

Report on peace and security in the ECOWAS area

Benin elections: the waiting game

Summary

After more than 24 years of democracy, Benin is entering an intricate electoral cycle with three sets of upcoming elections. The local, communal and municipal elections that have been postponed since 2013 will be held in 2015; parliamentary elections are also scheduled for 2015; and a presidential election is scheduled for 2016, in which President Yayi is expected to hand over power to his successor. There are currently many questions and uncertainties about these elections, including why the electoral list remains unavailable just three months before the 2015 legislative elections. Decisions are being made based on both political and electoral calculations, which complicates the environment in which elections will take place. If left unchecked, this situation could threaten political stability and the consolidation of the democratic process in Benin.

The legislative elections in Benin are scheduled for February/March 2015 and the presidential election must take place a year later. According to the 1990 constitution, parliament should be up and running no later than the first half of April 2015, while the new president must be sworn in at the beginning of April 2016. These deadlines are enshrined in the constitution and the authorities have virtually no room for manoeuvre in this regard, unlike the communal, municipal and local elections, whose deadlines have been the subject of legislation that facilitates postponement. Because the most recent communal, municipal and local elections took place in 2008, a new poll should have been held in 2013, but it continues to be postponed.

Following the first decade of Benin's independence, which was characterised by chronic political instability, what was then called Dahomey experienced a military-Marxist dictatorship from 1972 to 1990. The National Conference of January 1990 marked the beginning of a process known as 'Democratic Renewal'. The constitutional referendum in December 1990 led to the adoption of an essentially democratic, liberal, and pluralistic constitution enshrining human rights and civil liberties.

This constitution, which is still in force, gave birth to democratic institutions, including the executive (led by the President of the Republic), the National Assembly, the Constitutional Court, the Supreme Court, and the High Authority for Audiovisual and Communication. Over time other institutions have emerged that are not yet constitutional, such as the Autonomous National Electoral Commission (CENA). The constitution has more or less effectively regulated the electoral cycle, which has run fairly smoothly since the constitution was passed. Thus, Benin has experienced five presidential elections, six parliamentary elections, and two communal and municipal elections (as well as one local election).

The National Conference of January 1990 marked the beginning of a process known as 'Democratic Renewal'

The current pre-election context raises several important questions, which are the subject of this analysis. They range from the causes of the postponement of the 2013 communal, municipal and local elections to the risks hanging over the holding of the next parliamentary elections and the 2016 presidential election. These questions also touch on sociopolitical tensions (some of which seem to be recurring), the outstanding issue of the permanent computerised electoral list (LEPI), President Yayi's potential ambitions for a third presidential term, the role of civil society and possible solutions to these problems that should be considered.

A tense pre-election context

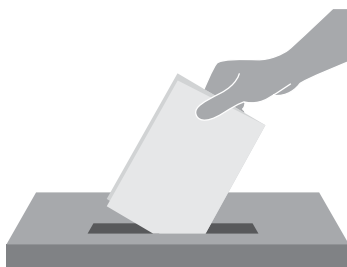
Elections postponed amid political calculations

The sociopolitical context in Benin is multifaceted.

The local, communal and municipal elections that should have taken place in the second half of 2013 have not been held for at least two reasons. Firstly – and this is the most widely known reason – the elections could not be held without an adequate electoral list. Correcting and updating the LEPI should have been completed by the end of 2013. While the final deadline was announced for 17 December 2014, the process had still not been completed at the beginning of December 2014, and this deadline was postponed again, this time to the second half of January 2015 at the earliest. However, the non-availability of the electoral list is not the only reason for the postponement of the elections.

There is speculation that in reality most politicians and political parties do not want the elections to be held on time. This is simply an electoral calculation: they believe their chances of winning the elections would be higher near the end of the term of the current president, Thomas Boni Yayi. For them the political influence of the head of state, which is currently greater as one moves away from urban centres, would be less significant at that point. This calculation has been done both by the official supporters of the president and by the opposition, which is explained by the political clientelism that characterises Benin (and other countries in Africa).

Because the head of state has announced his departure on several occasions, politicians – including those in his camp – are already in the post-Yayi phase. If he hopes to control the communal elections in the hope of influencing the course of events until his departure and even after, others prefer to be released from his



THERE IS SPECULATION THAT MOST POLITICIANS AND POLITICAL PARTIES DO NOT WANT THE ELECTIONS TO BE HELD ON TIME

influence and to reposition themselves in relation to the next presidential candidates. Since the second half of 2012 there have been calls – in particular from the presidential camp – for the proposed coupling of local, communal and municipal elections with parliamentary elections. In response to these proposals in late 2012 and early 2013 the president reaffirmed the need to hold the elections according to schedule. It is in this context that the LEPI issue has enabled a near consensus regarding the postponement of the 2013 elections.

