



Security Council

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Letter dated 15 February 2019 from the Secretary-General addressed to the President of the Security Council

Pursuant to the request of the Security Council in paragraph 61 of its resolution [2409 \(2018\)](#), I have the honour to submit a 30-day update, covering the period from 1 to 31 January 2019, on political and technical progress towards the holding of elections in the Democratic Republic of the Congo on 23 December 2018 and on obstacles to the implementation of the political agreement of 31 December 2016 (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(Signed) António **Guterres**



Annex**Update of the Secretary-General on progress in the electoral process and the implementation of the political agreement of 31 December 2016 in the Democratic Republic of the Congo, 31 January 2019**

1. The present update, which covers developments from 1 to 31 January 2019, is submitted pursuant to resolution 2409 (2018), in which the Security Council requested the Secretary-General to provide a written update every 30 days on political and technical progress towards the holding of elections in the Democratic Republic of the Congo and on obstacles to the implementation of the political agreement of 31 December 2016.

I. Key political developments related to the electoral process and the implementation of the political agreement

2. Political developments following the presidential, legislative and provincial elections of 30 December 2018 centred on the outcome of the polls, which culminated in the inauguration of Félix Tshisekedi as President on 24 January 2019. Electoral observer missions deployed by the African Union, the Economic Community of Central African States, the International Conference on the Great Lakes Region and the Southern African Development Community (SADC) noted that the elections took place in an overall peaceful atmosphere despite some logistical challenges, gave a generally positive assessment of the use of the voting machines and encouraged parties to address any electoral disputes through existing legal mechanisms.

3. National observer missions deployed by civil society and faith-based organizations, notably the Episcopal Conference of the Democratic Republic of the Congo and Synergie des missions d'observation citoyenne des élections, issued preliminary reports on the electoral process following the polls. The Episcopal Conference and Synergie des missions d'observation citoyenne des élections noted the enthusiasm of the population to elect its representatives but enumerated several issues that occurred on election day, including the late opening of some polling stations, the malfunctioning of some voting machines and isolated attempts to coerce voters. The Independent National Electoral Commission indicated that voting hours had been extended for polling stations that had opened after a delay and that technicians had been deployed to repair the faulty machines, noting that the machines had functioned well in 95 per cent of cases.

4. On 3 January, the Secretary-General of the Episcopal Conference of the Democratic Republic of the Congo, Donatien Nshole, issued a statement in which he noted that the data collected by the Episcopal Conference from tally sheets of polling stations "confirmed the choice of a candidate as President of the Republic". He also called upon the Independent National Electoral Commission to publish electoral results that "respect truth and justice". On 4 January, in a letter to the Episcopal Conference, the President of the Independent National Electoral Commission, Corneille Nangaa, denounced the statement of Mr. Nshole, citing the various laws that proscribe the publication of results by any institution other than the Commission. On the same day, the principal diplomatic adviser to former President Joseph Kabila, Barnabé Kikaya Bin Karubi, condemned the Episcopal Conference's statement, arguing that it had violated the Constitution, the electoral law and the electoral code of conduct. On 5 January, the President of the Episcopal Conference, Marcel Utembi, replied to the Commission's letter, noting that the Episcopal Conference had not

violated any laws and was ready to meet the Commission to discuss the methodology used to compile the results of the polls.

5. Initially scheduled for 6 January, the publication of the provisional results of the elections was postponed by the Independent National Electoral Commission until 10 January. Félix Tshisekedi of the Cap pour le changement platform was declared the winner of the presidential election (38.57 per cent), ahead of Martin Fayulu of the Lamuka coalition (34.83 per cent) and Emmanuel Ramazani Shadary of the ruling Front commun pour le Congo platform (23.84 per cent). The voter turnout was 47.7 per cent. Initially scheduled to be published on 23 January in accordance with the electoral calendar, the provisional results of the elections for 23 of the 26 provincial assemblies were also released on 10 January. The provisional results of the elections for the remaining three provincial assemblies were announced on 12 January. Initial analysis of the results suggests that the Front commun pour le Congo will likely have the majority of seats in 23 of the 26 provincial assemblies, positioning it to play a decisive role in electing the governors, vice-governors and senators. On 12 January, the Commission also released a provisional list of 485 candidates elected to the National Assembly. The Front commun pour le Congo won more than 330 seats, Cap pour le changement about 50 and Lamuka around 100. At least 50 women were elected to the National Assembly, representing virtually no change in strength from the outgoing legislature. A total of 15 seats have yet to be allocated in the four constituencies of Beni city, Beni territory, Butembo, in North Kivu, and Yumbi territory, in Mai-Ndombe, where elections have been postponed until March.

