

AFRICA RISK CONSULTING DRC Monthly Briefing February 2019

DRC Summary 13 February 2019

The Democratic Republic of the Congo's (DRC) new president, Felix Tshisekedi (2019-present), is sworn in on 24 January in the DRC's first transfer of power by election in 59 years of independence. Electronic voting data, collected by the DRC's electronic voting machines, show that Martin Fayulu was the winner of the DRC's 30 December vote as the leaked results were almost a near match to those of the independent Conférence Épiscopale Nationale au Congo (CENCO) results. Mining majors have continued to find success and profits in their DRC operations, despite the new mining code, and appear to have accepted that the code will not be changed under Tshisekedi.

Felix Tshisekedi sworn in as DRC president amid controversy over the election

The **Democratic Republic of the Congo's (DRC)** new president, **Felix Tshisekedi** (2019-present), was sworn in on 24 January in the DRC's first transfer of power by election in 59 years of independence.¹ Tshisekedi's electoral victory, however, is marred by allegations of rampant fraud and vote rigging. Opposition candidate **Martin Fayulu** has continued to press civil society and regional actors to not accept Tshisekedi's presidency, and on 11 February called for another election within six months.²

Former DRC President **Joseph Kabila** (2001-2019) attended Tshisekedi's inauguration amid continuing rumours of a backroom deal with Tshisekedi to allow Kabila and his allies to hold on to some power in the DRC.³ After the preliminary results were released, Fayulu denounced them as an "*electoral coup*"⁴ (see *ARC Briefing DRC* January 2019) and called for civil disobedience after the constitutional court rejected his appeal of the election results on 20 January.⁵ Fayulu had requested the constitutional court to order a recount of the election results,⁶ but the court, stacked with Kabila-appointed judges, rejected the request.

While most analysts expected this result, what was surprising was the **African Union (AU)** request for the government to suspend the announcement of the final results due to "*serious doubts*" about the vote.⁷ The AU, as well as other regional bodies such as the **Southern African Development Community (SADC)** and the **International Conference of the Great Lakes Region (ICGLR)**, all issued statements questioning the legitimacy of the election, but did not go so far as to ask for a recount.⁸ However, once the constitutional court ruled that Fayulu's claims were "*unfounded*" and his call for a recount "*absurd*",⁹ the AU, SADC and other **African** countries, including **South Africa**,¹⁰ accepted that Tshisekedi was to be president and released statements with their congratulations.¹¹ The **United States (US)** and the **European Union** also recognised Tshisekedi as president by 24

¹ Al Jazeera, 24 Jan 2019

² Jeune Afrique, 11 Feb 2019

³ Al Jazeera, 24 Jan 2019

⁴ AFP, 10 Jan 2019

⁵ The Guardian, 20 Jan 2019

⁶ News24, 15 Jan 2019

⁷ Associated Press, 18 Jan 2019

⁸ The Guardian, 20 Jan 2019

⁹ Mail & Guardian, 20 Jan 2019

¹⁰ IOL, 21 Jan 2019

¹¹ News24, 20 Jan 2019

January,¹² showing that it preferred some semblance of stability in a strategic country over legitimate democracy.

