

Congo: Is Democratic Change Possible?

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Executive Summary

The presidential and legislative polls scheduled for 2016 are a potential watershed for the Democratic Republic of Congo (DRC); they could be the first elections held without an incumbent protecting his position. The prospect of these elections is testing nerves on all sides of the Congolese political spectrum and has already caused deadly violence. There is an urgent need for President Joseph Kabila to commit to the two-term limit contained within the constitution and ready himself to leave power. Consensus is also needed on key electoral decisions, in particular regarding the calendar and the voter roll. This will require high-level donor and international engagement. Absent agreement and clarity on the election process, or should there be significant delays, international partners should review their support to the government.

The fragmented governing majority is running out of options to avoid the 2016 deadline. The government's attempts to amend both the constitution to allow Joseph Kabila to run for a third term and election laws face strong, including internal, opposition, as was evident in the January 2015 mini-political crisis over proposed changes to the electoral law. This mini-crisis, which triggered deadly violence and repression against pro-democracy activists, gave a first hint of what could be in store for 2016. In this tense domestic context, engagement by international actors is met with an increasing insistence on national sovereignty that affects in particular the UN Organization Stabilization Mission in the DRC (MONUSCO).

Local and provincial polls planned for 2015, despite a technically insufficient and non-consensual voter list, could undermine credible national elections in 2016. In addition to an overly ambitious and costly electoral calendar, the government is hastily pushing through an under-resourced and ill-prepared decentralisation process, including the division of eleven provinces into 26 as provided for in the 2006 constitution. It aims to finalise in six months what was not achieved during nine years. Trying to pursue decentralisation while implementing the electoral calendar could aggravate local tensions, trigger security troubles ahead of next year's polls and make the country highly unstable.

For the government, buying time by capitalising on potential delays seems to be the highest attainable objective it can presently agree on. The disjointed opposition is incapable of forming a united front, but there is a broad agreement to oppose any political manoeuvring to extend President Kabila's rule beyond 2016. In addition to President Kabila's ambiguous signals about whether he will respect his two-term limit, problems experienced during the 2011 elections remain; they include a lack of confidence in the Independent National Electoral Commission (CENI) and a disputed voter list.

The democratisation process launched a decade ago is reaching its moment of truth, as the excessive hopes raised by the 2006 elections have not materialised. These were the first, and so far only, reasonably free and fair democratic polls to take place since the country's independence. In their wake, reform of the nature of politics and government in DRC has been limited. However, at this stage, delaying the 2016 presidential and legislative elections would be equivalent to an unconstitutional extension of the regime. The January 2015 violence in Kinshasa was a clear demonstration of the Congolese population's aspirations for political change. If the electoral process is not

allowed to move forward unhindered, international actors, with a large UN mission in place, risk supporting a regime with even less legitimacy than is currently the case.

All efforts have to focus on creating conditions for credible polls in 2016. To that end, Congolese political actors and the CENI should revise the electoral calendar and delay local elections until decentralisation has been fine-tuned, and provincial polls should be organised to closely coincide or be combined with the national elections. A serious conflict prevention and dispute resolution strategy is required, in particular at the local level. Such efforts cannot be only with the electoral horizon in mind. Successful elections do not equal democracy and good governance; the transformation of the Congolese political system has a long way to go and requires a change in governance practices that will be the work of many years.

Recommendations

To avoid a descent into crisis and organise a consensual electoral process

To the government of DRC:

1. Affirm its commitment to respecting the constitution, in particular the two-term limit for President Kabila, and the timeframe for presidential and legislative elections.
2. Guarantee the right of free expression for the people, civil society and the opposition and abstain from arresting and harassing opponents.
3. Make available to the CENI the necessary financial resources in a transparent manner.
4. Reinforce judicial structures that have election responsibilities, such as the *tribunaux de grande instance* (civil court) and the Constitutional Court.
5. Open an inclusive dialogue on the nature and speed of decentralisation, in particular the installation of local authorities that will organise local elections in the future.

To the government of DRC, opposition parties, civil society and the CENI:

6. Establish a permanent and institutionalised working dialogue, with the aim of reaching consensus on the electoral calendar, the voter list, the opening of political space, among other issues.
7. Amend the electoral calendar and cancel the completion of the 2011 electoral cycle (provincial, Senate and local elections). Concentrate instead on the organisation of the presidential and legislative polls on 27 November 2016, possibly in combination with provincial elections.
8. Establish in close cooperation with international actors, in particular MONUSCO, an inclusive conflict prevention, security and dispute resolution strategy (including MONUSCO force deployment and local monitoring) as a pre-condition for local elections.

To the CENI:

9. Prioritise building and maintaining maximum consensus on the entire electoral process.
10. Communicate regularly and with full transparency its decisions, progress and challenges implementing the electoral calendar through a publically accessible platform and the media.
11. Work transparently with the opposition, electoral experts, civil society and the government on the creation of legitimate and comprehensive voter rolls.
12. Collaborate closely with the media, civil society, the government, opposition and international partners on a public awareness and voter education campaign.

To the opposition political parties:

13. Create an inter-party structure to improve coordination on electoral issues.

To key donors and international partners (UN, African Union, Southern African Development Community, International Conference for the Great Lakes Region, European Union, U.S., France, UK and Belgium):

14. Send a ministerial delegation composed of UN, African Union (AU), EU and U.S. representatives to initiate a dialogue with the president and relevant Congolese stakeholders about the electoral process. Follow up this dialogue with the group of special envoys. The key message should be full commitment to the constitution by the president and government, highlighting that non-compliance would have a serious impact on international support.
15. Streamline the positions of and communication by the ambassadors' working group coordinated by the special representative of the Secretary-General (SRSG) in Kinshasa.
16. Provide consistent backing to the mandated good offices efforts of the UN special envoy for the Great Lakes Region and the SRSG with regard to the elections.
17. Concentrate financial and material support on voter registration and training of election officials to help ensure the timely and well-organised 2016 presidential and legislative polls, as well as civil society monitoring and voter education.
18. Send adequately staffed, long-term observation missions and ensure close communication and collaboration between them.
19. Assess and review progress in the electoral process, as is foreseen in Security Council Resolution 2211, and suspend support to the electoral process and the Congolese security forces if the president and government continue to prevaricate on the two-term limit. In case of important delays and blatant disregard for the two-term limit, review public development aid and consider revising MONUSCO's mandate.

Nairobi/Brussels, 5 May 2015

Congo: Is Democratic Change Possible?

I. Introduction

With approximately one and a half years to go to the next national elections, DRC, which has only experienced multiparty elections in 1960, 2006 and 2011, is again entering turbulent waters. The president – in power since 2001 – is at the end of his second and last constitutional term, creating significant tension throughout the country, not least within the governing majority, which is deeply divided about how to deal with this prospect. Ever since the controversial 2011 elections, large segments of the population have mobilised against government attempts to maintain power. In January 2015, protests against a new electoral law descended into violence.

In this long pre-electoral context, the government's attention has to a large degree been captured by strategies either to amend the constitution or create legal obstacles to delay the inevitable. Now the focus is shifting to complex preparations for local, provincial, senatorial, legislative and presidential polls.¹ Seemingly responding to constitutional obligations and commitments within the Peace, Security and Cooperation Framework (PSCF) agreed for DRC and the region in 2013, the government has embarked on an overly ambitious implementation of a decentralisation process that has been stalled for years.²

International actors that contributed to the previous elections, including the UN Organization Stabilization Mission in the DRC (MONUSCO), remain cautious. The 2011 experience and the slow pace of current preparations, as well as the lack of transparency by the CENI, inspire little confidence. The government is also increasingly wary of international intervention while putting ever more pressure on domestic opposition and civil society.

This report analyses the tense context in which the upcoming elections are to take place. It identifies several risks, linked to the sudden developments in the decentralisation process, the slow and non-consensual preparation of an overly ambitious electoral calendar as well as divisions within the ruling majority. It suggests different actions and steps for domestic, regional and international actors to avoid a new crisis in the country that would seriously affect the entire sub-region.

¹ For the timeframe of these elections, see Appendix C.

² For background on decentralisation, see Crisis Group Africa Briefing N°73, *Congo: A Stalled Democratic Agenda*, 8 April 2010 and Appendix D.

II. The Permanent Political Crisis

In contrast to the 2006 elections, the 2011 exercise was not considered credible, resulting in a longstanding crisis of government legitimacy.³ It was preceded by a constitutional amendment allowing for a first-past-the-post election favouring the incumbent.⁴ Criticism focused in particular on the role of the CENI, then led by Reverend Ngoy Mulunda, a close confidant of the president; the voter register; and the non-transparent manner in which the results were assembled, treated and communicated.⁵ The outcome was – and remains – unequivocally contested by President Joseph Kabila’s main contender, Etienne Tshisekedi, leader of the Union for Democracy and Social Progress (UDPS).⁶ Meanwhile, because of election-related tensions and resurging conflict in the east after the appearance of the M23 rebel group in March 2012, the planned provincial, senatorial and local elections were postponed.⁷

A. A Tumultuous Start

After the contentious 2011 elections, the Kabila government moved quickly to placate critical donors and consolidate its grip. But it was confronted almost immediately with the loss of its key powerbroker, Augustin Katumba Mwanke, from Katanga province, who was killed in an aircraft accident in February 2012.⁸ Katanga is the president’s political powerbase, so the loss had immediate resonance. Kabila’s appointment of Augustin Matata Ponyo, the former finance minister and a well-regarded technocrat from Maniema, as prime minister two months later was well received by donors but met with resentment in the province.⁹ Although Katanga remains exceptionally well represented in government and security services positions, its political heavyweights claimed the premiership. The provincial elite also harbours other grievances in par-

³ Many international and national observers criticised the vote. However, missions of the Southern African Development Community (SADC), African Union (AU), Economic Community of Central African States (ECCAS), International Conference on the Great Lakes Region (ICGLR) and Common Market for Eastern and Southern Africa (COMESA) published a joint statement describing the elections “as successful, although acknowledging numerous technical and logistical problems, and regrettable incidents of electoral violence”. “Joint declaration of the presidential and parliamentary elections in the Democratic Republic of Congo”, 30 November 2011.

⁴ For background, see Crisis Group Africa Report N°175, *Congo: The Electoral Dilemma*, 5 May 2011; Briefing N°80, *Congo: The Electoral Process Seen from the East*, 5 September 2011.

⁵ For a comprehensive overview, “Rapport Final, Elections présidentielle et législatives, 28 Novembre 2011”, Mission d’Observation Electorale RDC 2011, EU, pp. 54-57; Marcel Wets’hokonda Koso, *Le pari du respect des urnes en Afrique* (Brussels, 2014); and “DR Congo: Learning the Lessons”, Crisis Group In Pursuit of Peace blog (www.blog.crisisgroup.org), 9 February 2012.

⁶ Tshisekedi maintains he is president, “Voeux du nouvel an 2015 du président Tshisekedi à la nation”, video, YouTube, 13 January 2015, <http://bit.ly/1DF71Zr>.

⁷ Local elections also were not held in 2006. The provincial assemblies and governments, as well as the Senate, are based on the 2006 polls. In DRC, elections are organised in “cycles”, grouping direct and indirect polls for the following institutions: presidency, National Assembly, provincial assemblies, Senate and local elections (urban, municipal, sector and chiefdom).

⁸ After his death, an observer noted, “not only did the architect of the political system die, he disappeared with the blueprints”. Crisis Group interview, diplomat, Kinshasa, March 2014. “Who is in the cockpit”, Congo Masquerade (www.congomasquerade.blogspot.com), 25 January 2012.

⁹ Crisis Group interview, diplomat, Kinshasa, March 2014; “RDC: Matata Ponyo, l’homme de la rigueur”, *Jeune Afrique*, 17 October 2012. Earlier, in 2010, John Numbi, head of the Congolese police was suspended after the assassination of human rights activist Floribert Chebeya in June 2010, also causing a major blow to Katangan interests.

ticular frustration about the lack of development in the province's northern districts¹⁰ and deep resistance to the province's division (see Appendix D). This resentment contributed to increased instability in Katanga and attacks in both Kinshasa and Katanga in December 2013 that were perceived as a warning to Kabila.¹¹

The government was also immediately confronted by the breakdown of its deal with Rwanda and the CNDP (National Council for the Defence of the People) that led to the M23 crisis in North Kivu.¹² The November 2012 takeover of Goma by the rebel group, which was composed of former members of the CNDP, was a major humiliation for President Kabila.¹³ The crisis was exacerbated by the involvement of neighbouring countries, in particular Rwanda, but galvanised international and regional engagement and support for the weakened government.