LEPI: the politicians' hostage

The LEPI was established amid a highly charged sociopolitical context just before the 2011 presidential and parliamentary elections, which resulted in President Yayi being re-elected as head of state. There was substantial mistrust among sociopolitical stakeholders, and between the resolute partisans of 'Anything but Yayi' and the supporters of 'Yayi: 10 years!' Atavistic distrust of some towards the LEPI was exacerbated by the unprecedented victory of the president in the first round of the 2011 presidential elections. In late December 2012 politicians eventually decided through a law passed by the National Assembly to correct and update the LEPI.

The LEPI Guidance and Supervision Council (COS/LEPI) was then established in May 2013. It comprises five members of the presidential majority party, four of the opposition and two members of the administration, i.e. the director general of the National Institute for Statistical and Economic Analysis and the registrar general. The COS/LEPI has a crucial responsibility to make the LEPI available to the CENA, which is responsible for organising the elections. The latter then proposes a date for the elections to the head of state, who passes it by decree. The unavailability of the electoral list could stall the entire electoral process, making the role of the COS/LEPI, which is controlled exclusively by parliamentarians, fundamental. This is especially true given that the law to update the LEPI has made the holding of local elections conditional on the availability of the list and the 'stamp' of the COS/LEPI.

Two main criticisms have been made regarding the first version of the LEPI: the high number of voters that were deliberately omitted (a figure of two million has been cited) and the problem of assigning voters to voting points and polling stations. In reality, this figure for the number of omitted voters is unlikely, given the most credible statistics. Also, if some voters could not actually be registered, then, while cases of deliberate omission do exist, the figure would seem to be much lower than the one quoted. However, many voters followed the orders to boycott the registration process issued by some political parties. Others who did not want to be counted refused to cooperate with officials. Added to this are voters who, for various practical

reasons (work, health, travel, etc.), could not in good faith be registered. Nevertheless, it is hoped that the ongoing process will provide a clearer idea of the situation, beyond politicians' speeches, which are tainted by ulterior motives.

The second criticism is much more serious. Assigning voters to polling stations and voting points has created real problems, especially for technical reasons, but also as a result of circumstances.² This could be corrected in three ways: by assigning voters to the polling station of their choice; by establishing polling stations and voting points in advance and by legal means; and by establishing the boundaries between districts in towns and villages to take into account the new administrative entities. These measures should enable a lasting solution to the issues of polling stations and voting points, both in terms of the geographical locations of voters and the transparency, reliability and predictability of the election process, in particular voting.

The process of correcting and updating the LEPI faces three challenges. The first, which is political in nature, is related to the unspoken, unofficial decision by a large part of the political class in favour of postponing the elections, with a view to coupling the parliamentary elections with the communal, municipal and local elections.

Development partners refused to contribute to funding the updating of the LEPI

The second challenge faced by the process is financial. This is not new. From the beginning it was clear that the process as envisaged by law and implemented by the COS/LEPI would be expensive, especially because Benin had to bear the cost almost by itself, in light of the flat refusal by its development partners to do so. The latter were made wary by the experience of establishing the original LEPI, during which they endured harassment. Without a clear explanation of why the entire process had to start from scratch rather than just making the necessary corrections, development partners therefore refused to contribute to funding the updating of the LEPI.

Benin must therefore find ways to fund the elections by itself, either by using its own funds or by raising funds from unconventional donors. Many difficulties have arisen: legitimate questions as to the existence of a credible budget; issues with the transparency of operations reported within the COS/LEPI; doubts about the reliability of the response to these problems; and, above all, the fact that it is virtually impossible

to control the management of the public funds made available for the process or to ensure accountability.³ Yet, despite all of these obstacles the executive has no choice but to make the funds available if it does not wish to bear the responsibility for the failure of the process. The financial challenge, although it has been blown out of proportion, needs to be put into perspective, because even if the government is facing financial difficulties, it has to find the means to finance the elections.

The real challenge is technological, but this essential aspect is less widely known. The COS/LEPI, supported by its technical arm, the National Treatment Centre, decided to use optical scanning to correct and update the electoral list. Although effective in other areas, particularly in terms of the population census or the electronic archiving of documents, this method is inadequate and inappropriate for the electoral list. To make matters worse, this technology has never been tested elsewhere on any electoral material. The decision to use it was made against the advice of several experts and, as expected, is yet to yield results, resulting in a waste of time, energy, and financial and material resources in a context where funding the operation was already a challenge and a deadline was in place. Added to this are the problems inherent in processes of such a magnitude, inadequate communication, insufficient training of the agents used, etc.