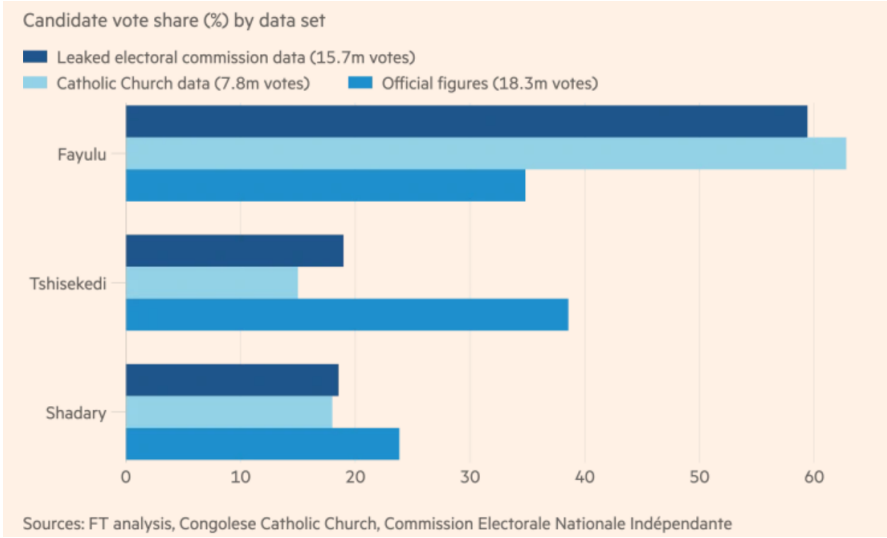
While congratulations were sent, it remains to be seen whether these countries will accept Tshisekedi as the true DRC president. In a signal of lingering doubts, the only foreign head of state to attend Tshisekedi's inauguration was **Kenya's** President **Uhuru Kenyatta** (2013-present).¹³ Fayulu has continued his lobbying for a recount, asking the AU on 8 February to push for new elections within six months and arguing that the results did not reflect the wishes of the DRC voters.¹⁴ The AU has yet to respond and is not likely to rock the boat with new elections that would upset the fragility of the DRC's political environment, even though all the leaders are well aware that Fayulu is likely correct in claiming that the elections were rigged.

Leaked voting data and legislative election results show rampant fraud in DRC election

Electronic voting data, collected by the DRC's electronic voting machines, showed on 15 January that Martin Fayulu was the winner of the DRC's 30 December vote as the leaked results were almost a near match to those of the independent **Conférence Épiscopale Nationale au Congo (CENCO)** results.¹⁵ The results clearly show fraudulent results and confirm a backroom deal between Kabila and Tshisekedi, though the international community is unlikely to use this as an opportunity to push for a new election.

According to the leaked results, which represent 86% of total votes cast, Fayulu won 59.4% of the vote, compared to Tshisekedi's 19%.¹⁶ This is similar to the CENCO results, in which 40,000 observers manually collected data from 43% of voters, finding that Fayulu won 62.8% of the vote.¹⁷ A person in Fayulu's camp leaked the data to the US-based **Congo Research Group**, which could attract criticism over the validity of the leaked results,¹⁸ although a **Financial Times** analysis of the leaked results and the independent CENCO results show a near perfect correlation of 0.096 to 0.991 (with 1 representing a perfect match).¹⁹ According to Congo Research Group director **Jason Stearns**,

"It is extremely difficult to believe... that tens of thousands of lines of data could have been fabricated on short notice to produce these results without signs of tampering."²⁰



¹² AFP, 24 Jan 2019
¹³ Reuters, 24 Jan 2019
¹⁴ Africanews, 11 Feb 2019
¹⁵ FT, 15 Jan 2019
¹⁶ FT, 15 Jan 2019
¹⁷ FT, 15 Jan 2019
¹⁸ FT, 15 Jan 2019
¹⁹ FT, 15 Jan 2019
²⁰ FT, 15 Jan 2019

The results of the legislative elections also highlight fraudulent results. While many analysts were surprised by the presidential election results, they were astonished at the legislative results. As Congolese entered the voting booths, they were asked to vote for a presidential and a legislative candidate. While the leaked results show that most voted for Fayulu as president, the provisional legislative results released on **Twitter** shortly after the presidential results told a different story. Candidates from Shadary's party, the ruling **Front Commun pour le Congo (FCC)**, won over 300 of the 500 seats,²¹ giving them a vast majority and showing a similar performance to the last election, where the FCC held about 350 seats. The legislative results attracted less attention but they show either further evidence of electoral fraud or a record-breaking electoral result for the FCC.

A comparative study of political systems similar to the DRC – semi-presidential systems – found that, for the most part, the political party that won a majority of seats in legislative elections also either won the presidency or was the runner up. Not once did a political party that was not in the top two of the presidential election end up winning the legislative elections.