6. With a few notable exceptions, initial reactions to the announcement of the provisional presidential results were temperate, with supporters of Mr. Tshisekedi gathering for spontaneous celebrations in Kinshasa and a number of cities in the country. Reacting to the election results, Mr. Tshisekedi praised the work of the President of the Independent National Electoral Commission, congratulated the unsuccessful candidates for their participation in the presidential race and affirmed that he would be a president for “all Congolese”. He also paid tribute to former President Kabila. While expressing regret that their candidate had not won the presidential election, senior members of the ruling majority welcomed the provisional results.

7. Mr. Fayulu rejected the provisional results published by the Independent National Electoral Commission, noting that they had “nothing to do with the truth of the ballot box”, and called upon the Congolese people to resist what he described as an “electoral coup”. He also called upon the United Nations, the African Union, the International Conference on the Great Lakes Region, SADC and world leaders to show “solidarity with the Congolese people” as the final election results are established. The Episcopal Conference of the Democratic Republic of the Congo issued a statement in which it noted that the provisional results of the presidential election did not correspond to the data collected by its observers and urged Congolese stakeholders to use legal means to challenge the results. The Ministers for Foreign Affairs of Belgium and France expressed doubts about the credibility of the results. On 12 January, Mr. Fayulu challenged the provisional results before the Constitutional Court, requesting, inter alia, a vote recount. On the same day, the presidential candidate Théodore Ngoy filed a complaint before the Court in which he protested against the Commission’s decision to postpone the holding of elections in Beni city, Beni territory, Butembo and Yumbi territory. The Front commun pour le Congo did not file any complaint regarding the results of the presidential election.

8. Between 10 and 14 January, following the announcement of the provisional results, isolated violent incidents occurred in Kinshasa and a number of cities in Équateur, Kasai, Kwilu, Haut-Katanga, North Kivu and Tshopo Provinces, resulting in the death and wounding of several people.

9. On 13 January, in a press statement, the President of Zambia, Edgar Lungu, as Chair of the SADC Organ on Politics, Defence and Security, issued a communiqué in which he recommended a vote recount and called for a negotiated political settlement paving the way for a government of national unity. On the same day, the President of the Congo, Denis Sassou Nguesso, called for a vote recount and the formation of a national unity government. Mr. Fayulu welcomed the statements, thanking SADC for requesting a vote recount and noting that such a measure would allow “the person who actually won” to be declared president. A spokesperson of the Front commun pour le Congo called upon Congolese political coalitions and foreign Governments to refrain from giving “instructions” to the Constitutional Court of the Democratic Republic of the Congo. On 14 January, the Department of International Relations and Cooperation of South Africa issued a statement in which it called upon all parties in the Democratic Republic of the Congo and the international community to allow the internal constitutional mechanisms and legal processes to follow their due course. On the same day, the Minister for Foreign Affairs of Zambia, Joseph Malanji, stated to South African media that President Lungu had “at no point indicated to any stakeholders that there should be a recount”, noting that the process should follow the Constitution of the Democratic Republic of the Congo.

10. On 17 January, a Double Troika Summit of SADC on the situation in the Democratic Republic of the Congo was held in Addis Ababa. The Summit released a communiqué in which it called upon the international community to respect the sovereignty and territorial integrity as well as the internal legal and political processes of the Democratic Republic of the Congo. On the same day, in Addis Ababa, the President of Rwanda, Paul Kagame, as Chair of the African Union, convened a high-level consultative meeting on the situation in the Democratic Republic of the Congo. Following the meeting, a communiqué was released in which the Heads of State and Government who attended the meeting expressed “serious doubts on the conformity of the provisional results ... with the votes cast”. They called for “the suspension of the proclamation of the final results of the election” and indicated that they had agreed to urgently dispatch a high-level delegation to the Democratic Republic of the Congo to interact with all Congolese stakeholders with a view to reaching a consensus on a way out of the post-electoral crisis in the country.

11. In response to the various statements of regional actors, the Minister of Information and Spokesperson of the Government, Lambert Mende, called upon neighbouring countries of the Democratic Republic of the Congo to refrain from supporting “destabilization plans and hostile external strategies by foreign powers”. He observed that the chairs of the African Union and the International Conference on the Great Lakes Region should exercise their respective mandates only in line with decisions collectively agreed upon by member States, including the Democratic Republic of the Congo.