The real challenge to updating the LEPI is technological

The existence and quality of the electoral list determine not only the communal, municipal and local elections, which could easily have been postponed, but also the 2015 parliamentary elections and the 2016 presidential election, which cannot be postponed. The bottlenecks in the process of correcting and updating the LEPI now largely depend on the reliability of the technology opted for and the capacity of the relevant organisations to implement this technology within a reasonable time period. The electoral list is also determined by politicians' calculations and, to a lesser extent, the question of funding the operation. While solutions are beginning to appear for the political and financial issues thanks to the pressure of public opinion, the technological aspect is a more complex one to resolve.

Some progress has been observed recently. Under the pressure of public opinion and public authorities a consultation was organised with the various institutions involved under the aegis of the president. Following three days of work, on 31 October 2014 the decision was made to establish a committee of six members chaired by Tabé Gbian, president of the Economic and Social Council. This committee includes

representatives of the executive, parliament and government institutions. It must 'identify bottlenecks that may prevent the COS/LEPI from moving forward'. To overcome the financial difficulties the government has decided to grant an additional FCFA 3.1 billion to the COS/LEPI.

Parliament, meanwhile, has been invited to consider implementing overriding legislation to reduce delays and promote the organisation of the elections on time. The committee aims to directly monitor the activities implemented by the COS/LEPI, but this nonetheless leaves the COS/LEPI totally free, since such oversight has no legal backing. However, it is essential that the process be controlled, or at least closely monitored. The process should enable a better assessment of the progress of operations and the work of the COS/LEPI to overcome the deadlock.

Who benefits from postponing the local elections?

Answers to this question have already been provided in previous developments that have taken place, but it is appropriate to ask whether politicians on all sides who quietly wished for the postponement of the local, communal and municipal elections have become caught in their own trap. On a technical level few people were able to anticipate the problems that have arisen, i.e. the technical-political muddle in which the process of correcting and updating the LEPI finds itself. The consequences of not completing the electoral list in time for the parliamentary elections due in February/March 2015 and even the presidential elections (2016) do not appear to have been anticipated. On a political level the magnitude of the reaction of the people and public authorities was probably not envisaged either. In addition, it is not certain whether those supporting the postponement of the local elections will achieve the expected results and take the lion's share of votes at the expense of President Yayi. The latter, whose electoral skills are beyond doubt, continues to make field trips and maintain his special relationship with the people, especially in rural areas. He dominates the media and continually releases communications to explain a particular issue or disclaim responsibility for the current situation. Hardly a week passes when his ministers and he himself are not involved in such activities. The recent political history of Benin has shown the effectiveness of these methods.

Moreover, in the event that the president does not wish to leave in 2016, the deadlock surrounding the process of correcting and updating the LEPI may offer him an unexpected opportunity to muddy the waters. Nevertheless, legal safeguards do exist to prevent this type of situation. If the elections cannot be organised in 2016, his mandate would still end and the constitution has the necessary provisions to deal with such a situation, even though it is not expressly provided for.

Finally, the eventuality of elections not taking place with the president taking advantage of the situation to cling to power could lead to a coup or a popular revolt like that of 1989, or a combination of both, like in Burkina Faso recently. According to this nightmare scenario, however unlikely, the greatest risk is the threat to the political stability of Benin and its democratic achievements. This would offer an ideal situation for those who advocate strong, supposedly effective solutions and dream of a scenario *à la Rawlings*,⁴ whose actions were laudable in his time but would be totally anachronistic today, a quarter of a century after the National Conference in February 1990. While such trends seem fairly marginal to date, it would be wise to avoid any situation that could be a breeding ground for currents of this kind. Maintaining political stability is Benin's prime necessity.

The unlikely constitutional review

The review of the constitution is a contentious issue and appears to be one of President Yayi's obsessions since coming to power in 2006, and even more since the renewal of his mandate in 2011. It must be acknowledged that the consensus desired from the beginning on this issue has never been achieved. The project is not intended to lift constitutional obstacles that prescribe the length of the president's term in office, but to constitutionalise some institutions, including the CENA, and make some adjustments, such as determining the duration of the period between the two presidential terms.

Although the bill currently before parliament to review the constitution does not modify the number of presidential terms – on the contrary, it contains a wealth of caveats in this regard, as if the executive wants to demonstrate its good faith – the Beninese fear that the constitutional provision limiting the number of presidential terms will be removed. There is therefore an instinctive and systematic mistrust of any constitutional review process, and the bill has increased the fears of opportunistic revision.