Country	Year	Legislative election winners (presidential election place)
Algeria	2014/2017	National Liberation Front (first)
Burkina Faso	2015	People's Movement for Progress (first)
Cape Verde	2011	African Party of the Independence of Cape Verde (second)
Cape Verde	2016	Movement for Democracy (first)
East Timor	2017	Fretilin (first)
Mali	2013	Rally for Mali (first)
Madagascar	2006/2007	Tiako I Madagasikara (first)
Mongolia	2016/2017	Mongolian People's Party (second)
Niger	2017	Nigerien Party for Democracy and Socialism (first)
Poland	2015	Law and Justice (first)
Romania	2014	Social Democratic Party (SDP) (second) ²²
Sao Tome and Principe	2014/2016	Independent Democratic Action (first)
Sri Lanka	2015	United National Front for Good Governance (first)
Tunisia	2014	Nidaa Tounes (first)

While not definitive proof of electoral fraud, the DRC's legislative electoral results do seem odd. The Congolese voters were quite adamant in their presidential voting that they did not want Kabila's *dauphin*, **Emmanuel Ramazani Shadary**, so it would be odd for the same voter to vote for an FCC candidate for the legislature. Analysts of the DRC election claim that Kabila was forced into a deal with Tshisekedi, as it was obvious to electoral observers that Shadary had performed poorly in the election (see *ARC Briefing DRC* January 2019). To have changed the numbers to a Shadary win would have resulted in international condemnation and civil conflict. A deal with Tshisekedi, who was seen as more malleable than Fayulu (a placeholder for Kabila's rivals, **Jean-Pierre Bemba** and **Moïse Katumbi**) is better for Kabila and the DRC elite, who wish to keep their patronage networks active even with Kabila out of office.

²¹ Reuters, 12 Jan 2019

²² The SDP candidate placed first in the first round of elections, and second in the second round, losing the presidency

If Tshisekedi did make a deal with Kabila, he appears to have negotiated poorly, focusing only on winning the presidency with little thought of the legislature.²³ FCC dominance in the national assembly means the prime minister will have to be from the FCC rather than **Union pour la nation Congolaise** leader **Vital Kamerhe**, whom Tshisekedi, as part of their coalition agreement, was supposed to name prime minister if he won.²⁴ The FCC majority gives Kabila oversight of all major policy moves in the country. Although the election result may be a historic moment for the DRC, the political situation appears set to stay the same: *plus ça change, plus c'est la même chose*.

Mining majors find continued success in DRC as mining code negotiations close to end

Mining majors have continued to find success and profits in their DRC operations, despite the new mining code, and appear to have accepted that the new mining code will not be changed under Tshisekedi (see *ARC Briefing DRC* January 2019). While mining companies were not initially pleased with the government's mining sector reforms, the sense of greater political and regulatory stability in the DRC should be of some comfort, although it remains to be seen whether Tshisekedi will be a pro-mining president.

Switzerland-based mining company **Glencore** reported a 54% year-on-year increase in cobalt production and a 11% year-on-year increase in copper production on 1 February, largely fueled by the restart of its **Katanga** mining operations.²⁵ However, the government has been forced to stockpile the cobalt on site after low levels of radioactivity were detected in November, which may ultimately affect sales.²⁶ In order to remove the uranium, Glencore will need to build an ion exchange system, which is expected to be completed by May 2020, meaning that the majority of its cobalt will not be sold until after that date.²⁷

Canada-based **Ivanhoe Mines** reported an unprecedented 22.3 metre intersection of 13.05% copper at its **Kamoa North** prospect at the end of January.²⁸ The discovery is three times richer than any other discovery at the prospect, where drilling started more than ten years ago.²⁹ Ivanhoe chair **Robert Friedland** said that the discovery

"...exceeds anything previously encountered in all of our years of delineating resources on this project."³⁰

Friedland claimed the **Kamoa-Kakula** mine, in which Kamoa North is based, will become the world's second largest mine, with a peak annual production of 700,000 tonnes of copper.³¹ However, to achieve this, Ivanhoe will need to raise more than \$1.1 billion. Friedland said that talks with **China**-based investors have already begun.³²

Canada-based **Barrick Gold Corporation's** chief executive officer, **Mark Bristow**, announced at the **Investing in African Mining in Cape Town** (South Africa) on 5 February that Barrick is close to resolving issues with the new mining code.³³ Bristow said four to five key issues remained to be resolved,³⁴ although DRC mining ministry official **Joseph Ikoli** stated that there would be "*no more debate*" on the code.³⁵ Bristow, who is renowned for his negotiation skills and stubbornness, is likely to continue pressing for changes and, while changes to the code may be a moot point, Barrick may gain individual concessions from the government in regards to its DRC-based mining operations.