B. *In Search of Cohesion and the Promise of Reform*

Renewed international engagement in the wake of the M23 crisis led to the agreement of the February 2013 PSCF and the adoption, a month later, of Security Council Resolution 2098. The PSCF, which was signed by DRC and regional countries, contains national, regional and international commitments addressing the root causes of conflict in order to put an end to recurring cycles of crisis. The government committed to extensive reforms.¹⁴ Resolution 2098, which created the Force Intervention Brigade (FIB) to target the M23, also mandated the UN SRSG to "promote inclusive and transparent political dialogue".¹⁵

In the midst of the M23 crisis, President Kabila announced an initiative to increase national cohesion, which developed into the "national consultations" held from 7 September to 5 October 2013 under the joint presidency of Senate President Léon Kengo Wa Dondo and National Assembly President Aubin Minaku.¹⁶ Major opposi-

¹⁰ Crisis Group interviews, Congolese researchers, diplomat, opposition and majority members of parliament (MPs), Kinshasa, March and December 2014. "RDC: Joseph Kabila condamné à l'ouverture politique", *Afrikarabia*, 14 July 2013. For more, see "Lubumbashi takeover: Governance by substitution in the DRC", *Crisis Group In Pursuit of Peace Blog*, 15 April 2013.

¹¹ On 30 December 2013, several strategic targets in Kinshasa and Lubumbashi were attacked by a rag-tag group, mostly armed with machetes. The Republican Guard quickly and violently stopped the attacks. Crisis Group interviews, diplomats and opposition politician, Kinshasa, March 2014. "Who is Congo's Mukungubila: 'Prophet' or coup mastermind?", *France 24*, 30 December 2013; "La piste katangaise derrière les attaques en RDC?", *Afrikarabia*, 2 January 2014. A forthcoming Crisis Group report will look into the political, economic and security issues in Katanga province.

¹² Crisis Group Africa Briefing N°91, *Eastern Congo: Why Stabilisation Failed*, 4 October 2012.

¹³ Crisis Group Africa Briefing N°107, *Congo: Ending the Status Quo*, 17 December 2014.

¹⁴ The domestic PSCF commitments are: security sector reform (SSR), consolidating state authority (in particular in the east), decentralisation, boosting economic development, structural reform of government institutions and promoting reconciliation, tolerance and democratisation. "Peace, Security and Cooperation Framework Agreement for the DRC and the Region", Addis Ababa, 24 February 2013.

¹⁵ "Resolution 2098 (2013), S/RES/2098(2013), 28 March 2013. The FIB, composed of Tanzanian, Malawian and South African troops, is mandated to "carry out targeted offensive operations" focused on the neutralisation of armed groups. For detailed analysis on the PSCF and the FIB, see Crisis Group Briefing, *Congo: Ending the Status Quo*, op. cit.

¹⁶ Léon Kengo Wa Dondo, a former prime minister under Mobutu (1982-1986, 1988-1990 and 1994-1997), had been Senate president since 2007 and a 2011 presidential candidate. Aubin Minaku, a member of President Kabila's Peoples' Party for Reconstruction and Development (PPRD), is secretary general of the alliance of parties that support Kabila. For detailed analysis of the consultations, see Paule Bouvier, Jean Omasombo, "Le Président Kabila face à son destin", in Paule Bouvier

tion parties boycotted the talks, which remained under the governing majority, refusing to provide legitimacy to the process. Instead they demanded a transparent and inclusive political dialogue with UN mediation. The consultations did little to contribute to a consensual political process.¹⁷

On 23 October, President Kabila endorsed the consultations' conclusions and announced a number of priorities such as installing a government of national cohesion; completing the postponed local, provincial and senatorial elections; organising a national census and freeing political prisoners. He also suggested parliament look into changing the electoral system for the provincial assemblies moving from direct to indirect elections.¹⁸

In addition to maintaining President Kabila's upper hand, the consultations mainly sought to broaden his political base in order to produce a government of national cohesion.¹⁹ Instead of creating a new political dynamic by building on the success of the strategy against the M23, they led to further stagnation, best symbolised by a fourteen-month wait for the announcement of the new government.²⁰ In the meantime, the sitting government was in effect immobilised, which was felt in many areas, especially in efforts to further security sector reform (SSR) and the unaddressed PSCF domestic commitments.²¹

and Jean Omasombo (eds.), *République démocratique du Congo. Décentralisation et espaces de pouvoir* (Brussels, 2014), pp. 9-33.

¹⁷ "Déclaration de l'opposition politique congolaise", 1 July 2013, video, YouTube, <http://bit.ly/1O8C2y7>. "RDC : un groupe d'opposants invite Martin Kobler et Mary Robinson à s'impliquer pour 'un vrai dialogue'", Radio Okapi, 27 September 2013. The organisation of an inclusive national dialogue remains the key opposition demand. Press communiqué by the political opposition, 30 October 2014. In addition, the consultations' legal framework was adopted without discussion and at the beginning participants were not allowed to change the rules of procedure prepared by the co-presidents. Ordinance no. 13/078, 26 June 2013.

¹⁸ "Cohésion nationale: Discours de 'Joseph Kabila' devant le congrès", *KongoTimes*, 23 October 2013. Indirect provincial elections are not included in the recommendations of the consultations. This proposal would require an amendment of Article 197 of the 2006 constitution. The stated reason for moving to indirect elections is the cost: they would be much less expensive than the current system. However, they would seriously reduce the representativeness of provincial assemblies and affect the Senate, which is indirectly elected through the provincial assemblies. Indirect elections would also increase the possibilities for fraud.

¹⁹ Crisis Group interviews, diplomats, Kinshasa, March 2014.

²⁰ Crisis Group interview, Congolese researcher, Kinshasa, March 2014.

²¹ From October 2013, the margins of manoeuvre of the Matata Ponyo government were extremely limited. In November 2014, ministers were paid their exit allowance, while remaining in position and awaiting the announcement of a new government. "RDC: Matata piégé, les ministres touchent leurs 'indemnités de sortie'", *Jeune Afrique*, 7 November 2014. Crisis Group Briefing, *Congo: Ending the Status Quo*, op. cit.

C. *A Reformed but Non-consensual CENI*

In 2013, the CENI was reformed with a strongly amended organic law and new leadership was installed.²² However, new CENI President Abbot Malu Malu is often accused of being too close to President Kabila and of dominating the institution.²³ According to civil society and opposition interlocutors, their representatives no longer communicate with their former organisations.²⁴ A coalition of civil society and opposition parties threatened in June and September 2014 to withdraw their CENI representatives, but they remain in place as they would have to resign individually.²⁵ Opposition groups also launched a petition and a judicial complaint against the CENI president asking he be removed.²⁶ The attempt to make the commission more representative has thus had little effect on its credibility.

Critics claim the CENI's deliberations are not consensual and that there is almost no dialogue with political parties and civil society, despite a number of frameworks to enhance talks with different interested actors.²⁷ They focus on the CENI's January 2014 electoral roadmap and February 2015 electoral calendar.²⁸ In both cases, the opposition and civil society have produced or suggested alternatives.²⁹

²² The CENI is now composed of thirteen members: six for the ruling coalition, four for the opposition and three representing civil society. Internal accountability mechanisms have been strengthened with a second plenary institution. Loi organique no. 13/012, 19 April 2013; "CENI: le comeback de l'Abbé Malumalu, le choix de l'expérience", *Jeune Afrique*, 8 June 2013; "RDC: les membres de la nouvelle Ceni prêtent serment", Radio Okapi, 14 June 2013.

²³ Malu Malu, from North Kivu, is a Catholic clergy member. He presided over CENI's predecessor, the Independent Electoral Commission (CEI), until March 2011 and organised the 2006 elections. In 2010, he played an important role in the negotiations with the M23. He took over from controversial Pasteur (Methodist) Ngoy Mulunda. Crisis Group interviews, diplomats, civil society and opposition politicians, Kinshasa, March 2014, March 2015.

²⁴ Crisis Group interviews, civil society and opposition representatives, Kinshasa, March 2014.

²⁵ "Déclaration des forces politiques et sociales", Kinshasa, 25 June 2014; "Flash forte déclaration des députés de l'opposition à Fatima le 21/09/2014", video, YouTube, 21 September 2014, <http://bit.ly/1O8C3C4>.

²⁶ "RDC: la pétition pour le départ du président de la Ceni déposée à l'Assemblée nationale", Radio Okapi, 25 April 2014. In June, opposition parties threatened to sue Malu Malu. "RDC: l'opposition et la société civile menacent de traduire l'Abbé Malu Malu en justice", Radio Okapi, 5 June 2014.

²⁷ The dialogue with civil society is hampered by suspicions and conflicts of interest. Crisis Group email correspondence, civil society representative, Kinshasa, March 2015. Political parties are invited since 8 February 2014 to sign a protocol creating a liaison committee, establishing a regular dialogue between the parties and the CENI as well as a code of conduct. "Protocole d'accord instituant un comité de liaison entre la Commission Electorale Nationale Indépendante (CENI) et les partis politiques en République démocratique du Congo pour le Cycle Electoral 2013-2016.", CENI, Décembre 2013. "CENI : 12 nouvelles signatures des partis et regroupements politiques du Code de bonne conduite", Agence congolaise de presse (ACP), 18 April 2015. In April 2015, the protocol was signed by 396 parties, but none of the major opposition political formations. "CENI: Neuf partis et trois regroupements politiques signent le code de bonne conduite", *L'Avenir*, 19 April 2015; "Cycle électoral 2014-2016: le train de la CENI démarre sans UDPS, UNC, MLC ...", *Le Potentiel*, 10 February 2014. The CENI has organised several consultations with parties and civil society but, again, without major opposition actors.

²⁸ "Décision N°001/CENI/BUR/15 du 12 février 2015 portant sur la publication du calendrier des élections provinciales, urbaines, municipales et locales 2015 et des élections présidentielle et législatives 2016", CENI, 12 February 2015.

²⁹ Crisis Group interview, civil society representative, Kinshasa, December 2014; "Déclaration des partis politiques, regroupements politiques et groupes parlementaires de l'opposition ainsi que des organisations de la société civile et de la diaspora en rapport avec le calendrier électoral global du 12 février 2015", Kinshasa, 27 February 2015.

Under pressure by donors and internal actors alike, the CENI published the election calendar on 12 February 2015, immediately after the promulgation of the new electoral law.³⁰ The commission opted to complete the 2011 cycle with local, provincial and senatorial elections in 2015 and early 2016, and to combine presidential and legislative polls on 27 November 2016.³¹ The opposition immediately criticised the calendar for being non-consensual, unrealistic, incoherent and unconstitutional.³² However, it also said it was willing to look at proposals to amend it and make it more acceptable. With no official reaction by the CENI, the opposition platform requested a meeting with the commission, immediately after the opening of the registration for candidates for the provincial elections and upon the return to DRC of Abbot Malu Malu, who had been absent from the country for several months, in April 2015.³³

Malu Malu's absence from DRC had created uncertainty about the management of the electoral process and his future at the CENI. Upon his return he reaffirmed the electoral calendar.³⁴ Shortly after, in a parliamentary debate, Deputy Prime Minister Evariste Boshab also confirmed that the electoral process was on course. Despite these assurances parliament voted two recommendations, on the budget and the preparation of a law on the distribution of seats for the local elections.³⁵ Following this, a platform regrouping several important opposition parties announced on 20 April 2015 that they would suspend their participation in the provincial elections pending a reply to its request for a meeting.³⁶ The opposition demanded the registration of young voters that have been excluded from the local and provincial elections by the decision to retain the contested voter roll used in 2011 (see Section IV.B.1 below) and the delay of local elections until after 2016. It also expressed concern about decentralisation and its impact on the electoral process.

The 27 April meeting between opposition representatives and the CENI was the first major confrontation of wills between the opposition and the commission; both seemed entrenched in their positions.³⁷ The standoff will test the unity of the opposition as well as the capacity of the different parties to control their local representatives.

³⁰ "Calendrier global des élections en RDC: la CENI attend la décision de l'Assemblée Nationale", Radio Okapi, 13 December 2014.

³¹ Covering itself, in an annex to the calendar, the CENI listed 23 external constraints to the implementation of the calendar, mostly the responsibilities of government and parliament. It also announced it would need \$1.145 billion. In perspective, the 2015 national budget is approximately \$9 billion.

³² "Déclaration ... en rapport avec la publication par la CENI du calendrier électoral global", op. cit.

³³ Malu Malu's absence from DRC was related to his health. "Processus électoral : RDC, l'Opposition cherche Malumalu !", *La Prospérité*, 21 April 2015. Crisis Group interview, Congolese researcher, Brussels, March 2015.

