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Contact: Baya Kara in Kinshasa +243 81 240 7659 or Deborah Hakes in Atlanta +1 404 420 5124

Carter Center: DRC Presidential Election Results Lack Credibility

The Carter Center finds the provisional presidential election results announced by the Independent National Election Commission (CENI) on Dec. 9 in the Democratic Republic of the Congo to lack credibility. CENI results point to the re-election of incumbent President Joseph Kabila with 49 percent of the vote followed by Etienne Tshisekedi with 32 percent and Vital Kamerhe with 7.7 percent. Voter turnout was 58 percent.

Carter Center observers reported that the quality and integrity of the vote tabulation process has varied across the country, ranging from the proper application of procedures to serious irregularities, including the loss of nearly 2,000 polling station results in Kinshasa. Based on the detailed results released by CENI, it is also evident that multiple locations, notably several Katanga province constituencies, reported impossibly high rates of 99 to 100 percent voter turnout with all, or nearly all, votes going to incumbent President Joseph Kabila. These and other observations point to mismanagement of the results process and compromise the integrity of the presidential election. Candidates and parties have a limited time to submit any complaints to the Supreme Court, and tabulation for the legislative elections is ongoing.

The problems observed in the tabulation and announced results are compounded by inadequate access for observers at multiple compilation centers around the country and no official access to the national results center in Kinshasa. The Carter Center is therefore unable to provide independent verification of the accuracy of the overall results or the degree to which they reflect the will of the Congolese people.

Challenges in the results process were further evident in the CENI delays in announcing the results first for two days after the original date of Dec. 6 and then a second one-day delay to Dec. 9. Presidential candidates and the Congolese people are to be commended for waiting peacefully for the announcement of results, and the Center encourages all actors to maintain the same level of responsibility. It is also the responsibility of Congolese political actors and institutions to conduct their own examination of the election results and identify political solutions. The Carter Center is ready to assist in these processes if requested and appropriate.

The Carter Center maintained 26 teams of international, impartial observers deployed in Kinshasa and the 10 provinces for the counting and tabulation. This assessment is based on direct observation during visits to 25 local results compilation centers (CLCRs) where tabulation of results was conducted and a preliminary examination of the published results.

The Tabulation Process

The electoral law^[1] provides that immediately after counting, results forms are signed by all members of the polling station and witnesses, a copy of the results form is given to witnesses,^[2] a copy of the results form is posted outside the polling station, and results forms and other election materials (ballot boxes, counted and unused ballots) are sent to the 169 CLCR. All materials are supposed to be collected and transported securely to the CLCR.

Heads of polling centers were responsible for collecting and delivering all polling station material from their polling center including four sets of envelopes containing results by

polling centers; one each for the CLCR, the national board of CENI, the provincial executive secretary of CENI (SEP), and the Supreme Court. Upon arrival at the CLCR, heads of polling centers present themselves to a reception desk to sign over all of their election materials. If all material was accounted for, the heads of polling centers were released of responsibility and sent home.

Upon reception, the results envelope for the CLCR is sent to the collation desk, while the others are sent to archiving for later transmission to their final recipients. The results documents then pass through four desks where they are checked for consistency, the data entered on computers and compiled for transmission to the SEP and ultimately posted in front of the CLCR. At one stage, inconsistent documents may be reconstructed the basis of the counting form and polling station activity log by a team of three CENI members. After the compilation of results from all the constituencies under its responsibility, CLCRs transmit them to the SEP who consolidate for the province and send these to the CENI for publication of preliminary results.^[3]

General Findings

Soon after election day, unofficial results started to circulate online and via SMS. Additional threatening messages were sent to members of domestic and international election observation missions. On Dec. 3, the minister of interior ordered the suspension of the emission and reception of SMS justified by the reportedly massive distribution of anonymous messages of intimidation, death threats, and calls for violence. This measure is an excessive attempt to deny freedom of expression; the authors of such messages could have been identified through regular channels of investigation.

