



Elections in the DRC:

November 28 Presidential & Legislative Elections for the Democratic Republic of the Congo

Frequently Asked Questions

Africa

International Foundation for Electoral Systems

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Frequently Asked Questions

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Disclosure:

These FAQs reflect decisions made by the Congolese elections authorities as of November 21, 2011, to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.

Who will Congolese elect on November 28?

On November 28, 2011, Congolese voters will go to the polls to vote for the country's next president and legislative representatives in the Congolese National Assembly.

What is the Congolese National Assembly? What is its mandate?

The National Assembly is the lower house of the Congolese Parliament. It is responsible for passing legislation.

What is the legal framework for elections in the DRC?

The legal framework for Congolese elections is composed of the following laws, complemented by decisions of the National Independent Electoral Commission (CENI):

- The Constitution of the Democratic Republic of the Congo of February 18, 2006
- Law No. 06/006 of March 9, 2006, outlines the organization of presidential, legislative, provincial, urban, municipal and local elections
- Law No. 10/13 of July 28, 2010, governs the establishment and function of the CENI
- Law No. 11/001 of January 10, 2011, describes the composition and functions of the *Conseil Supérieur de l'Audiovisuel et de la Communication* (CSAC), which is supposed to ensure equal treatment of all candidates by the media
- Law No. 11/002 of January 20, 2011, institutes a one-round presidential election system, which revises the 2006 Constitution
- Ordinance No. 11/012 of February 3, 2011, formally installs members of the CENI
- Law No. 11/003 of June 25, 2011, modifies Law No. 06/006, on several aspects, adds further criteria of ineligibility, integrates the changes occurred since 2006 in the institutional mechanisms (e.g. replacement of CEI by CENI) and clarifies some technical aspects related to counting and observation
- Law No. 11/014 of August 17, 2011, states the allocation of legislative and provincial seats according to registered voters

What is the electoral system?

At the presidential level, the electoral system is a one-round, winner-take-all system where a candidate can win the election with a simple majority of the vote.

For the National Assembly, the electoral system is a two-round, first-past-the-post system where a candidate can win the election with 50 percent + 1 of the votes cast.

The Right to Vote: Who is eligible to vote?

Any Congolese citizen 18 years of age or older as of July 17, 2011 (the last day of the voter registration period), duly registered, who has not been deprived of civil and political rights by a court of law and who is present in the Democratic Republic of the Congo on Election Day has the right to vote. There is no out-of-country voting. Those who are legally not allowed to cast a ballot are:

- Individuals with a medically proven mental disability
- Individuals deprived of their civil and political rights by a court of law
- Members of the armed forces and/or the Congolese National Police
- Non-registered individuals
- Citizens living abroad

The Right to Stand: Who can be a candidate?

An individual who can be a candidate must:

- Be a Congolese citizen
- Be of age (18 years) at the time of candidate registration
- Not be deprived of his or her civil and political rights by a court of law
- Not be barred legally from running
- Be a voter, or register as a voter while submitting his or her candidacy
- Have a sufficient level of education, or justify this level through professional experience in the following thematic areas: politics, administration, economics and socio-cultural work

Individuals who are ineligible to stand as candidates are:

- Officials and/or public service administration agents who have not submitted a resignation from public service by the candidate registration deadline
- Active public or mixed enterprise agents who have not submitted a resignation from service by the candidate registration deadline
- Judges who have not submitted a resignation by the candidate registration deadline
- Members of the armed forces or Congolese National Police who have not submitted a resignation or who have not retired by the candidate registration deadline
- Members of the CENI at all levels, including personnel
- Individuals deprived of civil and political rights by a court of law
- Individuals found guilty of war crimes, genocide or crimes against humanity by an international criminal court
- Individuals convicted of bankruptcy
- Individuals medically diagnosed as mentally handicapped within the previous five years

How is the election administration structured?