³⁴ "Processus électoral: Malumalu renvoie l'opposition aux études", *L'Avenir*, 16 April 2015.

³⁵ "Assemblée nationale: des recommandations pour faire aboutir le processus électoral en RDC", Agence congolaise de presse, 19 April 2015.

³⁶ Crisis Group email correspondence, opposition representative, 21 April 2014; "Déclaration des partis politiques, regroupements politiques et groupes parlementaires de l'opposition ainsi que des organisations de la société civile et de la diaspora", Kinshasa, 20 April 2015.

³⁷ The same day, UNC President Vital Kamerhe launched a request for candidates of the party for the provincial elections to come forward and for the provincial party structures to retrieve the documents needed for the introduction of candidates. "RDC: l'opposition s'inquiète de l'indisponibilité de Malumalu", Radio Okapi, 27 April 2015. For the UNC documents, see www.vital-kamerhe.com.

Several had already engaged in the electoral process by designating candidates, and the UDPS seemed to be split in the middle.³⁸

D. *Increasing Authoritarianism*

Pressure on regime opponents, always present, has increased with the approaching elections. Repression has been violent, in particular during the January 2015 street protests against the electoral law.³⁹ In 2014, the national and provincial governments took administrative measures to obstruct opposition rallies. Opposition leaders were harassed or arrested during protests and several are facing legal proceedings, most recently Vital Kamerhe, Jean-Claude Muyambo and Ernest Kyaviro.⁴⁰ The trial against Vital Kamerhe, currently challenged at the newly established Constitutional Court, could seriously affect his capacity to stand in a future election.⁴¹

The government is targeting civil society movements, such as Filimbi in Kinshasa and LUCHA in Goma, which have surfaced in recent years and gained much prominence since January 2015. They are mostly composed of students or young professionals, are active on social media and are in contact with similar grassroots movements in Senegal (Y'en a marre) and Burkina Faso (Balai citoyen).⁴² On 15 March 2015, security services interrupted a meeting in Kinshasa attended by representatives from both movements.⁴³ Numerous arrests were made and a small-scale support protest in Goma repressed. The success of these new movements in Senegal and Burkina Faso make the government nervous.⁴⁴ Meanwhile, government reluctance to provide adequate clarity on the mass grave discovered in Maluku, Kinshasa, after the January protests has reinforced suspicions about the regime's heavy-handed response.⁴⁵

The government also increasingly lashes out at outside interference and criticism.⁴⁶ It expelled the director of the UN Joint Human Rights Office following the publication of its report on the violent police operations against criminal groups (called

³⁸ Crisis Group email correspondence, opposition party representative, April 2015; "Elections en RDC: l'opposition monte au créneau", Afrikarabia, 30 April 2015.

³⁹ The government announced 27 victims while human rights organisations counted 36 to 42 casualties. The discovery in April of a mass burial site in Maluku, near Kinshasa, containing 424 bodies and the lack of clarity on the identity of the deceased increased concerns about the number of casualties. "RDC: 27 morts lors des troubles de janvier", *Jeune Afrique*, 5 February 2015; "DR Congo: Deadly Crackdown on Protests", Human Rights Watch (HRW), 24 January 2014; "Affrontements en RDC: des bilans contradictoires", Radio France internationale (RFI), 22 January 2015.

⁴⁰ "Kinshasa: Jean-Claude Muyambo interpellé par la police, selon l'Acaj", Radio Okapi, 20 January 2015; "Katanga: des partis politiques de l'opposition dénoncent l'acharnement du pouvoir", Radio Okapi, 2 February 2015; "RDC: un opposant écroué après près de trois mois de détention au secret", Agence France-Presse (AFP), 20 April 2015.

⁴¹ "RDC: renvoi du procès de Vital Kamerhe devant la Cour constitutionnelle", RFI, 14 April 2015.

⁴² La LUCHA (Lutte pour le changement) is a Goma-based network that protests against poor governance and the lack of development in North Kivu. "RDC: ce que Kinshasa reproche à 'Y'en a marre', 'Balai citoyen' et 'Filimbi'", *Jeune Afrique*, 16 March 2015.

⁴³ "RDC: arrestation des leaders de Y'en a marre et du Balai citoyen", RFI, 15 March 2015; "Campagne internationale pour la libération de militants détenus en RDC", AFP, 30 March 2015.

⁴⁴ Crisis Group interview, Congolese researcher, Brussels, March 2015. "RDC: le mouvement pro-démocratie Lucha dit se sentir 'en danger'", AFP, 25 March 2015.

⁴⁵ "RDC: la fosse commune de Maluku réveille le débat sur la répression", RFI, 8 April 2015.

⁴⁶ Crisis Group interview, UN official, Kinshasa, December 2014. "RDC: Joseph Kabila hausse le ton face à la communauté internationale", RFI, 15 February 2015.

“Likofi”) that took place in Kinshasa from November 2013 to February 2014.⁴⁷ The president undertook in December 2014 “not to bow to foreign orders” regarding the elections.⁴⁸ The government also demanded the UN significantly reduce its military presence, and has prevented it from performing its mandated role to facilitate a political dialogue, chiding SRSG Martin Kobler for organising informal meetings with the opposition.⁴⁹

In February, tension arose concerning MONUSCO military support to Congolese army (FARDC) operations against the Democratic Forces for the Liberation of Rwanda (FDLR, a rebel group). This further increased the strain in relations between New York and Kinshasa ahead of discussions on the renewal of MONUSCO’s mandate.⁵⁰ The Security Council, not intent on giving in to the Congolese request to seriously downsize the mission, reduced the force by 2,000 in Resolution 2211 (26 March 2015).⁵¹ It is crucial to improve working relations between the UN and DRC government, but the “strategic dialogue” launched since the adoption of the resolution remains exceedingly difficult.⁵²

E. *The Security Forces: A Pillar of the Regime*

The repression is carried out by a complex internal security apparatus that is tightly controlled by the presidency, mostly bypassing formal government structures.⁵³ The essential elements are the Republican Guard (GR); the National Intelligence Agency (ANR); a number of police units mainly deployed in Kinshasa and other major urban centres, in particular the National Intervention Legion (LENI); and a few army cadres and units such as the Military Police (PM) and military intelligence units. During military operations against armed groups in the east, these direct lines from the presidency have often been criticised.⁵⁴ An important coordinating structure at the presidency is the “Maison militaire” led by General François Olenga, a long-time ally of the president who became a public figure when he took command of the FARDC land forces during the M23 crisis.⁵⁵

Several key leaders within the security forces are from Katanga. They include the leadership (and many of the rank and file) of the GR, currently headed by General Hugues Raston Ilunga Kampete. His predecessor, General Banza Lubunji, has been commander of the FARDC land forces since the last major command reshuffle in Sep-

⁴⁷ “Le responsable des droits de l’homme de l’ONU indésirable en RDC”, RFI, 16 October 2014.

⁴⁸ “Discours sur l’Etat de la Nation”, Cabinet of the President, Kinshasa, 15 December 2014.

⁴⁹ Crisis Group interviews, diplomats, Kinshasa, December 2014; “Report of the Secretary-General on the UN Stabilization Mission in the DRC, submitted pursuant to paragraph 39 of Security Council Resolution 2147 (2014)”, S/2014/957, 28 March 2014, p. 10. This is similar to government policies in 2010.

⁵⁰ Crisis Group email correspondence, UN officials, Nairobi, February-March 2015.

⁵¹ The authorised troop ceiling was maintained at 19,815 troops, the reduction would be made permanent “once significant progress has been achieved regarding the priorities of MONUSCO’s mandate”. Resolution 2211 (2015), S/RES/2211, 26 March 2015.

⁵² Crisis Group email correspondence, UN official, April 2015.

⁵³ Crisis Group interviews, Congolese officials, UN and diplomatic sources, Kinshasa, Brussels, Nairobi, March 2014-March 2015.

⁵⁴ For further reading, see Maria Eriksson Baaz and Judith Verweijen, “Between Integration and Disintegration: The Erratic Trajectory of the Congolese Army”, Social Science Research Council, 29 March 2013.

⁵⁵ “Le général Olenga commenta la victoire de l’armée congolaise”, Le Soir blog (www.blog.lesoir.be), 8 November 2013.

tember 2014.⁵⁶ In the same reshuffle, the command of the defence zone that includes Kinshasa was handed to General Gabriel Amisi, who is from Maniema province and is also considered close to the president. In Katanga, the other sensitive area, General Jean-Claude Kifwa, a nephew of President Kabila and former commander of the GR, was installed.⁵⁷ Beyond the commanders, the entire September 2014 command reshuffle was considered to be a tightening of control of strategic areas by the presidency.⁵⁸

The ANR is led by Kalev Mutond, a Katangan from the southern Lualaba district considered close to the president.⁵⁹ Within the police forces, security in Kinshasa is managed by Generals Célestin Kanyama, inspector-general of the Congolese police in the capital, and Ngoy Sengelwa, the commander of the LENI. Their controversial role in the Likofi operations has been documented in several human rights reports.⁶⁰ Another leader within the police who is said to be close to the presidency is the deputy police chief, Raus Chalwe, former head of the police intelligence and special unit.⁶¹ The national prosecutor, Flory Kabange Numbi, from Katanga as well, is also reputed to be close to the presidency.

⁵⁶ "FARDC: la liste des officiers généraux et supérieurs nommés à la tête des grandes unités militaires", *Forum des As*, 19 September 2014.

⁵⁷ Jean Omasombo, "Biographie des acteurs de la Troisième République", Brussels (2009), p. 125. In the latest reform of the defence structure, the country has been divided in three defence zones, with each divided in military regions covering one or several provinces. The commanders of the defence zones have significant operational responsibility. Law 11/012 of 11 August 2011; "Genèse et bref aperçu de la loi organique portant organisation et fonctionnement des FARDC", Desc-Wondo (www.desc-wondo.org), 8 October 2013.

⁵⁸ Crisis Group email correspondence, security analyst, Nairobi, October 2014.

⁵⁹ "RDC: Après les manifestations houleuses, des têtes vont-elles tomber dans l'armée et la police?", Desc-Wondo, 29 January 2015.

⁶⁰ "Rapport du Bureau Conjoint des Nations Unies aux Droits de l'Homme sur les violations des Droits de l'Homme commises par des agents de la Police Nationale Congolaise dans le cadre de l'Opération 'Likofi' à Kinshasa entre le 15 novembre et le 15 février 2014", MONUSCO, October 2014.

⁶¹ Jean Omasombo, op. cit., p. 56.

III. Elections in a Fragmented Political Landscape

The political landscape is fragmented, as there are only a few larger majority and opposition formations and a plethora of small, “one-man” parties, most often with a strong regional or ethnic affiliation.⁶² In March 2015, 477 political parties were registered at the interior ministry.⁶³ Both the opposition and governing majority have deep-seated divisions that play out in their positioning ahead of the 2016 elections. These manoeuvres are fuelled by speculation, since 2011, regarding the intentions of President Kabila and his inner circle.⁶⁴ The president has not spoken publicly on whether he will seek a third term, while he is said to have declared in private to want to respect the constitutional term limit.⁶⁵

Speculation has focused on a number of scenarios: the removal or amendment of the constitutional clause on the two-term limit, the postponement of the election for “technical reasons”, or a leadership switch within the majority, the so-called Putin-Medvedev scenario.⁶⁶ Since the June 2013 publication of a book on constitutional reform by Evariste Boshab, leader of Kabila’s PPRD, possible reform has been at the centre of political debate.⁶⁷ As a precedent, the constitution was amended in 2011 to allow a single-round presidential election.⁶⁸

The constitutional reform debate also includes President Kabila’s proposal, made public after the consultations, to change the mode of election for the provincial assemblies. This idea was retained as one of two options in CENI’s contentious January 2014 electoral roadmap and was included in a package of electoral legislation announced by the government in June 2014.⁶⁹ The package was silently withdrawn in November 2014 and replaced in January 2015 by the comprehensive electoral law that triggered street protests.⁷⁰

⁶² Crisis Group interview, civil society representative, Kinshasa, December 2014.

⁶³ “RDC: 477 partis et une trentaine de regroupements politiques agréés”, Radio Okapi, 13 March 2015.

⁶⁴ President Kabila has been in power since January 2001 when he succeeded his assassinated father. He remained president during the 2003 transition and was elected in 2006 and 2011.

⁶⁵ Crisis Group interviews and email correspondence, diplomats, politicians and Congolese academics, Kinshasa, Nairobi, March 2014-January 2015.