²³ Source, journalist, Kinshasa

²⁴ Africanews, 23 Nov 2018

²⁵ Mining Technology, 1 Feb 2019

²⁶ FT, 1 Feb 2019

²⁷ FT, 1 Feb 2019

²⁸ Mining Weekly, 31 Jan 2019

²⁹ Mining Weekly, 31 Jan 2019

³⁰ Mining Weekly, 31 Jan 2019

³¹ Mining.com, 6 Feb 2019

³² Mining Weekly, 31 Jan 2019

³³ www.metalbulletin.com

³⁴ www.metalbulletin.com

³⁵ FT, 5 Feb 2019

Planner

19-21 Jun 2019 **Lubumbashi (DRC)** DRC Mining Week

Chronology

12 Feb 2019 **Kinshasa (DRC)** *Proactive Investor*. **Australia**-based **Winmar Resources** agrees to purchase cobalt and copper ores from the **Luapula Processing Facility**;

11 Feb 2019 **Kinshasa (DRC)** *Jeune Afrique*. Opposition candidate **Martin Fayulu** calls for another election within six months;

6 Feb 2019 **Kinshasa (DRC)** *Metal Bulletin*. **Canada**-based mining company **Barrick Gold** CEO **Mark Bristow** says that mining companies are closer to a deal with the government regarding the new mining code, but work remains;

6 Feb 2019 **Kinshasa (DRC)** *Reuters*. The chamber of commerce reports a 12.9% year-on-year increase in copper production to 1.2 million tonnes in 2018;

5 Feb 2019 **Kinshasa (DRC)** *Jeune Afrique*. Chair of the provisional national assembly, **Gabriel Kyungu wa Kumwanza**, an ally of **Moise Katumbi**, calls for support for President **Felix Tshisekedi**, further isolating **Martin Fayulu**;

4 Feb 2019 **Kinshasa (DRC)** *Reuters*. Media report that former cabinet ministers will receive life-time pay and other benefits amid President **Felix Tshisekedi**'s corruption crackdown;

3 Feb 2019 **Kinshasa (DRC)** *Jeune Afrique*. Main opposition leader and 2018 presidential candidate **Martin Fayulu** calls for peaceful resistance against the electoral results;

2 Feb 2019 **Kinshasa (DRC)** *The East African*. The **International Court of Justice** re-opens a 2005 case in which it ordered **Uganda** to pay \$10 billion to the **Democratic Republic of the Congo (DRC)** for its military activities in the DRC between 1997 and 2003;

1 Feb 2019 **Kinshasa (DRC)** *Reuters*. **Switzerland**-based mining company **Glencore** reports 11% increase in copper output in 2018 due to the restart of its **Katanga** unit in the DRC;

31 Jan 2019 **Kinshasa (DRC)** *AFP*. The government asks **United Nation (UN)** peacekeepers for help against Rwandan rebels planning operations against **Rwanda** from inside **Democratic Republic of the Congo (DRC)** territory;

31 Jan 2019 **Kinshasa (DRC)** *FT*. The mines ministry asks **Kamoto Copper Company**, a subsidiary of **Switzerland**-based **Glencore**, to suspend an ion exchange plant, which would allow it to remove uranium from cobalt, until further notice;

31 Jan 2019 **Kinshasa (DRC)** *Mining Weekly*. **Canada**-based **Ivanhoe Mines** discovers an unprecedented 22.3 metre thick intersection of copper at its **Kamoa North** prospect in the DRC;

30 Jan 2019 **Kinshasa (DRC)** *Jeune Afrique*. Former president **Joseph Kabila**'s naming of 26 people as ambassadors prior to leaving office is seen as a way to reward loyalists;

29 Jan 2019 **Kinshasa (DRC)** *AFP*. Three **Kamwina Nsapu** militia leaders and more than 100 soldiers surrender to show support for new President **Felix Tshisekedi**;