The possibility that Yayi is seeking to stay in power is being widely discussed

Although it may be true that several attempts to revise the constitution have been made previously and it is difficult to criticise Yayi for waiting until the middle of his last term to raise this issue again, it is now too late and inappropriate to review the constitution. With less than 17 months until the end of his final term, neither the context nor the political calendar lends itself to such an undertaking. The more the president insists, the more he awakens fears. Suspicions of an opportunistic revision of the constitution have raised questions about his real intentions. Paradoxically, the more pledges he gives of his good faith, the more doubt he is creating.

The president now no longer has the majority required for the completion of the project and the balance of power is increasingly unfavourable to him. He is even having difficulties maintaining his own majority and, *a fortiori*, his extended majority. As he approaches the end of his term the situation will probably get worse, largely due to the reasons mentioned earlier relating to the repositioning of policies and allegiances in terms of clientelism. In this context, no draft revision of the constitution could succeed, whether it affects the presidential term limits or otherwise.

The constitutional review remains a particularly tricky business in the Beninese context, as with Mathieu Kérékou in the past, with President Yayi today, or with



THE EVENTUALITY OF
ELECTIONS NOT TAKING
PLACE COULD LEAD TO
A COUP

his successor in the future. Not only should the matter be approached with great caution and the ground thoroughly prepared, but a broad, inclusive and transparent process will have to be guaranteed. The current bill has greatly suffered from a lack of inclusiveness and transparency.

The possibility that President Yayi is seeking to stay in power is being widely discussed. Although there may be no hard evidence that he has this intention, the temptation may exist; those who have benefited from or taken advantage of his presidency would certainly wish to see it continue. However, the only way to achieve this would be through a constitutional review. But the bill sent to parliament contains no provision for Yayi remaining in power and actually reinforces the limits of the presidential term. The possibility remains of a scenario like that caused by the former Senegalese president, Abdoulaye Wade, who justified his candidacy for a third term on the grounds of the non-retroactivity of a constitutional review undertaken when he was in power. But many legal experts believe that the bill submitted to the Beninese National Assembly would not result in a change to the constitution.

Paradoxically, the methods used by Yayi undermine his apparent good intentions, casting doubt on his genuine will to cede power in 2016. The president's style of governance, favouring direct contact with the public and with his representatives at the expense of political parties or leaders; his activism, which gives the impression of a permanent election campaign being under way;⁵ and some awkward and inappropriate statements in particular from a minister who was called to order and quickly removed from office (see below) all raise questions as to the actual intentions of the current occupier of the Marina Palace.

Even if Yayi's declarations should be considered credible,⁶ his deeds should also reflect his words. He must dissuade supporters who from being tempted to sound out public opinion as to a third term, which is an impression that they have created in recent times.

If President Yayi were really keen on venturing down the path of holding onto power, he would face two major obstacles. From a legal point of view, in two important decisions the Constitutional Court has almost settled the issue of a constitutional review aimed at retaining power. The first decision, which was issued on 20 October 2011 on the occasion of the Referendum Act, rejects any review of the fundamental provisions of the National Conference, including the restriction to two presidential terms and the age limit of 40 years minimum and 70 years maximum for presidential candidates. To the exceptions enshrined in the law that were submitted to the court to be vetted for constitutionality purposes, the court deliberately added constitutional provisions limiting the president to two terms in office.

The second decision, issued on 19 August 2014 following an appeal against the statements of former agriculture minister Fatouma Amadou Djibril, also settled the issue of term limits. During a programme on a private television channel, Djibril had declared:

I think the people will decide ... President Roosevelt in America too was kept in office in a special way ... So if the people decide that President Boni Yayi should have a third term, why not? ... It is the people who decide, and it is the people who vote for their leader. That is real democracy ... If the people believe that the president should continue his activities, the people can decide ... Even though the constitution should be respected, I think we must take into account the will of the people.

These two Constitutional Court decisions are an almost insurmountable barrier to a third presidential term

Reacting to this and similar statements, the court, recalling its earlier decisions, first recognised the constitutional right to freedom of expression, while specifying that 'the use of freedom of expression does not constitute in itself a violation of the law'. The court, however, went on to state that 'the content of speech may be such as to break the law, including the constitutional law' and that 'freedom of opinion does not exempt the citizen from abiding by the constitution'. The court added that the requirement of respect for the constitution is even greater in the case of a minister of the Republic, as the impact of the views they express on public opinion is even greater than that of an ordinary citizen. The remarks of Minister Fatouma Amadou Djibril were perceived as an invitation for the Beninese people to discuss the issue of presidential term restriction to two tenures ... the High Court ruled and stated that the fundamental provisions of the National Conference are excluded from any review, including limiting the number of presidential terms to two. The court concluded that Djibril violated Articles 34, 42 and 124 of the constitution.