⁶⁶ Manya Riche, Kris Berwouts, “DRC Elections: Will Kabila stay or go? And many other questions on the road to 2016”, African Arguments, 24 June 2014. Article 70 of the constitution provides for a five-year presidential term renewable once. According to Article 220, this provision, as well as others, cannot be revised. This reflects a domestic and international consensus that prevailed during the transition period, and when the constitution was drafted and adopted in a referendum in 2005. The proposals for the review of the constitution would first amend or remove Article 220. “RDC: le PPRD est favorable à la révision constitutionnelle, selon Evariste Boshab”, Radio Okapi, 29 July 2014.

⁶⁷ Evariste Boshab is deputy prime minister and interior minister (since December 2014); secretary general of the PPRD, the largest in the National Assembly; and former National Assembly president. Evariste Boshab, *Entre révision de la Constitution et l'inanition de la nation* (Brussels, 2013).

⁶⁸ The mode of election was changed from a two-round system to a single round, first-past-the-post, just before the 2011 elections. Official Journal of DRC, Year 52, no. 3, 1 February 2011.

⁶⁹ “Compte rendu de la 23ème réunion extraordinaire du Conseil des ministres”, Minister of Media, 9 June 2014; “RDC: le projet de modification constitutionnelle divise le Parlement”, RFI, 16 September 2014.

⁷⁰ This project no longer included the controversial proposal regarding the provincial assemblies. Crisis Group interview, diplomat, Nairobi, November 2014; “Le gouvernement retire les quatre projets de lois portant révision de la Constitution”, *C-News*, 17 November 2014; “Le projet de révision de la loi électorale déposé à l’Assemblée Nationale”, Radio Okapi, 5 January 2015.

A. *January 2015: A Mini Electoral Crisis*

The draft electoral law introduced in the 2014-2015 extraordinary session of parliament included a number of revisions. Particularly contentious was the link between the updating of the voter roll and the national census (Article 8).⁷¹ This would almost automatically delay the elections, as a census, for which no resources have been made available, is expected to take several years.⁷² The opposition therefore boycotted the debate and the vote, which was rushed through the National Assembly on 17 January 2015.⁷³ Fears about potential delays were fuelled by government spokesperson Lambert Mende declaring that postponing the presidential election to 2017 could be a possibility.⁷⁴ In reaction to the adoption of the law the opposition launched street protests, but it quickly lost control over them, and as many as 36 people died in the violence.⁷⁵

In the confusion of the protests and following increasing diplomatic involvement, the Senate amended Article 8, cutting the link between the voter registration and the census, on 23 January. It also introduced a clause stating that publication of the voter roll has to meet the legal and constitutional deadlines.⁷⁶ Senate President Kengo Wa Dondo was very prominent in voicing his satisfaction with the outcome, highlighting that the Senate had listened to the street.⁷⁷ This caused serious consternation within the majority, as Kengo had just had his representatives installed in the new government.⁷⁸

After a day of negotiations and crisis meetings the National Assembly speaker and majority secretary general, Aubin Minaku, announced the withdrawal of the entire paragraph referring to the census, thereby also removing the Senate's reference to respecting deadlines.⁷⁹ The decision was the result of growing unease within the majority. It seems that when some attempted to maintain the original text or further amend the Senate's proposed language, a wider schism appeared within the majority, with the MSR, Unified Lumumbist Party (PALU), Union of Congolese Nationalist Federalists (UNAFEC) and Alliance for Renewal of Congo (ARC) opposing such a move.⁸⁰ There was also considerable diplomatic pressure, and fears of renewed violence if the National Assembly maintained the original text.⁸¹

Protests in Kinshasa and other major cities were handled by armed Republican Guard troops as police forces were unable to maintain control. Police officers were also

⁷¹ Crisis Group email correspondence, opposition MP, February 2015.

⁷² The census remains planned, and it is estimated to take up to three years. Crisis Group interviews, diplomats and civil society representatives, Kinshasa, December 2014.

⁷³ When the controversial law passed for the first time in parliament, it did not receive full support of the governing majority. The Movement for Social Renewal (MSR) abstained, while the Alliance for the Renewal of Congo (ARC) of Planning Minister Olivier Kamitatu voiced opposition. Crisis Group email correspondence, civil society representative, Nairobi, January 2015.

⁷⁴ "Lambert Mendé: en RDC, 'la présidentielle peut se tenir en 2016 comme en 2017'", RFI, 16 January 2014.

⁷⁵ Lack of clarity remains regarding the number of victims – these were fuelled by the discovery of the mass grave in Maluku near Kinshasa in April 2015. "DR Congo: Deadly Crackdown on Protests", op. cit.

⁷⁶ "Sénat: le recensement et l'identification de la population élagués de la loi électorale", Radio Okapi, 23 January 2015.

⁷⁷ "En direct du Sénat", video, YouTube, <http://bit.ly/1Qbfbdw>.

⁷⁸ Crisis Group interviews, Kinshasa-based diplomatic sources, Nairobi, January 2015.

⁷⁹ Crisis Group email correspondence, Kinshasa-based diplomat, January 2015. "Violences en RDC: l'Assemblée retire de la loi électorale l'alinéa controversé", Radio Okapi, 24 January 2015.

⁸⁰ "Kabila obligé de lâcher du lest", *La Libre Belgique*, 24 January 2015.

⁸¹ Crisis Group email correspondence, Kinshasa-based diplomat, January 2015. "Un alinéa litigieux retiré. Pas le reste", *La Libre Belgique*, 26 January 2015.

reportedly involved in looting.⁸² The relatively lengthy mobilisation, the determination of pockets of protesters and the references by parliamentary leaders to “having listened to the street”, all demonstrate popular sentiment against the status quo. The lack of success – so far – in amending the rules of the game and the level and determination of popular mobilisation indicate that whatever may have been the perception within the majority, 2015 clearly is not a repeat of 2011.

B. *A Majority Only in Name?*

President Kabila’s majority, constructed from an alliance between the Presidential Majority (MP) and the PALU, is a loose federation rather than a cohesive movement.⁸³ The future elections have brought internal divisions increasingly to the fore. A recurring criticism concerns the lack of open dialogue within the MP. The MSR, the second largest party in the MP, and the PALU have both called for talks.⁸⁴ In January 2015, PALU leader Antoine Gizenga requested a permanent dialogue within the majority, as well as with the opposition. He warned about the limitation of public space and reaffirmed the need to respect the constitution and its provisions for the entire electoral timeline.⁸⁵ Of particular importance are two letters to the president, signed by a group of seven parties within the majority, the G7.⁸⁶ The latest, dated 5 March, makes a harsh assessment of the majority’s current position and warns of a political crisis. It calls for cohesion and regular and open dialogue in order to position the majority to win the elections. As a result, a round of majority meetings began in March.⁸⁷

The MP’s largest party, the PPRD, led by Evariste Boshab, seems to be mostly in favour of attempting legal engineering to keep Kabila in office.⁸⁸ However, it also faces important internal dissent; this was brought into the open in late December when Katanga Governor Moïse Katumbi declared his opposition to a third term for the president.⁸⁹ While Katumbi insisted on remaining within the PPRD, there are strong indi-

⁸² Crisis Group email correspondence, diplomatic and civil society representatives, Nairobi, January 2015.

⁸³ The presidential majority was formed in April 2011 and is loosely based on the previous Alliance for a Presidential Majority (AMP). It is composed of the PPRD, MSR, Alliance of Democratic Forces of Congo (AFDC), ARC, UNAFEC and PALU. “Signature de la charte de la Majorité Présidentielle”, *Le Potentiel*, 6 April, 2011.

⁸⁴ “Déclaration officielle du Mouvement social pour le renouveau en rapport avec le débat sur la révision constitutionnelle”, Kinshasa, 12 August 2014.

⁸⁵ “Déclaration du PALU relative aux incidents survenus sur le territoire national du lundi 19 au mercredi 21 janvier 2015”, Kinshasa, 28 January 2015.

⁸⁶ On file with Crisis Group. Both letters are signed by the MSR, ARC, PDC, ACO, UNAFEC, UN-ADEF and MSDD – the G7.

⁸⁷ “RDC: autour de Kabila la majorité s’est expliquée”, RFI, 23 March 2014; “Retrouvailles de la majorité à Kingakati le week-end : les pendules remis à l’heure par A. Minaku”, Digital Congo, 13 April 2015.

⁸⁸ In July, Evariste Boshab declared that the PPRD is in favour of constitutional revision and a close presidential collaborator, Ambassador Theodore Mugalu, also a pastor, asked for a “constitution that respects God”. “RCD: le PPRD est favorable à la révision constitutionnelle, selon Evariste Boshab”, Radio Okapi, 29 July 2014; “Bible en main, Théodore Mugalu prêche le changement total de la constitution”, video, YouTube, 4 August 2014, <http://bit.ly/1be4NHJ>.

⁸⁹ Earlier, Huit Mulongo, Moïse Katumbi’s office director, declared his opposition to constitutional reform. “Huit Mulongo: ‘La révision de la constitution n’est pas opportune’”, Radio Okapi, 28 October 2014. “RDC: démonstration de force de Moïse Katumbi à Lubumbashi”, Afrikarabia, 23 December 2014.

cations of a serious rift with the president.⁹⁰ A particular area of contention is the break-up of Katanga, in accordance with the constitution, which was opposed by Moïse Katumbi and Katanga provincial assembly speaker Gabriel Kyungu.⁹¹ The promulgation of a law moving this process forward led Katumbi to announce that he would step down from his post and undertake an extensive trip throughout the country.⁹² The removal of Katumbi has been quoted by many as a major factor in the government's decision to push forward the creation of the new provinces, despite opposition in many quarters (see below).⁹³

Moïse Katumbi's position within, and later possibly outside the majority, is likely to be the game changer, both for the president and opposition leaders. Katumbi is one of the few political figures with national recognition.⁹⁴ Earlier, Congolese Solidarity for Democracy (SCODE), a smaller Katangan party led by Jean-Claude Muyambo, left the majority.⁹⁵ In April, in a further sign of defiance, UNAFEC decided during its congress to remain within the majority but to select its own presidential candidate – from within the majority.⁹⁶

Since 2011 the majority has been looking to expand its reach, particularly in western Equateur province. With the 2013 consultations, it approached Senate President Kengo Wa Dondo, an important actor in that region. The government of “national cohesion”, announced on 7 December 2014, brought in some opposition members.⁹⁷ There were no real surprises as the major opposition parties and personalities around the Union for the Congolese Nation (UNC) and UDPS were not involved. The broadening is limited to some personalities within Jean-Pierre Bemba's Movement for the Liberation of Congo (MLC), in particular former secretary general Thomas Luhaka, and politicians close to Kengo Wa Dondo, including the new budget minister, Michel Bongongo.⁹⁸ The new government is generally considered to have weakened the position of Prime Minister Matata Ponyo, who now has to contend with more influential deputy prime ministers, in particular Evariste Boshab (also interior minister) and the new finance minister, Henri Yav Mulang, previously deputy head of the presidency.⁹⁹

The political crisis surrounding the electoral law little more than a month after the installation of the government of national cohesion demonstrated that this attempt

⁹⁰ Another important indication is the removal of different customs and fiscal administration officials of Katanga province. This increasingly seems like the start of a full-blown political war. “Congo-K: Mining firms fear civil strife in Katanga”, *Africa Mining Intelligence*, no. 336, 13 January 2015.

⁹¹ “Décentralisation: un front katangais s'érige contre le découpage territorial”, Adiac (www.adiac-congo.com), 6 January 2015.

⁹² “RD Congo: ‘Il faut savoir accepter la démocratie et partir’ dit Moïse Katumbi”, *France 24*, 18 March 2015.

⁹³ Crisis Group email correspondence, diplomats, civil society members, March 2015.

⁹⁴ Because of his football team, “Tout Puissant Mazembe”, his reputation as a successful mining businessman and his developmental activities in Katanga. Thierry Michel, “L'irrésistible ascension de Moïse Katumbi”, DVD, 2013.

⁹⁵ Following the failure by Burkina Faso's President Blaise Compaoré to amend the constitution to extend his rule in October 2014, he expressed himself even more clearly. “RD Congo: un député met en garde contre un scénario à la Burkinabé”, *Jeune Afrique*, 31 October 2014.

⁹⁶ “RDC: l'UNAFEC de Kyungu présentera un candidat à la présidentielle”, *Radio Okapi*, 7 April 2015.

⁹⁷ “Quelques poids lourds de l'opposition intègrent le nouveau gouvernement congolais”, *Le Soir*, 8 December 2014.