12. On 19 January, the Constitutional Court rejected the appeals against the provisional results of the presidential election and confirmed Mr. Tshisekedi as President-elect. The Court rejected Mr. Fayulu’s demand for the results to be rectified and the votes recounted, noting that the request was unfounded owing to a lack of evidence. His demand for a vote recount was dismissed as “absurd” insofar as only the Independent National Electoral Commission, in the Court’s view, had provided “accurate, reliable and sincere results” of the polls. The Court also declared to be unfounded his claim that the Commission’s decision to announce the provisional results before the end of the results compilation process violated the electoral law. Furthermore, the Court dismissed the appeals of Mr. Fayulu and Mr. Ngoy in which they protested against the Commission’s decision to postpone the holding of elections in Beni city, Beni territory, Butembo and Yumbi territory, arguing that the decision was a violation of the constitutional right to universal suffrage. The Court ruled that

the Commission's decision was justified by a case of force majeure in view of the Ebola outbreak and security concerns.

13. On 20 January, Mr. Fayulu rejected the Court's ruling, describing it as a "constitutional coup d'état" and declared himself the sole legitimate President of the Democratic Republic of the Congo. He called upon the international community not to recognize Mr. Tshisekedi and urged the Congolese people to participate in peaceful protests against the Court's decision. His calls for demonstrations, however, went largely unheeded. Several Congolese presidential candidates, political actors, including the ruling majority, and civil society organizations welcomed the Court's ruling. Other presidential candidates and civil society representatives, however, rejected the Court's ruling, arguing that it did not reflect the will expressed by the people. Mr. Tshisekedi called for national unity and reconciliation as he celebrated his victory with his coalition members and supporters.

14. SADC reacted to the Court's ruling through a statement by the President of Namibia, Hage Geingob, in his capacity as Chair of SADC, in which he congratulated Mr. Tshisekedi on his victory; called upon the Congolese people and stakeholders to accept the outcome of the election and support the President-elect and his Government in maintaining unity, peace and stability; and reiterated the need for all actors to respect the sovereignty and territorial integrity of the Democratic Republic of the Congo. The President of South Africa, Cyril Ramaphosa, echoed the Chair of SADC and congratulated Mr. Tshisekedi on his election. Several other presidents of African States and world leaders congratulated Mr. Tshisekedi on his win. The Chairperson of the African Union Commission, Moussa Faki Mahamat, issued a statement "taking note" of the Constitutional Court's ruling and announcing the postponement, without specifying a new date, of the visit of the delegation of African Heads of State, which was scheduled to arrive in Kinshasa on 21 January.

15. The Minister for Foreign Affairs of Belgium, Didier Reynders, expressed doubts about the "transparency of the process" and his hope that the situation would not degenerate into violence. The Minister for Foreign Affairs of France, Jean-Yves Le Drian, reiterated his "doubts" about the outcome of the polls but indicated that priority should be given to ensuring a peaceful transition. France subsequently took note of the Court's decision and encouraged the President-elect to pursue dialogue with all Congolese stakeholders. A Spokesperson of the European Union stated that "doubts remained" about the conformity of the results of the elections. However, on 22 January, at a joint press conference in Brussels, representatives of the African Union and the European Union took note of the Constitutional Court's ruling and stated their readiness to work with President-elect Tshisekedi. On 23 January, the United States of America welcomed the Court's certification of Mr. Tshisekedi as the next President of the Democratic Republic of the Congo and encouraged the Government to be inclusive and address reports of electoral irregularities.

16. On the eve of the inauguration of the President-elect, outgoing President Kabila delivered a speech in which he highlighted the daunting political, security and economic challenges he had faced when he had taken power in January 2001, following the assassination of the then President Laurent-Désiré Kabila and amid threats against the territorial integrity of the Democratic Republic of the Congo. He recalled the various measures his Government had needed to take to recover the territorial integrity of the country, to reunite the country through political dialogue, to initiate a democratic process and to launch economic recovery and development plans. Noting the new political dispensation created by the elections of 30 December 2018, he urged Congolese stakeholders across the political spectrum to form a large coalition for the consolidation of democracy and the defence of the sovereignty of the country.