These two decisions are an almost insurmountable barrier to a third presidential term. Despite the criticisms it may face, the Constitutional Court is well respected in national public opinion and beyond. On the issue of presidential terms, the court invalidated in advance any attempts at a review to change the current system. It would be very difficult for a president to downplay such a sensitive issue. The constitutional checks that prohibit the taking of power in violation of the court's decisions cannot be submitted to a referendum. In the current context such a bill would not pass the stage of parliament or even the

Law Commission. If the president had such a plan, he would have no choice other than to carry out an institutional coup d'état, with no guarantees for the future.

The legal obstacle is compounded by the people's will. Generally deemed peaceful or apathetic, Benin's public is also unpredictable. According to a popular saying in the Fongbe language – one of the most widely spoken in the country – 'When you chase a fearful person and he flees until he no longer has an escape route, when he turns against you, then you will be the one to run away'. In 1989 no one could imagine that the public, anaesthetised by almost 17 years of totalitarian rule, would rise against the established order, resulting in the National Conference that allowed an unprecedentedly smooth transition from a military-Marxist dictatorship to a democracy without bloodshed. All those who have presided over the country, especially since 1991, fear public opinion, which brings back to reason even the most adventurous of spirits. Since the National Conference people have acquired the inalienable right to freedom of expression and opinion and, above all, the idea that power can never be taken by unconstitutional means and that the constitution is and will be strictly respected.

The October 2014 revolution in Burkina Faso reminded the Beninese of their own quiet revolution of December 1989

The October 2014 revolution in Burkina Faso reminded the Beninese of their own quiet revolution of December 1989. If President Yayi intended to remain in power beyond the constitutional deadline, he is aware that he would probably share the same fate as former president Blaise Compaoré of Burkina Faso. If he intends to respect the constitution, which is highly probable, the recent events in Burkina Faso back such a decision and confirm that he has opted for the wisest solution while strengthening his position vis-à-vis those among his supporters who favour a third term.

Civil society

After exerting an exemplary influence for many years, civil society in Benin is currently weak. It particularly thrived in the 1990s in the wake of the National Conference and the advent of the Democratic Renewal. Non-governmental organisations (NGOs), particularly those specialising in governance, played a key role in the democratic process: civic education; the defence and protection of human rights; the fight against corruption in general and in electoral matters; voter and public education for transparent, credible and peaceful elections, and the smooth and

orderly acceptance of election results; mediation among political and sociopolitical actors; local election monitoring; capacity-building of election staff, etc. Benin's civil society has therefore greatly contributed to consolidating democracy and avoiding political crises.

However, after resisting politicians' siren calls for a long time, some leading figures of civil society eventually gave in, which immediately tainted their credibility. On the one hand, some joined the political arena, mainly from 2006,⁷ perceiving this decision as the logical culmination of their struggle against the previous regime. The president appointed several key civil society figures to positions of responsibility as ministers, chiefs of staff, CEOs of large public companies, advisors, etc. The decisions to accept these appointments, whether taken in good faith or with ulterior motives, have jeopardised the reputations of these figures and their organisations.

On the other hand, some civil society organisations played into the hands of the political forces of the presidential party or opposition. Between 2009 and 2011, including during the elaboration of the initial LEPI, they lost much of the credibility that they had patiently built up over the years. The transformation of some organisations into political parties has not allowed them to restore this credibility. At times some even continue to claim membership of civil society, despite their new political commitments. A few historical NGOs, however, remained true to their principles, thus deserving attention and recognition. In addition, new organisations are emerging that may learn from past mistakes. For now, they still need to be strengthened and earn the trust to which they aspire.

Outstanding issues

The above analysis of the Benin context has already revealed the issues at stake. It is necessary to distinguish direct issues from less direct but related issues.

Core direct issues

As already mentioned, the holding of local and municipal elections and the legislative poll in 2015 and the presidential election in 2016 is unavoidable.

The issue of the effectiveness and quality of the electoral list is the most immediate challenge. Many efforts have been made to meet this challenge, and the production of the list was first said to be scheduled for the improbable date of 17 December 2014 by the COS/LEPI.⁸ The president of this institution, Sacca Lafia, said that they would 'come and explain ourselves' if the list was still not ready by that date. Not only must the list be available in time for the elections, but it must also fulfil the requisite quality criteria pertaining to reliability, completeness, transparency and credibility.