28 Jan 2019 **Lubumbashi (DRC)** *AFP*. Four people die during protests over water and power shortages in **Lubumbashi**;

27 Jan 2019 **Kinshasa (DRC)** *Jeune Afrique*. Seven **Catholic** leaders in **Kasai** give their support to President **Felix Tshisekedi**, although the **Conférence épiscopale nationale du Congo** has yet to comment on the disputed election;

26 Jan 2019 **Mai-Ndombe Province (DRC)** *Al Jazeera*. The **United Nations Human Rights**

Office finds more than 50 mass graves following ethnic conflict in December;

24 Jan 2019 **Kinshasa (DRC)** *Al Jazeera*. **Felix Tshisekedi** is sworn in as the **Democratic Republic of the Congo** president;

23 Jan 2019 **Kinshasa (DRC)** *Jeune Afrique*. Former President **Joseph Kabila** states he will leave the presidency without regret or remorse and calls for a grand coalition of progressive forces;

23 Jan 2019 **Kinshasa (DRC)** *Reuters*. The **United States** welcomes the constitutional court's certification of **Felix Tshisekedi**'s election win despite allegations of fraud;

23 Jan 2019 **Kinshasa (DRC)** *Al Jazeera*. Officials confirm 14 new **Ebola** cases in one day, the largest increase since the August 2018 outbreak;

22 Jan 2019 **Kinshasa (DRC)** *Business Day*. **European Union** and **African Union** leaders note they will work with new President **Felix Tshisekedi**, but do not give explicit backing due to disputed electoral results;

21 Jan 2019 **Kinshasa (DRC)** *Associated Press*. Government spokesman **Lambert Mende** states that the presidential inauguration will be delayed as police disperse protestors supporting **Martin Fayulu**;

20 Jan 2019 **Kinshasa (DRC)** *BBC*. The constitutional court confirms **Felix Tshisekedi**'s electoral victory and rejects all fraud claims as **African** leaders congratulate Tshisekedi on his victory;

20 Jan 2019 **Kinshasa (DRC)** *Reuters*. The government restores internet after a 20-day suspension due to the elections;

17 Jan 2019 **Kinshasa (DRC)** *FT*. **African** leaders meeting at the **African Union** call for a delay in releasing final election results, but do not call for a recount or criticise the election process;

16 Jan 2019 **Kinshasa (DRC)** *News24*. Health authorities states that the **Ebola** death toll has surpassed 400 people since the outbreak began in August;

16 Jan 2019 **Yumbi (DRC)** *Al Jazeera*. The **United Nations Human Rights Commission** states that at least 890 people died during ethnic violence in December in **Mai-Ndombe Province**;

16 Jan 2019 **Kinshasa (DRC)** *The New Times*. **Rwanda**'s President **Paul Kagame** will convene a high-level meeting with other heads of state at **African Union** headquarters to discuss the situation in the **Democratic Republic of the Congo**;

15 Jan 2019 **Kinshasa (DRC)** *Jeune Afrique*. Leaked documents reportedly prove that **Martin Fayulu** won the 30 December presidential elections, with nearly 60% of the vote;

15 Jan 2019 **Kinshasa (DRC)** *Al Jazeera*. The **Southern African Development Community** calls an emergency meeting over the disputed **Democratic Republic of the Congo (DRC)** election;

14 Jan 2019 **Kinshasa (DRC)** *Al Jazeera*. The **Conférence Internationale sur la Région des Grands Lacs** calls for a recount of the December presidential election;

13 Jan 2019 **Kinshasa (DRC)** *Jeune Afrique*. The **Southern African Development Community** calls for a recount of the **Democratic Republic of the Congo (DRC)** election votes and for the formation of a government of national unity;

12 Jan 2019 **Kinshasa (DRC)** *Reuters*. The ruling **Front Commun pour le Congo** coalition reportedly wins 350 of the 500 parliamentary seats, despite performing poorly in the presidential election;

11 Jan 2019 **Kinshasa (DRC)** *Reuters*. Presidential candidate **Martin Fayulu** plans to file a court

challenge over the election results;

10 Jan 2019 **Kinshasa (DRC)** *Al Jazeera*. The **Catholic Church** in the DRC alleges election irregularities as the results do not match their observer reports.

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