The permanent CENI, which replaced the provisional CEI (*Commission Electorale Indépendante*) in March 2011, is responsible for the organization and management of all elections and referenda in the DRC. It is composed of seven members, four of whom are designated by the Presidential Majority in the National Assembly, and three of whom are designated by the parliamentary opposition. Each member of the CENI has a six-year non-renewable mandate.

The CENI also has a National Executive Secretariat in charge of coordinating operations at the national, provincial and local levels.

At the provincial level (11 provinces), the CENI is represented by the *Secrétariats Exécutifs Provinciaux* (formerly the *Bureau de Représentations Provinciaux*, BRP), subdivided at the territorial level into antennae (formerly the *Bureaux de Liaisons*, BLs).

How was voter registration conducted?

Voter registration was originally organized, and partially conducted, by the provisional CEI. It was later completed by the CENI.

All voters were required to register or re-register to create a new voter list.¹ Registration took place in centers located in schools, universities and other public and private institutions around the country. Voter registration was not permitted in religious centers, political party strongholds, non-governmental organizations, police stations, military bases, and military schools and academies.

Registration centers were open from 7 a.m. to 5 p.m., unless specifically authorized by the electoral commission. Voter registration in all 11 provinces of the country was implemented as follows:

- Bas-Congo: May 19, 2010 – August 16, 2010
- Maniema: November 20, 2010 – February 17, 2011
- Katanga and Kasai Occidental: March 9, 2011 – June 16, 2011
- Kasai Oriental, South Kivu, North Kivu, Province Orientale, Equateur and Bandundu: April 2, 2011 – July 10, 2011
- Kinshasa: May 7, 2011 – July 17, 2011

Once the registration period had concluded, the CENI hired two private companies to clean the voter list. These companies used alphanumerical and biometric data to verify the list's accuracy. The cleaning of the voter list was concluded with the identification of 119,941 duplicate entries.

A total of 32,024,640 voters have been registered by the CENI, as compared to approximately 25 million in 2006. A revised version of the Annex to the Electoral Law, which details the allocation of the National Assembly seats by province, was passed on August 17, 2011, on the basis of a revised electoral ratio. The ration of population to one seat in the National Assembly increased from 50,000 in 2006 to 64,000.

How were polling stations allocated to voters, and how will they be operated?

63,865 polling stations will be set across the country.

346,000 polling agents are to be recruited throughout the country to work in polling and counting centers, and in local results compilation centers.

Polling stations are allocated to voters depending on the address they declare when registering. In some exceptional cases (government officials on mission, family members of security forces on duty in other

¹ Citizens of Kinshasa who participated in the partial revision process of 2009 were not required to re-register but still had to visit registration centers to complete some information on their voter cards.

locations, witnesses of political parties), citizens can be authorized to vote in a voting center other than the one allocated to them.

Who registered to compete in the elections?

There are 11 presidential candidates, as compared to 33 candidates in the 2006 presidential elections. The three front-runners in this election are the incumbent, Joseph Kabila (*Parti du Peuple pour la Reconstruction et la Démocratie*, PPRD), and opposition figures Etienne Tsishekedi (*Union pour la Démocratie et le Progrès Social*, UDPS) and Vital Kamerhe (*Union pour la Nation Congolaise*, UNC).

There are 18,855 legislative candidates, as compared to 9,709 in 2006.

What are the rules on campaigning?

The electoral campaign officially began on October 28, 2011, 30 days before Election Day, and will end 24 hours before ballots are cast (Art. 28, Electoral Law No. 11/003 June 25, 2011).

The electoral campaign is regulated by the CENI. Media-driven campaigns are regulated by the *Conseil Supérieur de l'Audiovisuel et de la Communication* (CSAC).

Campaign meetings are permitted throughout the country, but by law they must be formally declared to relevant authorities 24 hours in advance (Art. 29, electoral law 11/003 June 25, 2011 and Article 26 of the DRC Constitution).

Posting photos, posters and other political party propaganda requires authorization and approval from the CENI. Posting such materials on public buildings is forbidden.

