

# GUIDELINES



## **PRINCIPLES AND GUIDELINES ON THE INDEPENDENCE OF ELECTION MANAGEMENT BODIES (EMBS) IN THE SADC REGION**



# GUIDELINES



## **PRINCIPLES AND GUIDELINES ON THE INDEPENDENCE OF ELECTION MANAGEMENT BODIES (EMBS) IN THE SADC REGION**

Adopted by the Annual General Conference  
August 2007, Luanda Angola

## Contents

<b>PREAMBLE</b>	<b>2</b>
<b>Characteristics of an Electoral Management Body (EMB)</b>	<b>6</b>
<b>Powers and Duties</b>	<b>11</b>
<b>Financial Independence</b>	<b>17</b>
<b>Accountability</b>	<b>19</b>
<b>Implementation</b>	<b>20</b>

## PREAMBLE

**We,** the Election Management Bodies (EMBs) in the SADC region, and Members of the Electoral Commissions Forum of SADC countries:

**Recalling** the *Universal Declaration of Human Rights* of 1948, the *United Nation's International Covenant on Civil and Political Rights*, as well as the *African Charter on Human and Peoples' Rights*, which, *inter alia*, provide that every citizen has a right to take part in the conduct of public affairs directly or through chosen representatives, and that the will of the people should be expressed through free and fair elections so as to constitute the basis for legitimate and credible authority of government;

**Bearing** in mind the objectives and principles of the African Union enshrined in the *Constitutive Act of the Union*, particularly Articles 3 and 4, which emphasize the significance of democratic governance, popular participation, human rights and human security;

**Recognising** the importance of the efficient, transparent and democratic management of elections and hence the need for an independent, impartial and well resourced election management system;

**Recalling further** the *African Charter on Democracy, Elections and Governance* which calls upon African States to establish and strengthen independent and impartial national election bodies responsible for the management of elections;

***Mindful*** of the *SADC Principles and Guidelines Governing Democratic Elections*; the *Principles for Election Management, Monitoring and Observation in the SADC Region*; and the *SADC Parliamentary Forum: Norms and Standards for Elections in the SADC Region*, and in particular, their efforts to promote the independence of election management bodies in the region;

***Noting*** that all activities of election management bodies must be based on the principles of independence of action, impartiality, integrity, transparency, financial probity, accountability, professionalism, service mindedness, equality of access, and sustainability;

***Noting further*** that election management bodies in the SADC region continue to face variant challenges to their operations which include limited independence and inadequate resources;

**Desiring** to promote the efficiency and independence of election management bodies in the region through the adoption of common standards to regulate their operations;

**Agree** upon the following *Principles and Guidelines on the Independence of Election Management Bodies (EMBs) in the SADC Region*, and recommend to our respective governments to adopt and implement these in the legal framework regulating election management bodies:



## **A. Characteristics of an Election Management Body (EMB)**

### **1. Status**

- a) The establishment of the EMB and the manner of appointment of its members shall be entrenched in the Constitution.
- b) The Constitution and other legal and policy frameworks governing the EMB shall clearly stipulate its independence and institutional autonomy in the performance of its mandate.

### **2. Composition and Appointment of Members**

- a) Members of the EMB shall be citizens who are qualified as voters and should be highly respected persons who subscribe to the principles of free and fair elections and good governance.

- b) The following persons shall be disqualified from membership of the EMB
- Persons who have been declared insolvent;
  - Persons who are of unsound mind;
  - Persons who have been convicted of a criminal offence, unless such offence relates to political actions that have been criminalised;
  - Employees of the executive branch of government;
  - Serving members of Parliament and elected members of local authorities;
  - Persons who have been holders of office in a political party or have been elected representatives in a political office in the previous five years.
- c) The manner of appointment of members of the EMB shall be open and transparent. It could either be by self-nomination or nomination by others.

- d) The appointment process of members of the EMB shall involve a committee representing key electoral stakeholders, which shortlists and recommends nominees to an appointing authority.
- e) The composition of the EMB shall be gender balanced and take into account, *inter alia*, the SADC Declaration on Gender and Development.
- f) The Chairperson of the EMB may be elected by his/her peers or selected by the appointing authority from the list of those shortlisted and recommended for appointment as members of the EMB.