Other heavy handed responses were applied to media. The Superior Council of Audio Visual Communication suspended two broadcast networks without an official decision and one newspaper close to the opposition. In Mbuji Mayi, police closed broadcaster RLTV without cause.

In comparison to the 2006 elections, the counting and tabulation procedures remained similar in their complexity which could have contributed to the uneven application across CLCRs and created opportunities for manipulation of results. As was the case five years ago, the logistical challenges of collecting, securing, and recording the results caused major difficulties for which CENI showed an insufficient level of preparation. CENI staff from voting centers and CLCRs were required to work extremely long hours for days at a time, often without adequate shelter, food, or water in trying and crowded physical conditions.

In most of the cases observed, CLCRs were properly secured by police (military in some cases), however, in 15 percent of the cases their behavior could have influenced or intimidated CLCR personnel. In 15 percent of CLCRs observed, the reception and handling of sensitive election material did not follow the established procedures. Candidate witnesses were present in almost 90 percent of the cases but their physical position in the CLCR and access to information varied, disabling some from following all steps of compilation.

Where problems with results paperwork necessitated a recount of ballot papers, witnesses were present in only a slim majority of cases observed. Archiving was reported to be disorganized in 25 percent of the cases and the results envelopes bound for the SEP, CENI, and the Supreme Court did not leave the CLCRs before the end of tabulation. Equipment to transmit electronic record of scanned individual polling station results forms to SEP and

CENI was present in 73 percent of the cases but observers could not always confirm if they were functional or in consistent use.

In many instances, heads of voting centers waited outside CLCRs for several hours and sometimes days with no organized provision of shelter, food, or water. Bulky items (mainly used and non used ballot papers and ballot boxes) were stockpiled outside of CLCRs, most of the time without care or protection from the weather. Even more importantly, bags of ballot papers and the envelopes containing results forms and other polling station paperwork were opened by heads of voting centers outside before they were officially received. After reception, the working conditions and storage provisions of CLCR varied. In some instances, bags of ballot papers were piled wherever floor space allowed, or spilled to the floor where they were stepped on by personnel because of lack of space. In more spacious centers, material was either stored in warehouses and piled in a more ordered manner or left outside, covered by tents and tarpaulins. Where a lack of organization in the storage of sensitive material prevailed, it was nearly impossible for CENI personnel to recover misplaced material.

In multiple observed CLCR (e.g. Boma, Matadi, Bandundu, Mweka, and others) Carter Center observers found tabulation processes that they rated fair or good in 60 percent of cases. The overall assessment of other locations varied, with 40 percent rated poor based on an overall assessment of the application of procedures.

Tabulated Results Lack Credibility

The tabulation process in Kinshasa and Lubumbashi proved to be especially problematic. The lack of preparation evident in these two major cities resulted in serious irregularities and produced a tabulation process that lacks credibility. The generalized deficiencies described above prevailed in the extreme in both locations. Sensitive materials arrived by various means of transport, both official and private, were handled haphazardly, sometimes with bags and results envelopes opened, were stockpiled outside with insufficient or no protection from the elements (after a rain storm results forms were found hanging on sticks to dry), heads of polling centers were observed opening sealed envelopes with results forms and completing or altering paperwork in breach of procedure. Coupled with the general disorganization of these centers, a significant number of polling station results were lost. In Kinshasa, nearly 2,000 polling station results have been lost (representing as many as 350,000 voters) and hence will never be tallied. Another 1,000 polling station results have been lost elsewhere in the country (representing 500,000 voters).

Also in Kinshasa, the uneven application of procedures led to heated debates on how to treat the unsigned results forms, often leading to partisan interpretation of procedures. In some instances, contested documents were said to have been transferred to the Supreme Court which at this stage remains impossible to confirm. CLCR staff sometimes appeared to be poorly trained with some staff reporting that colleagues had received no training. Furthermore, ineffective communication of procedural decisions made while the tabulation was ongoing resulted in important decisions being applied unequally, raising additional possibilities of manipulation of results, as neither CENI staff nor witnesses and observers could verify correct procedures.

