



Congo: The Perilous Election Battle

Four months before the end of the mandate of President Joseph Kabila, the Democratic Republic of the Congo is on the edge of a deep political crisis. The government has created multiple artificial delays in the electoral process, making it impossible to respect the constitution and hold fair and transparent elections before the end of the year. Furthermore, the Constitutional Court has issued a controversial interpretation of the constitution that authorizes President Kabila to remain in power until his successor is elected. For the opponents of the government, the message is clear: without increased pressure, the current government will stay in power indefinitely.

Increasingly, members of the opposition and the ruling coalition believe that confrontation is more in their interest than the inevitable negotiations. Both sides hope that further delays could play in their favor. Some opposition leaders think that a constitutional crisis could delegitimize power and facilitate mobilization, while the government seeks to buy time in the hope of ultimately changing the political situation in its favor. The opposition is also skeptical about holding a dialogue with the government, which could be used to co-opt some of its members and to extend Joseph Kabila's time in power. The government, for its part, refuses to give assurances that Kabila will not change the constitution to extend his mandate, and has become increasingly repressive toward its critics.

In the meantime, the Congo's foreign partners are divided and reluctant to commit themselves to solving the crisis. While almost all western donors insist on respecting the constitution and on the importance of a dialogue between the government and the opposition, only the United States have taken concrete steps to impose sanctions against Congolese officials. The regional actors who could influence the government—in particular South Africa—have refrained from taking clear stances regarding the constitution and the holding of elections within a reasonable timeframe.

Recommendations

To the government of the Democratic Republic of the Congo:

- Declare clearly that Joseph Kabila will not be a candidate in the upcoming presidential elections, and the Article 220 of the constitution will not be changed
- Provide the necessary resources for the National Independent Election Commission (CENI) to hold transparent elections within a reasonable timeframe
- Guarantee the freedom of assembly and expression for its citizens, including the freedom to hold peaceful demonstrations
- Free political prisoners
- Name new members to the CENI in order to guarantee adequate representation for the opposition
- Together with the opposition, publish an agenda and a limited list of invitees for a political dialogue, along with clear terms of reference for the facilitation
- Sign a code of conduct for the electoral process

- Restructure the Superior Audiovisual and Communication Council (CSAC) and strengthen the National Human Rights Commission (CNDH)
- Prioritize national presidential and legislative elections in the electoral calendar

To the political opposition:

- Participate in a dialogue with the government about the electoral process
- Sign a code of conduct for the electoral process

To financial donors:

- Step up sanctions against Congolese officials directly responsible for repression and disproportionate violence against civilians
- Formally state what the consequences would be if elections are not held and a credible political dialogue is not underway by 19 December 2016; this should include the suspension of military training of the Armed Forces of the Democratic Republic of the Congo (FARDC) by bilateral partners
- In case a credible agreement is reached between the government and the opposition on the electoral process, provide logistical and financial support to the elections, as well as macroeconomic support to the country
- As soon as possible, deploy pre-electoral observation missions and help set up parallel vote-counting systems
- Finance public polling in order to inform candidates about the broad trends in public opinion and to provide reference points for election results
- Strengthen the capacity of national election observation organizations

To the African Union:

- Urgently find a compromise between the Congolese government and the opposition regarding the designation of a facilitator for the dialogue between the two sides
- Clearly define the terms of reference for the facilitator of the dialogue
- Insist on the respect of the constitution, but also on principles regarding democratic governance, rule of law, as laid out by the founding texts of the African Union, particularly its Constitutive Act, the African Charter on Human and People's Rights and the African Charter on Democracy, Elections, and Governance

To MONUSCO

- Reinforce its electoral staff and insist on the regular publication of technical and human rights reporting related to the electoral process
- Clearly state the consequences if, after 19 December 2016, elections have not been held and no credible dialogue is underway; this should include the suspension of military cooperation between MONUSCO and the FARDC;
- Develop contingency planning and clear rules of engagement in the case of electoral violence.

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