What are the rules on the access of the lists to the media?

The final lists of voting centers were scheduled to be posted on the CENI website on October 28, 2011. They were, however, finally displayed progressively in the course of November, and display of information about voting centers is still ongoing the week preceding the election.

Voter lists by province and by constituency were scheduled to be posted on September 28, 2011, following modalities to be determined by the CENI. However, these were finally displayed in November, the month of the elections.

What rules should media follow during the electoral campaign?

The CSAC ensures that candidates receive equal airtime in informational programs, as well as commentary, declarations, writings, candidate activities and personal appearances. The CSAC is expected to intervene if this equality is not maintained. Conditions for access to public and private media for electoral campaigning are governed by the CSAC, in concert with the CENI. These conditions were published at least one month before the start of the campaign period.

What is the state of political parties in the DRC?

As of November 23, 2011, 428 political parties were registered in the DRC.

Can a voter who has not actively registered cast his or her ballot?

Voters will be required to present valid voter cards to cast their ballots. Initially, voters' names also were required to appear on the voter list to cast a ballot. However, after acknowledging that many — possibly thousands — of registered voters do not appear on the displayed voter list, the CENI decided on November 25 to open special polling stations for “omitted voters,” where voters with valid voter cards but not appearing on the voter list would be entitled to vote. The exact implementation of these stations is still under discussion as of the writing of this document, as observers of the 2006 elections identified the risk of fraud from fake and purchased voter cards at these special stations.

What provisions have been made to accommodate voters with physical or mental disability?

People with severe mental disabilities are not permitted to vote.

No specific provisions have been made for other mentally disabled people or for physically disabled people. However, if a voter is unable to cast a ballot alone, that voter has the right to receive assistance from a person of his or her choosing, so long as that individual is also a registered voter. Any polling agent or other voter who has provided this assistance cannot communicate or announce that voter's choice. No voter can assist more than one other voter.

How do election officials plan to reach out to and accommodate illiterate voters?

IFES has assisted the CENI in implementing a nationwide voter education campaign, which targets illiterate voters by using images as voter education tools.

In order to minimize the likelihood of having illiterate voters seek assistance to vote, logos, pictures and numbers to identify candidates will be included in the ballots.

When will counting take place?

Counting of the votes will take place in the polling stations immediately following the close of the polling station.

Who will count the votes?

The CENI is responsible for counting all votes cast.

What are the basic rules for counting?

After the closure of the vote, the voting center becomes a counting center. The poll workers assigned to the polling station are responsible for counting the votes. Counting begins when the president of the

voting center opens the ballot box in front of the members of the voting center (one president, two assessors, one deputy assessor and one secretary), five voters, witnesses, observers and journalists.

The president takes each ballot, gives it to the assessor who reads it aloud, and files it. The results are recorded in result reports, which are filed together with ballots in separate envelopes (one envelope per candidate or list of candidates, one envelope for null ballots, etc.). The envelopes are sealed in front of witnesses. Immediately after, the minutes (*procès-verbal*) of the counting operations are developed and signed by all voting center members and witnesses.

Will election results be publicly displayed? Where will they be transferred?

Once counting is finished in the voting centers, the results are immediately made public and posted in front of the voting center based on modalities established by the CENI. Observers and witnesses are given a copy.

Then, the president of the voting and counting center officially hands over the envelopes and statements to the chief of the voting and counting center. The chief is then charged with bringing the envelopes and statements to a local compilation center, established “in conformity with the collection plan developed by the CENI and located at the electoral constituency level (territories).”

To ensure security, the chief is escorted by police, as well as observers and witnesses (if observers and witnesses have been deployed in the concerned voting center) to the local compilation center. If observers and witnesses have been deployed in the voting center, their presence during the transportation is mandatory, as introduced in the revised electoral Law No. 11/003 of June 25, 2011. The local compilation center develops a Result Compilation Form for its constituency and captures results in a statement (*procès-verbaux*) that is then transmitted to the electoral commission’s headquarters.