Important dates

1 August 1960: independence of Benin

19–28 February 1990: National Conference of active political forces

11 December 1990: promulgation of the Benin constitution (adopted on 2 December 1990 by referendum)

28 December 2012: passing of the vote on the auditing, correction, and updating of the electoral file and the LEPI

1 May 2013: swearing in of the LEPI Advisory and Supervisory Board

6 June 2013: the president orders the constitution amendment bill to be sent to the National Assembly

13 June 2013: promulgation of the law establishing the electoral roadmap and the setting of voting centres

24 September 2013: the National Assembly Law Commission rejects the constitution amendment bill

27 December 2013: violent repression of a peaceful march of trade unions and public service confederations

7 January 2014: beginning of the general strike

27 March 2014: cancellation of fraudulent recruitment to the public service in 2012 (which caused the 27 December march)

15 April 2014: end of the general strike

27 May 2014: the Constitutional Court orders the municipal elections to be delayed until the completion of the LEPI correction and updating process

29 October 2014: opposition leaders demonstrate in Cotonou to demand the holding of elections

3 November 2014: President Yayi withdraws the bill for the constitutional revision from the National Assembly

Beyond the organisation of elections, the need to respect constitutional norms, and the advent of a new democratic power in the form of a new administration in 2016, the major challenge is to preserve the political stability of Benin, a hard-won stability that has never been challenged since the establishment of democracy. This will be consistent with democratic consolidation.

In 2016 Benin will be at a crossroads, as was the case in 1991 with the defeat of Mathieu Kérékou and the victory of Nicéphore Soglo

In 2016 Benin will be at a crossroads, as was the case in 1991 with the defeat of Mathieu Kérékou and the victory of Nicéphore Soglo; in 2006 with the departure of these two figures; and in 2011 with a presidential election amid protests against the LEPI by the political class and, for the first time, the victory of a candidate in the first round of the presidential election. The issues of political stability and democratic consolidation are all the more crucial, so that Benin appears, even more than in the past, as one of the few spots of political and democratic stability in a troubled region affected by religious fundamentalism, Ebola and the holding onto power by presidents, among other issues. Benin's political stability thus becomes a regional issue.

Another challenge will be to avoid disputes over election results, or at least to reduce their likelihood by enabling a process that is as reliable, transparent and credible as possible through the provision of a voters' list that conforms to established standards. Naturally, disputes, whether in good or bad faith, cannot be avoided, but it is important to ensure that they are not based on serious or substantial grounds.

Significant related challenges

Beyond the organisation of local, communal, and municipal elections, the real challenge is the preservation of democracy and governance at the local level. If the legality of local institutions is acquired under the legislation that extended their mandate, their legitimacy remains questionable. Indeed, it is unlikely that many town councils; mayors; or heads of local communities, villages or districts would still be in office today if elections were held on time, considering the strong tendency of citizens to demand accountability and the renewal of institutions' staff.

Worrying but preventable risks

There are three types of risks: risks related to the LEPI correction and updating process, those related to the electoral process and, finally, those related to the post-election political process.

Risks related to the LEPI correction and updating process

As mentioned above, if the LEPI correction and updating process fails, it will affect the whole electoral process. If it is completed beyond the constitutional time limits – i.e. if no list is available in time for the parliamentary or presidential polls – several scenarios are possible. A legal vacuum and the extension of the president's term can be dismissed immediately as possibilities. The best solution would be to resort to the constitution to organise a transition under the leadership of the president of the Constitutional Court or the speaker of the National Assembly.

Another risk would result from preparing an electoral roll within the deadline – or at least in time for the parliamentary elections – but of questionable quality. This is more likely if the process starts under the combined pressure of public authorities who are in turn under intense pressure from national and international public opinion.⁹ The LEPI is not only facing technical issues, but also a political challenge. Drawing up a slapdash and unreliable electoral roll would be detrimental. Indeed, it is a matter of moving quickly, but not in haste.

Finally, there is a risk of a crisis among political leaders who could reject any form of dialogue. Such a crisis would not be the first of its kind, because the drafting of the initial LEPI has already served as an example of what can go wrong. This would complicate the implementation of the process and would be in nobody's interest. Rather, the process is about being constructive and pragmatic, an attitude that most politicians are now seemingly adopting.

Risks related to the electoral process

Most of the identified risks derive from the LEPI correction and updating process. Firstly, in a worst-case scenario the blocking of the electoral process as a direct consequence of the unavailability of the electoral roll would force the use of subterfuge or an alternative to the LEPI, such as an ad hoc roll, if this appears to be the only option. Such a scenario must be avoided at all costs. Then the postponement of one or two major elections, in the absence of a voters' list, is one of the most feared scenarios. Most stakeholders are working hard to avoid any postponement, considering its unpredictable outcome. It would also lead to a surge in sociopolitical tensions and institutional weakness. Finally, challenges to election results that lead to serious disputes are also a risk.

