



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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17 February 2006

### **COD101015.FE**

Democratic Republic of Congo: The constitutional referendum from 18 to 19 December 2005, particularly the conditions of the referendum, its results, and the reactions of independent observers and opponents (February 2006)  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### **The referendum and the reactions of observers**

Various sources, referring to statements made by international observers, indicated that the constitutional referendum held on 18 and 19 December 2005 in the Democratic Republic of Congo (DRC) was "free and fair" (Reuters 21 Dec. 2005; BBC 12 Jan. 2006; *ibid.* 3 Jan. 2006; VOA 12 Jan. 2006), and that it had been largely transparent (BBC 12 Jan. 2006; *ibid.* 3 Jan. 2006). The Website of Congo's Independent Electoral Commission (Commission électorale indépendante, CEI), in citing the statements of General Philippe Morillon, head of the European Union's observation mission, noted that [translation] "the majority of Congolese people expressed themselves freely" and that the EU observers were [translation] "glad the referendum went smoothly" (DRC 11 Jan. 2006). The same Website indicated that hundreds of observers from various organizations, particularly the European Union, European Parliamentarians for Africa (AWEPA) and the Electoral Institute of Southern Africa (EISA), had monitored the constitutional referendum (*ibid.*). An article posted on the AllAfrica.com Website estimated that 280 international observers and 5,000 national observers were present during the Congolese constitutional referendum (*Southern African News Features* 4 Jan. 2006).

However, a Reuters article reported that EU observers acknowledged "some cases of violence and intimidation" during the referendum (21 Dec. 2005). In addition, a United Nations report, citing the statements of the CEI chairman, indicated that there had been irregularities with documentation in some voting stations, including [IRIN English version] "the lack of minutes, the lack of signatures, deletions and other alterations, as well as the use of unauthorised ballot boxes, [and that the CEI] annulled all these results concerned" (United Nations 12 Jan. 2006). The same report did not, however, identify the regions where these irregularities occurred (*ibid.*). Sources also reported that on the eve of the referendum, "three voting booths were burnt by opponents of the new constitution, destroying electoral kits, ballots and two schools" in Kinshasa (IPS 20 Dec. 2005; see also CBC 17 Dec. 2005). Police reacted to the opponents by shooting "tear gas and live bullets into a crowd of nearly 500 people protesting the proposed charter, leaving at least three people injured" (IPS 20 Dec. 2005).

An article published by Reuters noted that "the opposition . . . cried foul,

complaining that a spokesman for the 'No' campaign [who was] arrested . . . [was] still being held by the security services" (21 Dec. 2005). The head of the EU team of observers admitted that he was aware that Ngoy, the spokesman for the 'No' campaign, had been arrested, but he played down the incident, saying that it did not influence the results of the referendum (Reuters 21 Dec. 2005).

The DRC's Supreme Court, in the official notification of case R.E. 04 of 3 February 2006 on the proclamation of the final results of the constitutional referendum, denied 14 motions to set aside on the basis of [translation] "prematurity, the lack of standing of the charge presented by the claimants' representatives, or the legal non-existence of the claimants, or because the motions were unfounded" (DRC 3 Feb. 2006). Certain political parties were listed among the organizations that introduced the motions to set aside the results of the constitutional referendum which were denied, including the Union for Democracy and Social Progress (Union pour la démocratie et le progrès social, UDPS), Congo for Justice (Congo pour la justice, C. Just), the Congolese People's Movement for the Republic (Mouvement du peuple congolais pour la république, MPCR), the National Convention for Progress and the Republic (Convention nationale pour la république et le progrès, CNRP), the Lumumbist Progressive Movement (Mouvement lumumbiste progressiste, MLP), the Free Socialist Generation (Génération libre socialiste, GLS), the Congolese Socialist Party (Parti socialiste congolais, PSC), and the Alliance for the Defence of the Republic's Interests (Alliance pour la défense des intérêts de la république, ADIR), as well as some non-profit associations, such as the 17 May Movement (Mouvement du 17 mai, M-17), the NGO Broken Bonsom and the Generation Without Borders Foundation (fondation Génération sans frontières) (DRC 3 Feb. 2006). The motion of Nadine Biakushila Muka was also denied (DRC 3 Feb. 2006).

### **Results of the referendum**

Of approximately 25 million people registered on the electoral list, just over 15 million were able to vote, resulting in a voter participation rate of 62 per cent (DRC 3 Feb. 2006; United Nations 12 Jan. 2006; AP 11 Jan. 2006; BBC 12 Jan. 2006). According to article 8 of Law No. 04/028 of 24 December 2004 on the identification and registration of voters in the Democratic Republic of Congo, the following conditions apply for registration on the electoral list:

[translation]

the person must be a Congolese national

the person must be aged 18 years on the closing date of the identification and registration period

the person must be in the Democratic Republic of Congo at the time of identification and registration

the person must enjoy all his or her civil and political rights (DRC 24 Dec. 2004).

Moreover, between 36,000 and 40,000 polling stations were open across the country (AP 11 Jan. 2006; *Southern African News Features* 4 Jan. 2006).

In the official notification mentioned above, the Congolese Supreme Court announced the final results as 84.31 per cent 'yes' votes against 15.69 per cent 'no' votes (DRC 3 Feb. 2006; see also AP 11 Jan. 2006; VOA 12 Jan. 2006). In its 8 January 2006 issue, *Jeune Afrique/L'Intelligent*, referring to the regional division of the referendum vote, noted that

[translation]

with the exception of metropolitan Kinshasa and the two Kasai provinces where the UDPS is well established, all other regions in the DRC largely approved the proposed text. From Kivu to the Atlantic coast and from province Équateur to Katanga, voters clearly demonstrated that they were tired of the situation. Enough of the arbitrary violence committed by armed gangs, enough suffering and rampant impoverishment . . . The eastern regions most affected by the conflict participated in significant numbers and the 'yes' vote was 97.6% in South Kivu, 96.7% in North Kivu, 95.6% in Maniema, 89.3% in Katanga, and 86.2% in Province orientale. Where people could have feared that the issue of the Banyamulenge's nationality (the Tutsi minority originally from Rwanda that settled in eastern DRC) would have prompted rejection, particularly in Goma and Bukavu, the proposed text was approved.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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