

DR Congo's current political crisis: urging the EU and its Member States to start making all the necessary provisions to ensure free, fair, and transparent elections in 2023



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In February 2021, the Democratic Republic of the Congo (DRC) will take over the rotating Presidency of the African Union (AU) for the next 12 months. The Congolese government will do so amid a deepening political crisis at home, arising from an ongoing power struggle between the current President Félix Tshisekedi of the Cap for Change (CACH) and the former President Joseph Kabila of the Common Front for Congo (FCC).

Irrespective of the scenario that will unfold in the coming period, the political situation will remain extremely fragile and volatile. It is therefore of the utmost importance that the European Union (EU) and its Member States insist **that the DRC government will start making all the necessary provisions to ensure free, fair, and transparent elections in 2023. This includes the transformation of the Independent National Electoral Commission (CENI) into a technical, impartial, and politically independent electoral body and the timely**

reservation of funds to finance the election process. The support of the EU and its Member States to the upcoming Congolese presidency of the AU provides a pertinent framework to urge the DRC government to respect the African Charter on Democracy, Elections and Governance.¹

Repeating Patterns

Over the past few months, a power struggle took place in the DRC at a national governmental level between the coalition partners CACH and Kabila's FCC. This political conflict culminated on December 6 with a public declaration of President Tshisekedi, in which he announced his intention to form a new majority government.² A few days after, the National Assembly voted to impeach the lower house speaker, Jeannine Mabunda, a pro Kabila member of parliament, handing President Felix Tshisekedi a victory in his power struggle.³

Felix Tshisekedi was declared winner of the 2018 national elections by the CENI. The flawed electoral process was characterised by the regime's repeated intimidations, threats, judicial harassments, unlawful arrests, detentions and torture targeting key players of the citizens' movements, human rights defenders (HRDs), journalists, members and sympathisers of opposition parties.⁴ Many national observers contested the results while international media presented evidence suggesting that the results announced by the CENI had been rigged and manipulated in favour of Felix Tshisekedi, of the Union for Democracy and Social Progress (UDPS), at the expenses of the actual winner Martin Fayulu.⁵ The CENI did not publish results per polling station, thus preventing to verify the results in a neutral manner. The decision of the CENI was nevertheless confirmed by the Constitutional Court, and Kabila's party FCC and the UDPS made the political deal to form a government. However, with the FCC holding the parliamentary majority and controlling the key positions in cabinet, the Tshisekedi government has not been able to pursue its political ambitions over the past two years.

The political fight concentrated recently on the appointment of the new president of the CENI – while the current president of the CENI Corneille Yobeluo Nangaa was sanctioned by the US for “undermining democratic processes or institutions in the DRC”⁶ – the appointments in the Congolese army and the nomination of Constitutional Court judges.⁷ The decision of the president to appoint three judges without consulting J. Kabila led to a political confrontation

¹ [African Charter on Democracy, Elections and Governance](#)

² [RDC : Félix Tshisekedi annonce la fin de la coalition avec Joseph Kabila et se cherche une nouvelle majorité](#), Le Monde, 7 December 2020

³ [DR Congo parliament votes to oust pro-Kabila speaker](#), France 24, 10 December 2020

⁴ [Memorandum on democracy, human rights and natural resources in the Democratic Republic of the Congo](#), EurAc, June 2019

⁵ [Memorandum on democracy, human rights and natural resources in the Democratic Republic of the Congo](#), EurAc, June 2019

⁶ [Treasury Sanctions Congolese Officials Responsible for Undermining DRC Elections](#)

⁷ [RDC: Félix Tshisekedi, des nominations au nez du FCC](#), Politico.cd, 18 July 2020

with the FCC dominated parliament, that blocked the swearing-in of the magistrates.⁸ Furthermore, the recent nomination by President Tshisekedi of Modeste Bahati, as an *informateur*⁹ has only deepened the ongoing crisis further between the two sides as it may result in the impeachment of the current Congolese government. Two plausible scenarios likely to unfold in the near future are that the leadership conflict will drag on while paralysing the public administration of the DRC, or that the President will be able to persuade a considerable part of the FCC members to change political side and achieve a majority in Parliament. While the president announced in his speech that he will consider organising early legislative elections if the formation of the new government will fail, this scenario does not seem realistic as the CENI lacks the necessary funding to organise such elections. Lastly, even the planned local polls have not been held yet which indicates a fixed pattern in Congolese politics of postponement of these elections.

