidence for any adjudication proceedings that may take place.

## **When will official results be announced?**

The adjusted electoral calendar states that the provisional results of the presidential election will be announced on January 6, 2019. The calendar states that final results of the presidential election will be announced on January 17, 2019. For the national and provincial legislative elections, the provisional results will be announced on January 23, 2019, and any related election disputes will be adjudicated within 68 days.

## **How will election disputes be adjudicated?**

During the 2018 elections, paper-based results will be the only evidence of legal value in cases of disputes. The Constitutional Court is responsible for the adjudication of election disputes raised in the presidential and national legislative elections. The provisional results of the presidential election can be contested within two days of the Independent National Electoral Commission's announcement of the results. The period for reviewing disputes in the presidential election is seven days from the date a given case has been referred to the Constitutional Court.

Provisional results of national legislative elections may be contested within eight days of the official results announcement. All disputes must be reviewed within two months from the date that a given case is referred to the Constitutional Court.

The provisional results of the provincial legislative elections may be challenged within eight days of the results announcement. These disputes must be reviewed within two months from the date of referral to the Administrative Court of Appeals.

## Resources

- [Independent National Electoral Commission \(CENI\) website](#)
- [Principles for Election Management, Monitoring and Observation in the Southern African Development Community \(SADC\) Region](#)
- [Principles and Guidelines Governing Democratic Elections in the SADC](#)
- Constitution of the Democratic Republic of the Congo
- Organic Law No. 13/012 of April 19, 2013, amending and supplementing Organic Law No. 10/013 of July 28, 2010, on the organization and functioning of the National Independent Electoral Commission
- Law No. 04/028 of December 24, 2004, identifying and enlisting voters in the Democratic Republic of Congo as amended and supplemented by Law No. 16/007 of June 29, 2016
- Decision No. 26Bis / Bur / CENI / 16 of July 13, 2016, relative to the measures of application of the Law No. 04/028 of December 24, 2004, relating to identification and enlistment of the voters in the Democratic Republic of the Congo as modified and completed by Law No. 16/007 of June 29, 2016
- Law No. 06/006 of March 9, 2006, carrying organization of the presidential, legislative, provincial, urban, municipal and local elections as modified by the Law No. 1/003 of June 25, 2011, the law No. 15/001 of February 12, 2015 and the law No. 17/013 of December 24, 2017
- Decision No. 001 BIS / CENI / BUR / 18 of February 19, 2018, implementing Law No. 06/006 of March 9, 2006, on the organization of presidential, legislative, provincial, municipal and local municipal elections as modified and completed to date
- Law No. 18/005 of May 8, 2018, adopting the distribution of seats by constituency for legislative, provincial, municipal and local elections