⁹⁸ The MLC members joining the government were expelled from the party, and this was disputed. “MLC: Eve Bazaiba présente les documents légaux de sa nomination”, *Radio Okapi*, 7 January 2015.

⁹⁹ Crisis Group interviews, diplomats, UN official, civil society representatives and academics, Kinshasa, December 2014.

to broaden the majority clearly had its limits. By April 2015, there were once again signs that a new reshuffle was in the making.¹⁰⁰

C. *The Opposition: Divided we Stand*

1. Political parties

As disorganised as the majority, the opposition is centred on four major parties. Former Mobutu opponent Etienne Tshisekedi leads, historically, the most important group, the UDPS. The party has its major base in Kinshasa and the Kasai provinces, but it has weakened over the past years. The main divisive issues are the battle of succession for the ailing Tshisekedi and the party's post-2011 elections strategy. Some of the MPs took their seats, others did not, refusing to accept the results. The hyper-personalisation around Tshisekedi prevented the party's institutionalisation and the resulting struggles seriously affect its effectiveness and legitimacy.¹⁰¹ Etienne Tshisekedi's son, Félix, is taking an increasingly prominent position in the party and its projection.¹⁰²

The second is the UNC, led by former Kabila ally Vital Kamerhe from South Kivu province, which is increasingly centre-stage. His political past damaged Kamerhe, but the UDPS's weakness and a clear and constructive message increase the UNC's political weight. Kamerhe was also relatively strengthened by the January 2015 protests, as he was the most prominent opposition leader mobilising against the electoral law.¹⁰³

The MLC, once the main opposition party to President Kabila, is a ghost of its former self. Its capacity and the loyalty of its representatives are seriously limited by the incarceration, pending trial, of leader Jean-Pierre Bemba by the International Criminal Court (ICC). Two well-known representatives have joined the Kabila government. However, the possibility of Bemba's return to the Congolese political scene, depending on the timing and evolution of his trial, could change the dynamics within the opposition, as he is considered to maintain political capital in the western part of the country.¹⁰⁴

The fourth is the Republican Opposition constituted around Senate President Kengo Wa Dondo.¹⁰⁵ Its members, together with a number of (former) MLC politicians, have now joined the government. During the opening of the September 2014 parliamentary session Kengo expressed his firm opposition against, in particular, modification of the constitution's article on the presidential term limit. He was very visible during the electoral law crisis, creating animosity within the majority.¹⁰⁶

¹⁰⁰ Crisis Group email correspondence, Congolese official, April 2015.

¹⁰¹ Crisis Group interview, civil society representative, Kinshasa, December 2014. "RDC: rien ne va plus à l'UDPS", RFI, 1 December 2014.

¹⁰² "RDC: Etienne Tshisekedi, ad vitam aeternam", *Jeune Afrique*, 3 March 2015; "RDC: l'UDPS participera aux provinciales mais pose des préalables pour la présidentielle", Radio Okapi, 21 April 2015.

¹⁰³ "Pr. Omasombo: 'On entame la fin de Joseph Kabila'", *La Libre Belgique*, 5 February 2015.

¹⁰⁴ "RDC-CPI: comprendre le procès Bemba en 5 questions", *Jeune Afrique*, 13 November 2014.

¹⁰⁵ Created on 14 February 2014, it is composed of the political parties and platforms that participated in the consultations, but dwindled in size in the course of the year. Crisis Group interview, diplomat, Kinshasa, December 2014. "RDC : des opposants créent une nouvelle coalition", Radio Okapi, 15 February 2014.

¹⁰⁶ Crisis Group email correspondence, Congolese official, Nairobi, March 2015. "Allocution du Président à l'occasion de l'ouverture de la session ordinaire de septembre 2014", Senate, Office of the President, Kinshasa, 15 September 2014.

In addition to these major groups there are a number of prominent individuals, such as Martin Fayulu and Clément Kanku, and smaller parties that lack a large political base. Fayulu was active in the organisation of the January protests. He has gained prominence in the mobilisation that followed the discovery of the mass grave at Maluku and in the suspension of opposition participation in the provincial elections.¹⁰⁷

2. The religious factor

Religion is a crucial organisational element and the churches' role in the electoral process is likely to be at least as important as that of political parties. Possibly the most influential, although not united, block in the opposition is the Catholic Church, led by Cardinal Laurent Monsengwo.¹⁰⁸ As was the case in the Mobutu era, the Catholic Church is the strongest actor in the complex web of civil society organisations. It is a prominent opponent of Malu Malu's appointment to head the CENI. The National Episcopal Conference of Congo (CENCO) adopted an outspoken position against constitutional reform that would allow the president to run for a third term as well as during the protest against the electoral law.¹⁰⁹

The protestant churches do not have a united view on the third term but the leader of the influential "Eglise du Christ au Congo" spoke out in favour of the government's reform proposals.¹¹⁰ The position is mixed in the Pentecostal "Eglises du réveil".¹¹¹ Some churches supported constitutional review in 2014 and were seen as propagandists for the regime. In September 2014, the CENCO suspended its participation in the newly created inter-church Integrity and Electoral Mediation Committee (CIME), apparently in a bid to maintain its distance from CENI.¹¹² However, the Catholic Church remains actively engaged on electoral issues through its justice and peace commission.¹¹³ The influential Kimbanguist Church, meanwhile, promised its support to the CENI and the electoral calendar.¹¹⁴

¹⁰⁷ "RDC: l'opposition conditionne sa participation aux élections provinciales", Radio Okapi, 20 April 2015.

¹⁰⁸ Cardinal Monsengwo was also very outspoken during the 2011 post-electoral phase.

¹⁰⁹ Crisis Group interview, civil society representative, Kinshasa, March 2014; "Protégeons notre nation, message de la 51ième Assemblée plénière des Evêques, membres de la CENCO", Kinshasa, 27 June 2014.

¹¹⁰ "RDC: Mgr. Marini Bodho favorable à la révision de la Constitution", Radio Okapi, 7 August 2014.

¹¹¹ The president might be able to exercise some influence, as a number of important supporters are active preachers, including ambassador Mugalu, head of the "Maison civile", and pasteur Ngoy Mulunda, former CENI president.

¹¹² The CIME, coordinated by Reverend Delphin Elebe Kapalay (Kimbanguist Church), is an initiative by the churches mainly focused on conflict prevention and resolution. Crisis Group interview, Catholic Church official, Kinshasa, December 2014. "RDC: la CENCO réaffirme son opposition à la modification de l'article 220 de la constitution", Radio Okapi, 16 September 2014. "Le plan quinquennal de la CIME remis à la CENI", Agence congolaise de presse, 1 December 2014.

¹¹³ "L'Eglise catholique en RDC veut former plus de 30000 observateurs électoraux", *La Croix*, 21 April 2015.

¹¹⁴ "L'Eglise Kimbanguiste promet d'accompagner la CENI dans le processus électoral", *La Tempête des Tropiques*, 9 April 2015.

3. A quest for unity?

The question of constitutional reform brought some unity to the otherwise scattered opposition. Opposition parties, civil society organisations and the Catholic Church have all been mobilising against it.¹¹⁵ The UNC and UDPS have taken the lead; since August 2014 they have organised rallies and marches in Kinshasa and other cities, mainly in the east. The authorities have seriously restricted rallies and, until the electoral law protests, mobilisation was limited.¹¹⁶ Demands focused on a number of key issues: opposition to constitutional reform, the opening of an inclusive political dialogue facilitated by the UN, the release of political prisoners and the publication of a comprehensive electoral calendar. The latter was done, but, as noted above, the opposition is demanding revisions.¹¹⁷

Despite several shared objectives, the opposition struggles to maintain a unified front.¹¹⁸ Differences remain over strategy and suspicions about personal ambitions. These proved justified when some opposition members joined the government of national cohesion.¹¹⁹ In January 2015, this led to the signing of an unconvincing “contrat de confiance” by 61 political opposition and civil society groups.¹²⁰ Divisions were also apparent in the electoral law crisis. While all rejected the proposed link between the census and the voter rolls, there remained a schism, in particular between Vital Kamerhe’s UNC, which focused on the electoral legislation, and the UDPS, which called for people to continue protests as it still claims the presidency.¹²¹ In the opposition’s call to suspend participation in the provincial elections, the UDPS also adopted another position.¹²²

¹¹⁵ This includes CENCO, the Catholic Church and Vital Kamerhe’s “Save DRC” platform. The 2011 precedent – when an amendment allowing for a single-round presidential election was pushed through parliament ten months before the polls – also explains their position. On 27 June 2014, the 51th CENCO assembly adopted the document “Protect our Nation”, calling for a peaceful electoral climate.

¹¹⁶ The first rally on 4 August drew a few thousand protesters and led to the arrest and conviction of a UNC MP for “defamation of the president”. “RDC: le député Jean-Bertrand Ewanga condamné à 12 mois de prison ferme”, Radio Okapi, 12 September 2014. The opposition tried to organise other rallies but they were all banned for “technical issues”. “RDC: au moins 20 manifestants arrêtés lors d’un sit-in à Kinshasa”, *Jeune Afrique*, 3 November 2014.

¹¹⁷ Crisis Group email correspondence, opposition MP, 2015.

¹¹⁸ For instance, “Droit de réponse de CDPS contre les attaques infondées des membres de l’UDPS”, CDPS, Kinshasa, 24 February 2015.

¹¹⁹ Crisis Group interview, civil society representative, Kinshasa, December 2014.

¹²⁰ Including the UNC and the UDPS. “Contrat de confiance”, Congolese political opposition and civil society organisation, Kinshasa, 16 January 2015.

¹²¹ The opposition had called for a rally on 26 January, but the UNC withdrew following the scrapping of the contested paragraph. The UDPS maintained its call.

¹²² “RDC: l’UDPS participera aux provinciales mais pose des préalables pour la présidentielle”, Radio Okapi, 21 April 2015.

IV. Electoral Preparations: Problems and Uncertainties

After failing to amend the constitution or create legal conditions that would delay the election, the government seems to have opted for a third option – chaos. The sheer magnitude of the electoral agenda, in particular the local and provincial elections, combined with the sudden urgency in the otherwise stalled establishment of the new provinces, is likely to result in massive confusion and disarray. Splitting up several provinces, the so-called *découpage* process, could cause turmoil. The local elections need comprehensive institutional preparations that are complicated by the requirements of decentralisation, including the creation of new administrative structures, the devolution of responsibilities, the clarification of the budget, and the installation of a new “equalisation fund”.¹²³ Meanwhile, both decentralisation and *découpage* are under-resourced and serve no discernible immediate developmental or stabilisation purpose. They carry the risk of the institutional equivalent of a heart attack. Such a scenario would justify an indefinite delay of the elections.

A. Decentralisation in Times of Elections

The installation of the 26 new provinces (dividing up the current eleven), mostly based on the pre-existing districts, should have happened by 2010, but the whole process has been stalled. Provincial political actors, in particular in Katanga and Bas Congo, focused their attention on the non-allocation from Kinshasa of the 40 per cent of fiscal revenue that the provinces are institutionally entitled to. The interior ministry has said the implementation requires an “effective, pragmatic and evolutionary approach”,¹²⁴ yet the approach currently chosen by the government represents an institutional big bang. The early 2015 “program law”, which includes a detailed and very ambitious timeline, provides for the creation of the new provinces by mid-July 2015.¹²⁵ The demarcation of the specific borders between the provinces led to tense discussions in the National Assembly, in particular about the status of the district of Kolwezi in Katanga.¹²⁶

Back in December 2014, the president stated that the process of decentralisation would be irreversible; government sources indicate it is his absolute priority.¹²⁷ In the short-term, splitting up the provinces creates more positions and thus clients, and

¹²³ The installation of the equalisation fund is foreseen in the Constitution (Article 181) and despite EU support in 2007 the law operationalising the fund has not yet been adopted. The purpose of the fund is to compensate the imbalance of revenue between different provinces and ETDs. “Finances des 26 provinces : Muzito préconise le vote de la loi sur la Caisse de péréquation”, Radio Okapi, 21 April 2015.

¹²⁴ “La décentralisation en bref”, op. cit., p. 11.

¹²⁵ “Loi de programmation déterminant les modalités d’installation de nouvelles provinces, Kinshasa”, 2 March 2015. There was some delay in the initial implementation of the law, as Katanga was slow to nominate its representatives in the commission that has to divide the province within the legal timeframe. The decrees installing the commissions were finalised on 13 April and the commissions have been installed since. Crisis Group email correspondence, Congolese official, March-April 2015.