Human rights and security implications

While political tensions keep soaring, the human rights situation in the DRC has been of great concern. In October 2020 alone, the United Nations Joint Human Rights Office (UNJHRO) documented 611 human rights violations across the country.¹⁰ If nothing is done, vulnerable groups, especially pro-democracy activists, HRDs and journalists will suffer the most from the unfolding political crisis.

The looming political crisis in the DRC adds up to the increasing security problems in the eastern and north-eastern border areas with Rwanda, Uganda, and the Central African Republic (CAR). In addition, the political and security situation in Uganda and in the CAR have also been deteriorating rapidly over the last weeks. A further deepening political conflict, in which the position of the Congolese security forces may play an indirect role,¹¹ will affect the security situation in the border regions and might fuel risks for the stability of the Great Lakes region as a whole. Moreover, should the political crisis in the DRC escalate, this would further jeopardise its credibility as the President of the AU with a guiding role regarding the democratic processes in African countries.

What role for the European Union and its Member States?

The fragility of the political situation requires a fierce and continued national and international commitment and support to the planned 2023 elections. The EU must play a crucial role to

⁸ [RDC: le FCC veut boycotter la prestation de serment des juges de la Cour constitutionnelle](#), RFI, 21 October 2021

⁹ A sort of mediator, to come up with a new majority in Parliament

¹⁰ [Principales tendances des violations des droits de l'homme – Novembre 2020](#), MONUSCO

¹¹ High level commanders of the FARDC have played an important role in the recent past in fueling the insecurity in border provinces such as North and South Kivu, Ituri and Haut Uele, as well as in the mineral-rich former province of Katanga. The fact that some of the commanders subject to the latest reshuffle in the Congolese army have poor human rights records or were involved in obstructive activities during the electoral process, again poses a risk for the stability in the Great Lakes region.

encourage and push for the organisation of free, fair, transparent and peaceful elections in 2023. **In this sense, and regarding the previous elections, the reform of the CENI is crucial to restore trust between the population and its governing bodies and to reduce the tensions. Strong support to local civil society organisations, HRDs and the population must also be a top European priority.** Pressure and increased demands for accountability by Congolese citizens, as illustrated in the last years, is essential to remind the Congolese authorities at all levels of their responsibilities.¹²

Recommendations

In the context of the upcoming Congolese presidency of the AU, EurAc and its members call upon **the European Union and its Member States to urge the Congolese government:**

- To engage peacefully in the political process and preserve peace and stability in the country.
- To make all the necessary provisions to guarantee free, fair and transparent elections in 2023 adhering to the letter and spirit of the African Charter on Democracy, Elections and Governance (2007) and the AU Declaration on the Principles Governing Democratic Elections in Africa (2002);
 - **To reform the CENI** into a technical and credible electoral state institute that pursues in an independent and impartial way the free, fair, and transparent elections in 2023, according to the abovementioned Charter and Declaration of the AU.
 - **To respect the formal legal procedure** regarding the nomination process of a new political independent President of the CENI.
 - **To appoint a nomination advisory committee** representing Congolese civil society and independent technical experts to recommend a candidate.
 - **To realistically calculate the costs of the 2023 electoral process**, make publicly available the details of this estimated budget and to realise periodical transparent payments to the CENI in line with this budget.

After the reformation of the CENI into an independent and impartial electoral body, **we ask the EU and its Member States to:**

- **Provide technical and financial support to the CENI**, including the training of credible and impartial electoral observers and community-based electoral promoters mobilisers ("*animateurs électoraux*"). This could also include the support to create an additional network of civil society observers.

¹² [Memorandum on democracy, human rights and natural resources in the Democratic Republic of the Congo](#), EurAc, June 2019

- **Actively monitor, in coordination with other international and regional actors**, the preparations and implementation of the 2023 electoral process.
- **Politically and legally support democratic activists** whose rights are violated because of their commitment to timely and free elections.

The EEAS and most specifically the EU Delegation to the DRC and EU member states' diplomatic missions must effectively implement the European Guidelines on HRDs on the ground, enhancing its practical support to and protection of Congolese human rights defenders and overall promote and encourage respect for the right to defend human rights.

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