17. On 24 January, Mr. Tshisekedi was sworn in as President of the Democratic Republic of the Congo by the Constitutional Court at a ceremony held in Kinshasa. The ceremony was attended by the outgoing President, senior government officials, foreign dignitaries, civil society and faith-based organizations and a large crowd of supporters of President Tshisekedi. In his inaugural speech, President Tshisekedi highlighted the need for national unity and reconciliation and described the handover of power as a historic moment in the democratic process of the Democratic Republic of the Congo. He paid tribute to former Congolese Heads of State and Government, namely, Joseph Kasavubu, Patrice Lumumba, Mobutu Sese Seko and Laurent-Désiré Kabila, for their crucial role in laying the foundations for the independence, dignity and development of the country. He also paid homage to the unsuccessful presidential candidates, Mr. Fayulu and Mr. Ramazani Shadary, and announced that the Minister of Justice would identify all political prisoners in the country for their eventual release. He congratulated former President Kabila for “reunifying the national territory” and allowing the Congolese people to “freely choose its leaders”. He stressed the importance of consolidating the rule of law, promoting fundamental human rights and amending the electoral law with a view to establishing a voting system adapted to the realities of the country. On 25 January, President Tshisekedi and former President Kabila met to discuss matters related to the handover of power. President Tshisekedi effectively assumed his functions on the same day and appointed Vital Kamerhe, his ally and former Speaker of the National Assembly, as his Chief of Staff.

II. Key electoral developments related to the implementation of the political agreement

A. Electoral developments

18. The time frame for the results tabulation process extended slightly longer than envisaged in the electoral calendar but was largely similar to that which was observed for the 2006 and 2011 elections. According to the Independent National Electoral Commission, the receipt of results at the local results compilation centres was slowed down by several factors, including the non-payment or delays in the payment of salaries to some electoral officers, incorrectly filled-out tally sheets by polling station officials, delays in the delivery of tally sheets from polling stations in remote areas and the lack of Internet connection. The Commission took various measures to speed up the process, including the payment of bonuses to electoral officers, the deployment of personnel from the Commission’s headquarters to remote locations and an increase in controls at the national centre in charge of examining the compiled results. Electoral observer missions found that in general the results compilation process was open to observers and representatives of political parties, although some complained about a lack of access.

19. In line with its decision to assume all financial and logistical responsibilities for organizing the elections, the Government did not request any logistical support from the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). On election day, however, MONUSCO provided limited direct technical support at the request of the Independent National Electoral Commission. MONUSCO was not involved in any results compilation or certification processes.

B. Restrictions on political space and violence related to the implementation of the political agreement in the electoral context

20. Violations of freedom of the press and of expression were recorded during the reporting period. On 1 January, in Samba, Kasongo territory, Maniema Province, the Director of Mwangaza Radio and a civil society coordinator were reportedly threatened following a broadcast about irregularities observed during the elections. The radio station was reportedly closed by the authorities two days later. On 5 January, in Mbuji-Mayi, Kasai Oriental Province, equipment of Radio Télévision Debout Kasai, which belongs to a politician close to the opposition, was reportedly destroyed by a group of unidentified individuals.

21. On 1 January, the spokesperson of the ruling majority, André-Alain Atundu, stated that the decision of the Government to cut Internet and mobile services nationwide beginning on 31 December 2018 was aimed at “preventing malicious and ill-intended” posts about elections on social media platforms. Members of the opposition reacted strongly to the decision, arguing that it deprived stakeholders and the public of the opportunity to scrutinize the electoral process. The campaign director of Mr. Fayulu, Pierre Lumbi, denounced the initiative as “an act of electoral fraud”, while members of the Cap pour le changement platform accused the Government of suppressing the “truth of the ballots”.

22. Internet and mobile services were restored on 19 January. Several private radio stations and television channels close to the opposition were reopened between 21 and 24 January. The signal of Radio France Internationale was also restored on 21 January.