¹²⁶ The district of Kolwezi was included in the Lualaba province and did not retain a separate status. “Loi organique N°15/006, portant fixation des limites des provinces et celles de la ville de Kinshasa”, Kinshasa, 25 March 2015. “RDC: l’Assemblée nationale adopte la loi fixant les limites de nouvelles provinces”, Radio Okapi, 10 January 2015; Jean Claude, “Le mythe de Sisyphe: construction et déconstruction du territoire congolais”, in Jean Omasombo and Paule Bouvier, op. cit., p. 136; “Des députés du Katanga désapprouvent le rattachement de Kolwezi à la province de Lualaba”, Radio Okapi, 13 January 2015.

¹²⁷ Crisis Group email correspondence, DRC government official, March 2015.

decentralisation and local elections provide similar opportunities. The control over resources and state services, as well as a broader national presence, provide a strong footing for the governing majority. However, several members of the majority have expressed reservations about the process, including the G7.¹²⁸ Their criticism reflects reports and assessments that show large discrepancies between the provinces' resources. Given that most of the current eleven provinces are not able to deliver services and play a developmental role, the creation of additional administrative layers and costly structures may make government even less effective and more confusing.¹²⁹ There also remains a large degree of uncertainty regarding the funding of provinces and solidarity between them.¹³⁰

In some respects, the establishment of the new provinces would have little direct impact on the technical election preparations, as the 2006 and 2011 electoral laws anticipated the future creation of the 26 provincial legislatures and seats have been distributed accordingly. This was also the case for the (indirect) 2007 Senate elections.¹³¹ However, most of the proposed provinces and decentralised territorial entities (ETDs) have no infrastructure or financial resources.¹³² The haste therefore creates numerous risks, not least for the national elections. On various occasions Malu Malu has warned of possible delays in the electoral process, citing as one factor the persistent lack of clarity in the decentralisation process.¹³³

Christophe Lutundula, leader of the Solidarity Movement for Democracy and Development (MSDD), one of the G7 parties, provoked a debate about decentralisation and the elections in parliament on 18 April as he demanded an "inter-institutional" dialogue to manage the country's post-election stability, citing in particular the lack of financial resources. The government responded that the electoral process is irreversible and that the installation of the new provinces is a constitutional obligation.¹³⁴

B. *The Politics of Technical Preparations*

With the adoption of the electoral law and the publication of the electoral calendar attention now focuses on technical and financial preparations. In addition to the timing and technical issues regarding local and provincial elections, the voter roll (particularly problematic in 2011), the budget and the technical feasibility of the entire calendar are major issues. CENI's leadership and lack of transparency are also widely criticised.

¹²⁸ Julien Paluku, "Processus de décentralisation en RDC: analyse et perspectives d'un acteur du terrain", Kinshasa, 15 November 2014; Christophe Lutundula, "Nécessité et urgence d'un calendrier global réaménagé en RDC", *Le Potentiel*, 3 March 2015.

¹²⁹ Gerard Gerold, "RD Congo: L'échec des pouvoirs provinciaux. Une nouvelle étape dans la déconstruction de la Troisième République", *Observatoire des Grands Lacs en Afrique*, Note no. 7, October 2013.

¹³⁰ "La Tribune de Muzito: la RDC, un Etat sans budget", *Le Phare*, 6 April 2015.

¹³¹ In 2006, 632 provincial MPs were elected (and 58 co-opted). For the future provincial elections, 711 provincial MPs are to be elected and 69 co-opted. The co-opted members are traditional chiefs appointed after the polls by the elected members gathered in an extraordinary session. Electoral laws of 2006 and 2011.

¹³² The different ETDs are: urban areas, municipalities, sectors and chiefdoms. See Appendix D.

¹³³ Civil Society round table with CENI President Abbot Malu Malu, Brussels, 10 September 2014.

¹³⁴ "Christophe Lutundula prône le dialogue interinstitutionnel pour assurer la période postélectorale", National Assembly website (www.assemblee-nationale.cd), 19 April 2015.

1. The voter roll

A crucial technical and political issue is the voter roll. For the planned October 2015 local and provincial elections, the contested 2011 roll will be used.¹³⁵ According to the CENI, the roll will be made more reliable; operations to this end have been announced.¹³⁶ An external audit, announced in the February 2015 electoral calendar (24 March – 12 April), has been delayed.¹³⁷ It is to be carried out by the Organisation internationale de la Francophonie (OIF).¹³⁸

Registration of new voters, a major problem since many young people have reached the voting age since the 2011 roll was drawn up, is not planned.¹³⁹ The opposition and civil society contest the constitutionality of this exclusion of new voters.¹⁴⁰ For the CENI, however, the rules of the game cannot be changed; it considers the local and provincial elections as the completion of the 2011 cycle, and argues that the voter roll and distribution of seats should be based on the 2010-2011 voter registration process.¹⁴¹ The number (780) and distribution of seats for the provincial elections is regulated by the 2011 law.¹⁴² For the local elections a law still has to be adopted; the vote was supposed to take place in March-April 2015, according to the new electoral calendar, but it has been delayed. On 18 April, parliament adopted a recommendation urging the government to expedite this process.¹⁴³

Voter registration for the 2016 polls is supposed to take place between May and the end of 2015.¹⁴⁴ The methodology for this “update of the voter roll” still has to be decided and legislation is necessary to include diaspora voters.¹⁴⁵ The audit of the voter roll is scheduled to occur in June-July 2016; the electoral calendar does not mention the involvement of an external party.

¹³⁵ The 2011 voter roll was controversial from the outset as there was a lack of transparency, the methodology was not clear, the checks for double registration very poor and, on voting day, many who registered were not on the list. “Elections in the DRC (completing the 2011-2016 cycle): Status and Perspectives”, SSRC/DRC Affinity Group, August 2014, pp. 5; Mission d’Observation Electorale RDC 2011, EU, pp. 32-36.

¹³⁶ For more details about the procedure followed by the CENI, see “Opération de fiabilisation du fichier électoral”, undated, at www.ceni.gouv.cd/info.aspx?id_page=37&id_rubrique=12. Public consultation of the existing rolls was possible until 10 January 2015. “CENI: la consultation des listes provisoires prend fin ce samedi 10 janvier 2015”, Digital Congo, 9 January 2015.

¹³⁷ “Abbé Malumalu: ‘Ma santé s’améliore positivement...’”, *op. cit.*

¹³⁸ “CENI: annonce de l’audit externe du fichier électoral”, Agence congolaise de presse, 12 December 2014.

¹³⁹ Crisis Group email correspondence, CENI official, February 2015.

¹⁴⁰ A procedure has been launched at the Constitutional Court. Given the size and generally young population, this represents several million voters. Article 5 of the constitution states that all Congolese above the age of eighteen have the right to vote. “La CENI attaquée à la Cour Constitutionnelle”, *Le Phare Online*, 16 April 2015.

¹⁴¹ Crisis Group email correspondence, CENI official, February 2015.

¹⁴² Law 11/014 of 17 August 2011.

¹⁴³ “Assemblée nationale: des recommandations pour faire aboutir le processus électoral en RDC”, Agence congolaise de presse, 19 April 2015.

¹⁴⁴ Crisis Group interviews, international officials and Congolese politicians, Kinshasa, March 2014 and February 2015. The 2006 voter roll took eight months to be finalised for approximately 25.7 million voters, and the 2011 registration lasted fifteen months (with some interruptions) for 32 million voters.

¹⁴⁵ “Décision N°001/CENI/BUR/15 du 12 Février 2015 portant publication du calendrier des élections provinciales, urbaines, municipales et locales 2015 et des élections présidentielle et législatives 2016”, *op. cit.*

2. Fears for the timing of the legislative elections

The 2015 electoral law dropped the link between the census and the voter rolls but maintains it for the distribution of National Assembly seats.¹⁴⁶ As the feasibility and funding of the census are unclear, this is a major cause of concern for the timing of the legislative elections currently scheduled for 27 November 2016. The census is not included in CENI's external constraints to the electoral process, but its calendar calls for the law on the distribution of parliamentary seats to be finalised by 5 May 2016, during the ordinary session of parliament. A lack of census data may require amendment of the law and distribution of seats based on the voter registration, as was the case before. A delay in organising the legislative elections could affect the presidential poll as both are to be held on the same day – as was the case in 2006 and 2011.¹⁴⁷

3. Uncertain funding

While the 2006 elections were almost entirely donor-funded, the partially organised 2011 polls were largely underwritten by the government.¹⁴⁸ In 2014, the CENI estimated the total cost of all the upcoming elections at \$750 million. One year later, it increased the cost to \$1.145 billion without an explanation.¹⁴⁹ In 2014, the CENI was allocated \$169 million, but only a small amount was actually spent.¹⁵⁰ The figures and disbursement plans for the 2015 and 2016 budget are unknown, and clarity is urgently needed. This was also requested by the Congolese parliament in its recommendations voted on 18 April.¹⁵¹ Considerable external support will likely be requested, but the lack of guarantees on sound electoral management and uncertainty about President Kabila's intention makes donors reluctant to contribute significant amounts.

In May-June 2014, the EU, a major donor for previous elections, carried out an evaluation of progress on the implementation of its 2011 Electoral Observation Mission recommendations. In its September 2014 report, it noted some progress but was undecided on a possible contribution pending the publication of a calendar and comprehensive budget.¹⁵² This cautious attitude demonstrates a general wariness about

¹⁴⁶ Articles 115, 145, 192 and 208 of the 2015 electoral law link the census to the definition of the number of seats per elected body and the distribution of seats for the constituencies for the various elections (National Assembly, provincial assembly, municipal council and *groupement* – sector and chiefdom). Article 237 ter. specifies, however, that the link to the census does not apply to the upcoming provincial and local elections.

¹⁴⁷ If the calendar is to be respected, the distribution of seats among the electoral constituencies, as regulated in Article 115 of the electoral law, has to be completed at the latest before 15 June 2016 (the end of the first ordinary session of 2016). Crisis Group telephone interview, Kinshasa-based diplomat, January 2015. For more details on the debate about combining the presidential and legislative elections in 2011, see Marcel Wetsh'okonda Koso, *op. cit.*, pp. 93-99.

¹⁴⁸ The 2006 elections cost \$550 million, 91 per cent funded by the international community, the 2011 elections \$340.5 million, 75.6 per cent paid by the government. "Les élections présidentielles et législatives du 28 novembre 2011 en République démocratique du Congo. Défis, stratégies et résultats", CENI, March 2012, p. 39-40.

¹⁴⁹ The CENI and its international partners only started to discuss financial issues in early March 2015. Crisis Group email correspondence, Kinshasa-based diplomats, March 2015.

¹⁵⁰ Crisis Group email correspondence, Kinshasa-based civil society representative, January 2015.

¹⁵¹ "Assemblée nationale: des recommandations pour faire aboutir le processus électoral en RDC", *op. cit.*

¹⁵² "Mission de suivi électoral de l'Union européenne en République démocratique du Congo", final report, summary, September 2014. It indicated earlier that a decision on support for local elections could be made independent of the assessment of national elections. "Programme indicatif national, 2014-2020, Commission européenne et gouvernement de la RDC", Brussels, 26 June 2014, p. 21.

the entire electoral process, which is partly a result of the strong criticism by the EU Court of Auditors following the funding of the 2011 elections.¹⁵³ The U.S. so far announced a \$20 million contribution, mostly earmarked for civil society and voter education.¹⁵⁴ The EU and others such as Belgium have some funding left for the 2011 cycle; further funding decisions have not been reached.¹⁵⁵ The UN Development Programme (UNDP)-led support project for the 2015-2017 elections, PACEC, foresees a total support package of \$123 million, of which a considerable part is earmarked for the voter roll. This amount, however, is unlikely to be met.¹⁵⁶

4. Technical and logistical support

In accordance with Security Council Resolutions 2098 (2013) and 2147 (2014), MONUSCO transferred its technical electoral support to the UN country team, in particular the UNDP.¹⁵⁷ The mission also moved most of its logistical capacities and a large part of its staff east. Without reinforcement, it may lack capacity to provide logistical support, which in the previous elections was fundamental.¹⁵⁸ Resolution 2211 (26 March 2015) is cautious about providing logistical assistance to the presidential and legislative elections. Support will be “continually assessed and reviewed according to progress made by the Congolese authorities in the steering of the electoral process”. It attributes a role to both the SRSG and the UN special envoy in promoting an “inclusive and transparent political dialogue among all Congolese stakeholders”.

C. *The Impossible Local Elections*

In accordance with the February 2015 calendar, the CENI and the government remain committed to holding both local and provincial elections on 25 October 2015.¹⁵⁹ Most of the opposition want the local elections to be delayed – as was clearly expressed in the 20 April 2015 proposal to revise the calendar (see above).