Risks related to the post-2016 political process

The smooth conduct of the electoral process is not enough. In 2016, as in 2006, there should be a new president who will be at the helm for the first time. 2006 marked the departure of potential presidential candidates like Mathieu Kérékou, who served two terms and reached the age limit, and his arch rival, Nicéphore Soglo, who was also rendered ineligible by the age limit. As in 2006, the new president will be weak during his/her first few months in office. Faced with a parliament already in office for a year, he/she will need time to effectively assume power and establish his/her authority and legitimacy, particularly with regard to the army and the government.

The Beninese people have become used to normal presidential changeovers, which reduces the risks compared to 2011. Institutional reflexes are emerging gradually, although

it is too early to see this as a real tradition. Another reassuring factor is that the republican spirit has gained much ground in the army. Since 1990 the army has strictly complied with its commitment to remain in barracks and to contribute to the country's development. The new president will need the support of national institutions, but also of neighbouring countries and the international community.

Another risk factor is the broad scope of people's expectations. The challenges facing the new president will be vast and numerous, particularly the unemployment problem, which is a time bomb, and the facilitation of the business environment for the youth and private sector stakeholders.

The challenges facing the new president will be vast, particularly the unemployment problem, which is a time bomb

One key challenge is also a major risk: the fight against corruption and impunity. This fight unites the business and political circles against anyone who dares to tackle this issue. Paradoxically, the support of public opinion remains hypothetical: most citizens are used to enjoying gains and easy privileges derived from corruption and impunity. President Yayi experienced this acutely as soon as he took office. Bad habits have become so entrenched that they have virtually become rights.

However, the fight against corruption and impunity is essential: without change or evolution in this regard, people will no longer believe in democracy and their disenchantment may grow out of control. The risk that people will take to the streets is even higher: it would not involve merely preventing an opportunistic constitutional amendment, but would be an attack on democracy itself. It is essential to encourage the new elected authorities in 2016 and support them strongly and pragmatically so that they can take up this challenge.

Conclusion

The pressure of public opinion and national institutions is particularly strong and it should lead to results in the coming weeks in terms of the challenges presented above.¹⁰ The current question is when a good-quality electoral roll will be available and whether it will be ready in time for the election. On this point, the role of the international community and regional partners, particularly bilateral partners, is pertinent. The Netherlands, the European Union, Belgium, France, Germany, Canada, the United States, the Apostolic Nunciature, the African Union, ECOWAS and the International Organisation of La Francophonie are influential partners and

Recommendations

1 In terms of strategy, ECOWAS and its technical and financial partners must act to influence both the current president and his entourage. The real danger is often the president's entourage rather than the president himself. It is essential to convey a clear message to encourage respect for the promises that have been made and to deter any inclination to stay in power for whatever motives.

2 It might be useful to reassure the outgoing president that there is a life after the presidency and that interesting post-presidency opportunities exist (an international and regional role rewarding the experience he has acquired, special missions, mediations, etc.). Of course, these opportunities must be presented depending on their relevance and the context, and such privileges must be granted without exempting the outgoing president from being held accountable if the need arises.

3 Together with its technical and financial partners, ECOWAS should not only openly support the electoral process, but also the post-electoral process. This should include an exploratory mission to assess the context and needs of the country, electoral technical assistance, and if need be, long-term and short-term observations of the electoral and post-electoral processes.¹¹

4 ECOWAS and its technical and financial partners must carefully identify and support credible NGOs while putting in place safeguards to avoid their turning into supporters of political parties or candidates.

5 It will be important to support the newly elected president in 2016, according to the requirements of the context and the need to take up the challenges of unemployment, corruption and impunity in particular.

their role is largely appreciated. In Benin, where mistrust is often an instinct, the perspective of foreigners, who are deemed to be more neutral, is important. For the country to be up to the challenge of holding viable and uncontested elections is therefore a matter of national honour, as if anything is permitted 'among ourselves', but an exemplary attitude is adopted when Beninese feel they are being observed. This cultural feature has the potential to calm people down as far as electoral matters are concerned.