The CENI receives all results from all the local compilation centers in a province via the *Secrétariats Exécutifs Provinciaux* (SEP) for that province. To transmit results from the SEP to CENI headquarters, CENI plans to use V-Sats. Ballots will not be sent to the capital, Kinshasa, unless required for dispute resolution. CENI then develops a statement of the provisional result, which is signed by all members of its Board. The president of the CENI or a representative makes the provisional results public. Provisional results are posted in the premises of the CENI headquarters or on the Internet. The statements and their annexes are forwarded to the Supreme Court of Justice (or Constitutional Court).

The Supreme Court officially announces the final results. For presidential elections, results are announced 48 hours after the period for dispute expires, if no appeal has been introduced. For legislative, provincial, urban, communal and local elections, results are announced eight days after the period for dispute expires, if not appeal has been introduced.

Compilation of results for the presidential elections will be held from November 29 to December 5. Provisional results for the presidential elections will be announced on December 6, 2011. Final results for the presidential election will be announced on December 17, 2011, by the Supreme Court of Justice.

Compilation of results for the legislative elections will be held from November 29 to January 12. Provisional results for legislative elections will be announced on January 13, 2012. Final results for the legislative election will be announced on March 17, 2011, by the Supreme Court of Justice.

Who will monitor the elections?

Political parties and candidates are allowed to be present at the polling station when it opens, as well as during polling and counting. Candidates can also appoint witnesses to monitor the electoral process. Domestic civil society organizations and international observers can be accredited to monitor the elections. Several organizations will be deploying local and/or international observers to observe the elections, including the Carter Center, the European Union and the South African Development Community.

Articles 42, 44 and 45 of the Electoral Law set the same rights and duties for all observers, international and local. Local observers have the additional right to vote in the voting centers where they have been deployed, as per Article 59 of the law.

What is the role of the Congolese judiciary in the electoral process? How will disputes be adjudicated?

According to Article 74 of the revised Electoral Law, the Constitutional Court is charged with resolving disputes related to the presidential and legislative elections. As this court has not yet been established by Presidential Decree as of the writing of this document, the Supreme Court of Justice will be responsible for this role.

Resources

The Constitution of the Democratic Republic of the Congo of February 18, 2006:

<http://www.presidentrdc.cd/constitution.html>

Law No. 11/002 of January 20, 2011, revising the Constitution of the Democratic Republic of the Congo of February 18, 2006 (instituting a one-round presidential election system);

<http://www.leganet.cd/Legislation/JO/2011/JOS.01.02.2011.pdf>

Law No. 10/13 of July 28, 2010 governing the establishment and function of the CENI:

<http://www.leganet.cd/Legislation/Droit%20Public/Divers/Loi.28.07.2010.pdf>

Ordinance No. 11/012 of February 3, 2011 formally installing the members of the CENI:

<http://www.leganet.cd/Legislation/JO/2011/JO%2015%2002%202011.Sommaire.pdf>

Law No. 11/001 of January 10, 2011 on the composition and functioning of the Conseil Supérieur de l'Audiovisuel et de la Communication (CSAC):

http://www.ambardc.eu/index.php?option=com_content&view=article&id=233%3Aloi-sur-le-csac&catid=50&Itemid=37

Law No. 11/003 of June 25, 2011, modifying Law No. 06/006 of March 9, 2006 on the organization of presidential, legislative, provincial, urban, municipal and local elections:

<http://www.leganet.cd/Legislation/Droit%20Public/Divers/loi.11.003.25.06.2011.htm>

Law No. 11/014 of August 17, 2011, on the allocation of legislative and provincial seats according to registered voters: <http://www.presidentrdc.cd/doc/circonscriptionselectorales.doc>

CENI website: www.cei-rdc.cd

MONUSCO website: monusco.unmissions.org

Radio Okapi (UN radio): <http://radiookapi.net/congo/actualite/>

Geographical maps of the DRC: <http://rdcmaps.centerblog.net/>