The organisation of elections for the ETDs under the current circumstances presents major operational and political challenges to the CENI, the electoral process and the principle of decentralisation. Fundamental issues are unresolved: numerous local boundaries are not yet demarcated and there is persisting unrest and violent conflict in many areas.¹⁶⁰ While there is a general consensus that local elections have to be organised at some point, there is also apprehension they could heighten tension

¹⁵³ “EU support for Governance in the Democratic Republic of the Congo”, European Court of Auditors, Report no. 9, 2013. “Elections en RDC: l’Union européenne veut des garanties”, RFI, 5 December 2014. See also, “Report of the Secretary-General on the UN Stabilization Mission in DRC”, op. cit., para. 91.

¹⁵⁴ “Les USA octroient 20 millions USD pour les élections en RDC”, Radio Okapi, 11 February 2015.

¹⁵⁵ Crisis Group interviews, officials, Brussels, March 2015.

¹⁵⁶ “Projet d’Appui au Cycle Electoral au Congo (2015-2017) – PACEC”, Document de Projet, UNDP, undated document. Crisis Group email correspondence, diplomats, Nairobi, April 2015.

¹⁵⁷ Crisis Group interviews, UN officials, Kinshasa, March 2014.

¹⁵⁸ “Mission de suivi électoral de l’Union européenne en République démocratique du Congo”, final report, summary, September 2014.

¹⁵⁹ The directly elected bodies are municipal councils, sector councils and chiefdom councils. Indirect elections are to follow for urban councils, mayors, sector chiefs and executive colleges for the four types of ETDs. The 2015 calendar schedules the different steps (indirect election of officials at different levels) to end on 30 March 2016 (a total duration of five months).

¹⁶⁰ The government has yet to provide the CENI the list of those entities as well as their precise borders. It was requested to do so by 5 March 2015 according to the electoral calendar.

and trigger conflict throughout the country.¹⁶¹ Demarcation, local power struggles and intercommunal disputes are just a few of the elements that could result in serious incidents.¹⁶² Without adequate mediation, judicial and crisis management capacity, pre- and post-election violence is a major concern.

Logistically the local elections would be hard to organise, even in the best-case scenario, as there are 7,625 voter districts and a huge number of distinct ballots.¹⁶³ The sheer number of locally elected officials would also come at a huge cost, conservatively estimated at \$250 million each year (the 2015 national budget is approximately \$9 billion).¹⁶⁴

¹⁶¹ Crisis Group interviews, diplomats, Kinshasa, March-December 2014; "Elections in the DRC (completing the 2011-2016 cycle)", *op. cit.*, p. 4.

¹⁶² For an analysis of issues related to customary power and the electoral and decentralisation processes, see "Beyond stabilisation: Understanding the conflict dynamics in North and South Kivu, Democratic Republic of Congo", *International Alert*, February 2015, pp. 35-36.

¹⁶³ Jason Stearns, "From Bullets to Ballots: the Next Battle for Congo's Future", *World Politics Review*, 10 February 2015.

¹⁶⁴ Crisis Group interviews, diplomat and Congolese political sources, Kinshasa, March 2014. National budget 2015, public finance law, Kinshasa, 31 December 2014.

V. Avoiding a Negative-sum Game

A. *Lifting the Clouds on 2016*

More than any other issue, uncertainty regarding President Kabila's intentions dominates the political debate and drives popular mobilisation. As the most recent statements indicate, clarity is not likely to come soon.¹⁶⁵ The prevailing uncertainty, the legal manoeuvring, the leisurely pace of election preparations and the recently accelerated decentralisation process suggest to many that the majority is mostly focused on doing everything to keep Kabila in power, despite the increasingly explosive political climate. This and the memory of the chaos and fraud of the previous election provide an uneasy backdrop for external partners, the opposition and civil society.

Though the CENI has since been reformed and placed under Abbot Malu Malu's leadership, domestic and international confidence in this institution has not been restored. The publication by the CENI of a comprehensive and ambitious electoral calendar, increasingly criticised, did not assuage concerns, as has been demonstrated by the 20 April 2015 statement released by the opposition as well as the recommendations adopted by the Congolese parliament a few days earlier.¹⁶⁶

The president and the government have to provide an unequivocal message and commit to fully respect the constitution and the timeline for the presidential and legislative elections. This commitment must be backed by concrete acts such as funding a transparent and realistic budget, allowing the opposition political space and participating in a regular political dialogue on the electoral process managed by the CENI. Another clear step would be the – likely divisive – drafting of the majority's own election platform.

Without such steps, donors and international partners should seriously consider suspending their bilateral support programs to the Congolese security forces and withhold funding and support of the electoral process, in line with the conditionality imposed by Security Council Resolution 2211.¹⁶⁷ If the president were to stand or if such conditions were created that would seriously delay or derail the electoral process, donors should review their institutional cooperation, including their support to the national security forces, and the UN Security Council the mandate of MONUSCO. If President Kabila does indeed engineer an extension of his government it would amount to the equivalent of a self-coup.

B. *Enhancing International Engagement*

The UN, AU, SADC, ICGLR, EU, U.S., France, UK and Belgium should urgently engage in political dialogue with the president and key individuals within the majority and the opposition. A ministerial-level visit, coordinated by the UN, AU, EU and U.S., should be organised quickly and the group of special envoys tasked to follow-up. Messages to the Congolese authorities should include the demand for a clear commitment by the president to step down in accordance with the constitution, a pledge by

¹⁶⁵ "Joseph Kabila: 'En 2016, il n'y aura pas d'hécatombe'", Radio Okapi, 5 January 2015.

¹⁶⁶ "Assemblée nationale: des recommandations pour faire aboutir le processus électoral en RDC", op. cit.

¹⁶⁷ Security Council Resolution 2211 (2015) authorises MONUSCO to provide logistical support on the condition that the government produce an adequate electoral budget, an electoral code of conduct and carry out a credible update of the electoral register.

the CENI and the most important political actors to collaborate on key decisions regarding the electoral calendar, the voter roll, access to (state) media, and freedom of expression. Working in close coordination with the SRSG, the UN special envoy should lead the engagement of the group of special envoys on the electoral issue, with the full backing of the UN Security Council.¹⁶⁸ Early coordination with and buy-in by the region, in particular SADC and ICGLR, will also have to be acquired and maintained.

The SRSG and the group of special envoys should coordinate responses to challenges to the process so as to ensure respect for the rule of law and a level playing field. The fragmented political landscape and importance of informal networks and key personalities require a more regular, high-level dialogue with these stakeholders. In Kinshasa, the DESS coordination group (at ambassadorial level), covering DDR, elections, SSR and stabilisation, should meet regularly, and communication between donors should be streamlined.¹⁶⁹

High-level interventions, such as a call between U.S. President Obama and President Kabila on 31 March, reminding Kabila of his legacy, the importance of the electoral process and respect for the constitution, are important means to support diplomatic efforts and contribute to collaboration between the international community and the government.¹⁷⁰

Long-term observation missions that report regularly are also a necessity. Serious blockages or the risk of derailment of the electoral process should be met with high-level political engagement.

C. *Restoring Confidence in the CENI and Speeding up Preparations*

Elections do not only have to be fair, they have to be perceived as such. Restoring confidence in its political impartiality, technical commitment and logistical capacity has to be the CENI's main priority. As acts speak louder than words, the commission should pay particular attention to the full transparency of its decisions and effective communication of all its work, in particular with regard to its methodology and its commitment to compile a reliable, complete and consensual voter roll. It should focus on procedures allowing for pre- and post- election monitoring at various levels by both national and international actors; it would benefit from openness in its deliberations and decisions, publishing regular and detailed reports of its meetings; and it should engage in an open debate on the electoral calendar.

1. Organising political consultations on the electoral calendar and the decentralisation process

While it is crucial that local and provincial elections be organised at some point, the sequencing needs a more serious political debate leading to a broad consensus between the CENI, the government, parliament, the opposition and civil society. Two main issues warrant reflection: the potential impact these polls could have on the next

¹⁶⁸ Security Council Resolution 2211 (2015) includes the promotion of timely, credible and inclusive national elections in the tasks of the UN special envoy.

¹⁶⁹ "Statement of SRSG Martin Kobler to the Security Council, 'Building on the momentum'", 14 March 2014.

¹⁷⁰ "Readout of the President's call with President Joseph Kabila of the DRC", press release, the White House, 31 March 2015.

electoral cycle (delays, further discrediting of the process and institutions, wasting scarce resources) and their lack of legitimacy if the 2011 voter roll is used.

After the 2011 experience, the 2016 presidential and legislative elections have to be isolated, as much as possible, from potential delays. All efforts should focus on restoring confidence in the country's political management. In addition to an overloaded and ill-prepared electoral process, this task is overburdened by the hastily devised creation of new provinces and an overly complex and layered decentralisation that lacks minimal resources and capacity. Although the current provincial assemblies and Senate have exceeded their constitutional terms (by four years if proposed polls hold), rushing elections to "restore legitimacy" using a non-consensual and incomplete voter roll does not solve the problem.

The CENI should concentrate on the already complex presidential and legislative elections. Provincial polls (and the linked senatorial election) could be scheduled immediately afterwards to allow for the use of a refurbished and audited voter roll. The even more challenging local elections require a broader process reconsidering the speed and resources with which the new local authorities are to be installed.

2. The voter roll

Concerns about the 2011 voter roll have not been adequately addressed. An external audit following the largely non-transparent CENI-led process could make it more credible. The lack of updating, four years after the presidential election, would make the local, provincial and senatorial polls less representative and democratic than they could and should be. Millions of predominantly young voters will be disenfranchised. This would impact the distribution of seats and thus the relative political weight of regions, which would be based on the flawed 2010-2011 registration process. The electoral calendar has to be revised to allow for a new voter roll and for local, provincial and senatorial elections to be delayed.

Since the link to the census has been dropped, there is an urgent need for discussion between the opposition, civil society and experts to explore agreement on the methodology and timing for the establishment of a legitimate voter roll. This register should be the basis for all upcoming elections; as the electoral law states, it would have to be updated permanently with full transparency.

3. Improving communication between the institutional stakeholders

The government, CENI and parliament will also need to collaborate and communicate, among themselves and with donors – in particular MONUSCO and the UNDP – regarding the budget and funding needs for the elections. Such collaboration should be one of the many elements informing MONUSCO's exit strategy. Donors should concentrate their financial and material support on measures that help ensure the timely and high-quality organisation of the 2016 presidential and legislative elections, including the voter roll, training of officials and preparing logistical needs. As an incentive, they could subsequently commit to considerable further support to elections on other levels, depending on progress.

D. *A Conflict Prevention, Security and Dispute Resolution Strategy for the Local Elections*

The stabilisation of large parts of DRC, particularly the east, is moving slowly – if at all. There is ongoing fighting in North and South Kivu and Katanga provinces and massive numbers of displaced people. In this environment, the acceleration of decentralisation and local elections without adequate resources for the decentralised entities is likely to contribute to further instability.¹⁷¹

Based on MONUSCO's conflict mapping, a prevention strategy should involve the participation of civil society, traditional authorities, religious groups, academia, the provincial and national governments and international partners. Such a strategy could inform the deployment of security forces and the timeframe of MONUSCO's draw-down. Initiatives could include support for local conciliation forums where stakeholders meet and exchange views; capacity building for local conflict resolution entities; timely and transparent communication on the voter roll and assigned polling stations; voter education; and representative local monitoring and communication on the process and its results.

The lack of capacity and transparency in electoral dispute resolution, evidenced at the national level during previous elections, will be even more prominent during local and provincial elections. Capacity building and training (political parties, judges and CENI representatives), public information, accessibility of courts and communication procedures will all have to be adapted to this level.

The reform of the judicial system has not adequately progressed to address the likely number of electoral disputes throughout the country; administrative tribunals have not been installed and the court system is spread too thin and unevenly over the territory.¹⁷² In territories without courts, disputes will have to be settled by the *tribunal de grande instance* (civil court) at the district level. Members of political parties, civil society, police officers, the judiciary, members of electoral observation groups and media would all benefit from training in electoral dispute resolution.

E. *Educating the Voters*

Independent from electoral support, donors should work with national and local civil society on an extensive civic education campaign, election monitoring at all levels and peace messaging. Such an exercise could help inform voters on the registration process, the significance of the vote and their civic duty. Local elections, when organised, will be a first experience; information about the nature, responsibilities and operations of elected bodies and the different steps in the process will have to be provided to both voters and candidates. The sheer number of constituencies, candidates and the general lack of resources increase the challenges.