Notes

- 1** Thus, the final paragraph of Article 108 of Law no. 2012-43 states: 'The permanent computerised electoral list for the organisation of communal, municipal and local elections in the year 2013 is established under the authority and supervision of the guidance and supervision council, assisted by the national processing centre as it exists on the date of enactment of this law'.
- 2** For example, during the 2011 parliamentary elections the election officials' strike prevented the communication to voters of changes that had been made during the presidential election held a few weeks earlier. This caused even more confusion during the parliamentary elections.
- 3** The parliamentary members of the COS-LEPI are acting in their official capacity. Consequently, they should enjoy parliamentary immunity, except in cases of blatant misconduct, in accordance with the constitution.
- 4** Flight Lieutenant Jerry Rawlings came to power in Ghana after a coup in that country in 1979.
- 5** This is not new. The same criticism has been made since his accession to power in 2006.
- 6** He solemnly announced in his inauguration speech his intention to step down at the end of his 'second and final term'. He has repeated this to Pope Benedict XVI, US president Barack Obama, United Nations secretary general Ban Ki-moon, French president François Hollande and the Beninese public on several occasions.
- 7** 2006 marked the beginning of President Yayi's first term (2006–2011).
- 8** Statements of the chairperson of the COS/LEPI made during the news broadcast on Benin's National Television ORTB on 21 November 2014.
- 9** Of course, the technical capabilities of the implementing bodies will have a direct impact on the quality of the final product.
- 10** There is also pressure, though discreet at this stage, from the international community.
- 11** The international observation of elections, which is not flawless, deserves to be considered. Indeed, while during the first decade of the return to democracy it was not uncommon to see large election observation missions deployed in Benin, the countries and institutions that sent them have gradually lost interest in Benin because elections were becoming a routine. However, elections remain a challenge. It would be best to maintain such missions and precede them with exploratory missions and electoral technical assistance missions to strengthen the actors involved and help them overcome any difficulties.

Subscribe to the ISS for the latest analysis, insight and news

We're improving human security in Africa with authoritative research, training and expert policy analysis

Step 1: **Go to www.issafrica.org**

Step 2: **Under 'Subscribe to the ISS,' click on 'Email subscriptions'**

Step 3: **Select the type of notices you would like to receive:**

Latest from the ISS

- ISS press releases
- ISS Weekly newsletter
- ISS Today
- ISS Spotlight

ISS event invitations

- Seminars, ISS Addis Ababa
- Seminars, ISS Dakar
- Seminars, ISS Nairobi
- Seminars, ISS Pretoria
- Training courses

ISS thematic reports

- Peace and Security Council Report
- Regional Report: Central Africa
- Regional Report: East Africa
- Regional Report: ECOWAS
- Regional Report: Southern Africa

Or, subscribe by topic of interest (to receive press releases, spotlights, event invitations, and reports that deal with your chosen topic):

- African Futures
- Arms control and disarmament
- Conflict prevention and analysis
- Corruption and governance
- Counter-terrorism
- Crime and criminal justice
- International criminal justice
- Organised crime
- Peacekeeping and conflict management



Acknowledgments



This report is published through the support of the Hanns Seidel Foundation (HSF) and the International Development Research Center of Canada (IDRC). In addition, the Institute for Security Studies is grateful for the support of the following core partners: the governments of Australia, Canada, Denmark, Finland, Japan, the Netherlands, Norway, Sweden and the United States.

Contributors

ISS Dakar

Francis Adébola Laleyè, governance expert and consultant

Contact

Conflict Prevention and Risk Analysis Division
ISS Dakar
Ouakam Road,
Atryum Building,
4th floor, PO Box 24378
Dakar, Senegal
Tel: +221 33 8603304/42
Fax: +221 33860 3343
Email: dakar@issafrica.org

ECOWAS Peace & Security Report

The *ECOWAS Peace and Security Report* series seeks to provide the decision makers of the Economic Community of West African States (ECOWAS) with analysis on critical and topical human security situations in West Africa. It results from a partnership between the ISS and the ECOWAS Commission (Regional Security Division). The objective is to produce independent, field-based policy research in a timely manner to inform ECOWAS decision-making processes or alert its governing structures on emerging issues. The *ECOWAS Peace and Security Report* series include analyses of country situations and other thematic issues with recommendations. It is circulated, free of charge, both electronically and in hard copy, to a diverse audience in West Africa and beyond. The *ECOWAS Peace and Security Report* is produced by the Conflict Prevention and Risk Analysis Division (CPRA) in ISS Dakar with the support of CPRA staff in ISS Addis Ababa, ISS Nairobi and ISS Pretoria.

www.issafrica.org

© 2015, Institute for Security Studies

Copyright in the volume as a whole is vested in the Institute for Security Studies and the authors, and no part may be reproduced in whole or in part without the express permission, in writing, of both the authors and the publishers.

The opinions expressed do not necessarily reflect those of the ISS, its trustees, members of the Advisory Council or donors. Authors contribute to ISS publications in their personal capacity.

ECOWAS
Peace and Security Report
Issue 11

ISSN 1026-0404



9 771026 040004