Physical and information access for observers and witnesses was inadequate and varied from day to day and among CENI staff at different CLCR stations resulting in a lack of transparency of the process. In some instances, senior CENI officials directly obstructed

observation by Carter Center observers. For example, in Lubumbashi, Carter Center observers witnessed the president of a CLCR instructing his staff during their training not to give out any information to the observers. Similar instructions were given to CENI staff during tabulation in Kinshasa.

According to the electoral law, each CLCR is to send its compiled result form to the SEP, who in turn sends compiled results for the province to CENI in Kinshasa for the announcement of a national result. It appears that only the compiled CLCR result forms have been sent to CENI, although the commission should receive its own envelope with an original copy of the polling station results. No comparison of physical results forms for verification of CLCR compilation at the national level could be observed and therefore assessed by the Center. Although formally requested from CENI, no official access was granted to Carter Center observer (or any others) to the national results center (CNT).^[4] Thus, data transmission and management have been conducted in a nontransparent manner, eliminating a possible, and important, avenue to build confidence in the final election results, if observers and witnesses had been able to verify the handling of compiled results (CENI's organizing law contains a general transparency provision, the spirit of which should apply throughout the entire electoral process, even if specific arrangements are not specified in the electoral law).^[5]

The provisional results announced by CENI reveal multiple results that lack credibility. In Katanga province, two CLCR results are especially notable. The Mulemba Nkulu CLCR reports 99.46 percent voter turnout with 100 percent of votes, or 266,886 for Joseph Kabila, and fewer than 0.5 percent blank or null votes. All polling stations reported. Kabongo CLCR records similar high voter turnout with 227,885 votes for Kabila and only three votes for other candidates. A total of eight CLCR in Katanga report voter participation above 80 percent, far above the national average of 58 percent, and vote shares of 89 percent or higher for Kabila.

Although the specific mechanism through which such vote totals may have been generated is unclear, numerous conditions cited in previous Carter Center reports may have been enabling factors, notably concerns about the credibility of the voter register and the potential multiple voting through abuse of the derogation votes and list of omitted voters, or through manipulation of vote totals at polling station or various stages of the tabulation. Thorough analysis with the records of domestic observers and candidate witnesses could yield more information.

Review of locations with similar high percentage votes for Etienne Tshisekedi does not reveal the same coincidence of perfect collection of polling station results and extremely high voter turnout. Notably, although Tshisekedi scored very well in much of Kasai Occidental, 11 of 12 CLCR reported voter turnout below the national average, and in nine CLCR returns from Kasai Oriental where he received 90 percent or more of the vote, the rate of results collection and voter turnout were within reasonable variation of national rates.

This assessment does not propose that the final order of candidates is necessarily different than announced by CENI, only that the results process is not credible. However, further analysis of preliminary results could reveal other important patterns and variations suggestive of a vote counting and tabulation that lacked uniform application to all Congolese voters. Additional analysis will be provided in future Carter Center reports.

Background: The Carter Center international election observation mission has been in the DRC since Aug. 17, 2011, following an invitation from CENI. The mission was led by former President of Zambia Rupiah Bwezani Banda and Vice President of Carter Center Peace

Programs Dr. John Strelau, and is composed of 70 observers from 27 countries.

The Center thanks CENI and all those Congolese who have welcomed Carter Center observers and given their time to meet with them.

The Center's observation mission in the DRC is conducted in accordance with international standards for elections, and the observation mission was conducted in accordance with the Declaration of Principles for International Election Observation and the Code of Conduct for International Observers that was adopted at the United Nations in 2005 and has been endorsed by 37 observation groups.

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[1] Electoral Law Art. 68 and 69

[2] Electoral law, Art. 68

[3] Electoral Law Art. 70 and 71

[4] A CENI national results center for data compiled at CLCR and transmitted by SEPs

[5] Organic Law for Organization and Function of Independent National Election Commission, July 28, 2010.