Civil society should also play an active role in pre- and post-election monitoring, which includes respect for political pluralism, the freedom to campaign, political

¹⁷¹ MONUSCO identified 1,587 community conflicts in 1,475 localities. 290 were ranked as high-risk. It also found that local authorities, provincial governments and civil society organisations have an insufficient capacity to intervene in, prevent or manage community conflicts. Crisis Group interview, UN official, Kinshasa, July 2014.

¹⁷² In the absence of administrative tribunals, the electoral law says that the courts have jurisdiction in managing electoral disputes (Article 237). For a comprehensive assessment, see Kifwabala Tekilazaya, Defi Fataki Wa Luhindi and Marcel Wetsi'okonda Koso, "RDC, Le secteur de la justice et l'Etat de droit", AfriMAP and Open Society Initiative of Southern Africa (OSISA), July 2013, pp. 126-128.

violence, (state) media access, security, accessibility and fair distribution of electoral infrastructure, in particular to polling stations.

Donors should encourage the Congolese media to pool human and technical resources for civic education programs and to have a nationwide coverage of the electoral process.

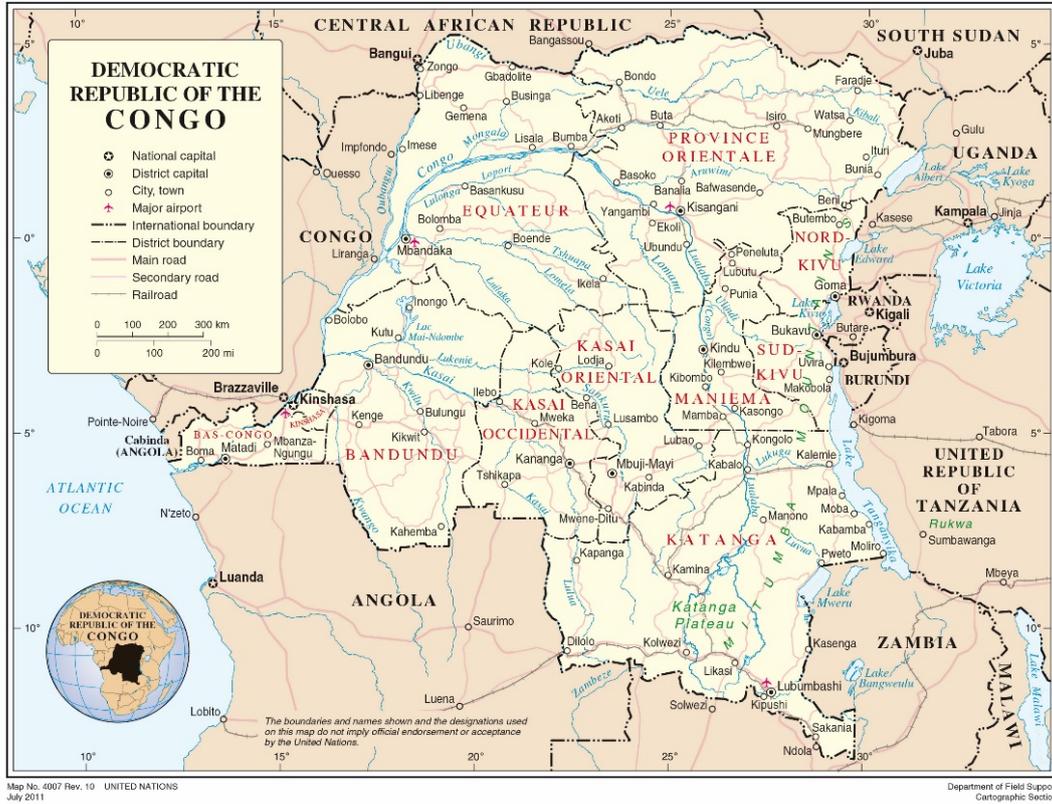
VI. Conclusion

The mounting tensions around the future elections demonstrate that uncertainty compounds instability. As was the case in 2011, preparations for the elections are being rushed. The lessons of the past suggest that this does not bode well for the quality and credibility of the polls.

A successful electoral process will not suffice to change governance practices in the country, but the 2016 elections offer an opportunity for DRC to reconnect to the path taken in 2006, and to move away from a negative-sum game and pursue more consensual politics. The alternative routes, repeating 2011 or worse – opting for a non-constitutional option – would have potentially disastrous consequences for the country and the region. National, regional and international actors should step up; it is not too late.

Nairobi /Brussels, 5 May 2015

Appendix A: Map of the Democratic Republic of Congo



Appendix B: Glossary

ACO	Avenir du Congo, political party, member of the majority and part of the G7 group.
ACP	Congolese official press agency.
AFDC	Alliance of Democratic Forces of Congo, political party, member of the majority.
ANR	National Intelligence Agency.
ARC	Alliance for Renewal of Congo, political party, member of the majority, part of the G7.
CEI	Independent Electoral Commission, predecessor of the CENI, the 2006 elections were managed by the CEI.
CENCO	National Episcopal Conference of Congo, leading organ of the Congolese Catholic Church.
CENI	Independent National Electoral Commission, organisation in charge of managing the electoral processes. Led by Abbot Malu Malu since 2013.
CIME	Inter-church Integrity and Electoral Mediation Committee.
DESS	DDR, Elections, Stabilisation and SSR, ambassador-level coordination group in Kinshasa, presided by the SRSG.
ETDs	Decentralised territorial entities, to be installed local entities at sub-provincial level (cities, municipalities, sectors and chiefdoms).
FARDC	Armed Forces of the Democratic Republic of Congo.
FDLR	Democratic Forces for the Liberation of Rwanda, armed group operating in eastern DRC.
FIB	Force Integration Brigade.
GR	Republican Guard, elite unit of the Congolese armed forces, under direct control of the presidency.
ICGLR	International Conference on the Great Lakes Region.
LENI	National Intervention Legion, riot police, part of the Congolese National Police.
LUCHA	Lutte pour le changement, social movement, mainly based in North Kivu.
M23	Mouvement du 23 mars, armed group that was active in DRC from March 2012 until its defeat in November 2013.
MLC	Movement for the Liberation of Congo, political party, part of the opposition, led by Jean-Pierre Bemba, currently awaiting trial at the ICC.
MP	Presidential Majority, alliance of political parties in support of President Kabila.
MSDD	Solidarity Movement for Democracy and Development, political party, member of the majority, led by Christophe Lutundula, part of the G7.
MSR	Movement for Social Renewal, political party, second largest formation of the majority, part of the G7.
PALU	Unified Lumumbist Party, political party, allied to the majority.
PDC	Christian Democratic Party, political party, member of the majority and part of the G7.
PM	Military Police, part of the Congolese armed forces (FARDC).
PPRD	Peoples' Party for Reconstruction and Development, political party, biggest party of the majority, led by current deputy prime minister and interior minister, Evariste Boshab.

PSCF	Peace, Security and Cooperation Framework, signed in February 2013.
SCODE	Congolese Solidarity for Democracy, political party, member of the majority, but its leader Jean-Claude Muyambo left the majority and is now incarcerated.
UDPS	Union for Democracy and Social Progress, political party, in the opposition, led by Etienne Tshisekedi.
UNADEF	National Union of Democrats and Federalists, political party, member of the majority and part of the G7.
UNAFEC	Union of Congolese Nationalist Federalists, political party led by Gabriël Kyungu, speaker of the provincial assembly of Katanga, member of the majority and part of the G7.
UNC	Union for the Congolese Nation, political party, in the opposition, led by Vital Kamerhe.

Appendix C: Electoral Dates¹⁷³

#	Date	Elected body	Mode	Cycle
1	25 October 2015	Provincial assemblies Municipal council Sector council Chieftdom council ¹⁷⁴	Direct	2011
2	17 January 2016	Senate	Indirect (provincial deputies)	
3	20 January 2016	City council Bourgmestres ¹⁷⁵ (mayors of municipalities) Sector chiefs ¹⁷⁶	Indirect	
4	31 January 2016	Provincial governors and deputy governors	Indirect	
5	7 March 2016	Mayors and deputy mayors (cities) ¹⁷⁷	Indirect	
6	27 November 2016	Presidential and legislative elections	Direct	2016

¹⁷³ According to the calendar promulgated on 15 February 2015. "Décision N°001/CENI/BUR/15 du 12 février 2015 portant publication du calendrier des élections provinciales, urbaines, municipales et locales 2015 et des élections présidentielle et législatives 2016", op. cit.

¹⁷⁴ In chiefdoms, the chiefs are designated by local custom, they are assisted by three aldermen, elected by the chiefdom council.

¹⁷⁵ Municipalities are managed by the "bourgmestre", deputy bourgmestre and two aldermen, elected by the municipal council.

¹⁷⁶ The sector is managed by the sector chief, deputy sector chief and two aldermen, elected by the sector council.

¹⁷⁷ City government is composed of the mayor, deputy mayor and three aldermen, elected by the city council.

Appendix D: Decentralisation in DRC

The 2006 constitution provides for very comprehensive decentralisation, bestowing large powers to the provinces.¹⁷⁸ Article 2 of the 2006 constitution defines the territory of the DRC as composed of 25 provinces and the capital Kinshasa (which has the status of province).¹⁷⁹ In Article 3, the provinces and the decentralised territorial entities (ETDs) are enacted as bodies endowed with a legal personality. The different ETDs are: the city (*ville*), municipality (*commune*), sector (*secteur*) and chiefdom (*chefferie*).¹⁸⁰ The division of competencies between the central government and the provinces is defined in Chapter III of the constitution. The functioning of the ETDs is regulated by law; they are managed by their locally elected organs.¹⁸¹ The ETDs are under the supervision, but not the hierarchical control, of the provincial and central governments.

The decentralised entities are different from the so-called “deconcentrated” entities that are of an administrative nature. These are: the territory (*territoire*), districts (*quartier*), group (*groupement*) and village (*village*). The Ministry of Interior published a circular note abolishing the existing structures on 4 February 2015.¹⁸²

At the entry into force of the 2006 constitution, the country was still organised in eleven provinces. The new arrangement, splitting up a number of the provinces (see table), referred to as the *découpage*, was to happen within the 36 months after the effective installation of the political institutions (Article 226 of the constitution). However, the 2011 amendment of the constitution relegated modalities for the installation of the new provinces to the adoption of a law. This law and another defining the borders of the provinces were adopted in early 2015.¹⁸³ The provinces mostly follow the borders of the previous administrative sub-division of the provinces, the districts.

¹⁷⁸ For more details, see “La décentralisation en bref”, Ministry of Interior, decentralisation and security, May 2013.

¹⁷⁹ “Constitution de la République démocratique du Congo”, adopted by referendum in December 2005, promulgated by President Kabila on 18 February 2006 and amended by law 11/002 of 20 January 2011. For background, see Crisis Group Africa Briefing N°73, *Congo: A Stalled Democratic Agenda*, 8 April 2010; Paule Bouvier, *La décentralisation. De la Première à la Troisième République* (Brussels, 2012).

¹⁸⁰ There are 1435 ETDs comprising 97 urban areas, 601 municipalities, 478 sectors and 259 chiefdoms. Julien Paluku, “Processus de décentralisation en RDC: analyse et perspectives d’un acteur du terrain”, Kinshasa, 15 November 2014.

¹⁸¹ Law no. 008/016, 7 October 2008.

¹⁸² “RDC: suppression des entités administratives déconcentrées”, Radio Okapi, 21 February 2015.

¹⁸³ Law 015/004 promulgated on 28 February 2015 fixed the modalities for the installation of the provinces, including a rather strict timeline. Law 015/006 promulgated on 25 March 2015 fixed the borders of the 26 provinces.

Old	New
Bandundu	Kwango
	Kwilu
	Mai Ndombe
Bas-Congo	Kongo-Central
Equateur	Equateur
	Tshuapa
	Mongala
	Nord Ubangui
	Sud Ubangui
Kasai-Occidental	Kasai
	Kasai-Central
Kasai-Oriental	Kasai-Oriental
	Lomami
	Sankuru
Katanga	Haut-Katanga
	Haut-Lomami
	Lualaba
	Tanganyika
Kinshasa	Kinshasa
Maniema	Maniema
Nord Kivu	Nord Kivu
Province Oriental	Bas-Uélé
	Haut-Uélé
	Ituri
	Tshopo
Sud Kivu	Sud Kivu

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Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

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- Central African Republic: Better Late than Never*, Africa Briefing N°96, 2 December 2013 (also available in French).
- Fields of Bitterness (I): Land Reform in Burundi*, Africa Report N°213, 12 February 2014 (only available in French).
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