23. The situation in the Democratic Republic of the Congo was generally calm following the release of the provisional and final results of the elections. However, in the immediate aftermath of the announcement of the provisional results, celebratory demonstrations and protests against the results were violently repressed by national security forces, notably in Kasai and Tshopo Provinces. In Kasai Province, on 10 January, during spontaneous celebrations, a man was reportedly killed by soldiers shooting to disperse crowds in Mutshima, Kamonia territory. Three persons, including a woman, were also reportedly killed by police officers who shot live bullets to disperse a demonstration in Tshikapa. In Tshopo Province, several people were injured in Kisangani when the police clashed with demonstrators protesting against the provisional results. Demonstrations against the provisional results were violently repressed by national security forces in several locations in Kinshasa, Équateur, Haut-Katanga, Kwilu and Tanganyika Provinces. At least 15 persons, including 2 boys and 1 woman, were killed by national security forces in six locations in the aforementioned provinces, and at least 14 incidents of arbitrary arrests were documented. In Kwilu, the electoral stronghold of Mr. Fayulu, violent incidents reportedly led to the wounding of 40 police officers and soldiers, the destruction of a number of buildings and a prison break in Kikwit. In addition, incidents of retaliation by armed groups related to the outcome of the elections were documented in North Kivu. On 12 January, in Ntete, Masisi territory, six persons, including three minors and one woman, were killed and a woman was raped during an incursion by suspected members of armed groups, notably the Nduma défense du Congo-Rénové and the Alliance des patriotes pour un Congo libre et souverain-Mapenzi. The armed men shot indiscriminately at the civilian population, accusing them of having voted for the wrong candidates in the elections. On 14 January, in Mashaki, Masisi territory, the same groups killed three women and a 16-year-old boy. There were also isolated violent incidents with an ethnic undertone in some areas in Kinshasa and Kasai Province.

C. Confidence-building measures

24. There was limited progress in the implementation of the confidence-building measures envisaged in the political agreement 31 December 2016. However, following the pardon granted by President Kabila on 29 December 2018, two political opposition leaders, Jean-Claude Muyambo and Gérard Mulumba, imprisoned on charges of illegal sale of property and offences against the Head of State, respectively, were released on 3 January 2019.

III. Good offices efforts for the implementation of the political agreement

25. In pursuit of her good offices mandate, my Special Representative, Leila Zerrougui, held meetings with key stakeholders, including President Kabila and presidential candidates, to help to defuse tensions ahead of the publication of the provisional results of the elections. She urged the presidential candidates to work towards the peaceful conclusion of the electoral process through dialogue and to seek redress for any grievances through established judicial mechanisms. She held several meetings with the Independent National Electoral Commission, civil society and faith-based organizations, including the Episcopal Conference of the Democratic Republic of the Congo. She also engaged regularly with the African Union representative in Kinshasa and relevant key stakeholders following the ruling of the Constitutional Court. As part of her good offices efforts, she met President Tshisekedi and Mr. Fayulu on 29 and 30 January, respectively.

26. At the regional level, my Special Envoy for the Great Lakes Region, Said Djinnit, continued to engage key signatory countries of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, regional actors and international partners in support of concerted preventive action. Underlining the need for close collaboration, he held a series of consultations with senior officials from the Governments of Angola and the Congo, the Framework guarantors (namely, the African Union, the International Conference on the Great Lakes Region and SADC) and the European Union.

IV. Observations

27. I wish to congratulate the Congolese people and all national stakeholders for the largely peaceful presidential, legislative and provincial elections. While deploring the isolated violent incidents that did occur, I commend the determination and restraint displayed by the population, political actors and national security forces. I welcome the dedication shown by national and regional actors in observing the electoral process and the calls by the African Union, SADC, the Episcopal Conference of the Democratic Republic of the Congo, civil society and others for the resolution of any electoral disputes through legal means. I note, however, the mistrust expressed by some opposition, civil society and international actors regarding key elements of the electoral process, notably in relation to the results tabulation process.

28. I take note of the ruling by the Constitutional Court and congratulate Mr. Tshisekedi on his inauguration as President of the Democratic Republic of the Congo. I also note the role played by former President Kabila in ensuring a peaceful transfer of power, marking the first orderly transition in the post-independence history of the country. I urge all Congolese stakeholders to maintain dialogue, place the national interest before partisan considerations and promote consensus.

29. The swearing-in of the new President on 24 January marks the culmination of the implementation of the political agreement of 31 December 2016. Despite flaws, notably regarding the implementation of the confidence-building measures, the agreement led to a peaceful transfer of power and the election of new members of institutions at the national and provincial levels. This represents a remarkable achievement for the Democratic Republic of the Congo.

30. I encourage regional and international actors to continue to support the Democratic Republic of the Congo as it consolidates its democratic institutions with a view to strengthening the foundations for the rule of law, the promotion and protection of human rights and accountable, effective and equitable governance for the benefit of all citizens. I thank my Special Representative, the United Nations country team and all United Nations personnel who continue to support the Congolese Government and people at various levels.