- g) Members of the EMB shall be appointed for a minimum period of four (4) years and a maximum period of seven (7) years, renewable where possible.
- h) The tenure of the members of the EMB shall be staggered to maintain the continuity and retention of institutional memory.
- i) The removal of members of the EMB from office shall only be for good cause following proper investigation and due process of the law.
- j) There shall be no arbitrary and or adverse changes to the EMB members' conditions of service during their tenure of office.

- k) The EMB shall have the power to recruit, appoint and discipline its staff.
- l) The legal framework governing the EMB shall clearly stipulate that its staff may not take any instructions whatsoever from individuals or bodies outside the EMB.
- m) The senior staff of the EMB shall be appointed by the EMB based on performance contract. The period of contract shall be such that the EMB ensures continuity and institutional memory.

## **B. Powers and Duties**

The legislative framework governing the EMB must grant it comprehensive powers over all issues relating to elections and these shall be clearly spelt out. These powers shall include:

1. Powers and Duties in the Preparation for Elections
  - a) Organise, supervise and manage elections (presidential, national, regional and local authority elections) as well as referenda.
  - b) Determine the election calendar, including setting the date of elections, where such is not provided for by law.

- c) Register political parties where possible for the purpose of taking part in an election.
- d) Delimit or demarcate constituencies and wards.
- e) Register voters, compile and maintain voters' register.
- f) Receive, screen and confirm nominations of candidates for elections.
- g) Facilitate the invitation and accreditation of national and international observers.
- h) Conduct continuous civic and voter education.
- i) Powers and Duties During Election Campaigns

- j) Conduct voter education to ensure optimum citizen knowledge of and participation in the electoral process.
- k) Supervise non-governmental organisations and other bodies and institutions to ensure unbiased and quality voter education for the benefit of the electorate and the public at large.
- l) Regulate election campaigns in order to promote fairness and equal access of parties and candidates to the electorate.
- m) Where possible, regulate and ensure compliance with rules for financing of political parties and campaigns.



- n) Promulgate codes of conduct for electoral stakeholders and ensure compliance thereof.
- p) Ensure equal access of all political parties and candidates to public media.
- q) Ensure fair treatment of all political parties and candidates by public media.
- r) Liaise with private media to ensure fair coverage of all parties and candidates.
- s) Liaise with political parties and candidates to ensure open and free flow of information between the EMB, political parties, candidates and the media.

## **2. Arrangements for the Poll**

The EMB shall:

- a) Recruit, train and discipline all polling personnel.
- b) Promulgate a code of conduct for election officers.
- c) Facilitate the accreditation and regulation of the activities of election observers.
- d) Organise election logistics to ensure the integrity of the electoral process.
- e) Accurately, timeously and transparently conduct voting, vote counting, tabulation and announcement of results.
- f) Put in place mechanisms for the resolution of electoral disputes.

### **3. Other Powers and Duties**

The EMB shall:

- a) Liaise with political parties and other stakeholders to promote dialogue on] electoral matters.
- b) Conduct research on electoral matters, evaluate electoral processes, and make recommendations for appropriate electoral reforms.
- c) Participate in regional and international cooperation activities and programmes aimed at enhancing electoral democracy.
- d) Conduct training and development of its permanent staff in order to enhance

their professionalism and competence in election administration.

## **C. Financial Independence**

- a) The rules governing the funding of the EMB shall establish an appropriate, secure, and transparent funding framework that enables the institution to effectively execute its mandate.
- b) The EMB shall develop its own budget to be funded under the national budget through an independent/separate allocation (vote). Such budget shall be approved by the Legislature.

- c) The EMB shall enjoy discretionary power over the disbursement of its allocated funds and procurement of goods and services.
- d) The Government shall be responsible for financing the EMB to enable it to discharge its functions efficiently and effectively.
- e) In addition to Government funding, an EMB may acquire/access funds from other sources such as donations and grants from within and outside the country.
- f) The EMB shall put in place adequate budget and expenditure controls and mechanisms to curb corrupt behaviour and/or conflict of interests among its members.

## **D. Accountability**

- a) The EMB shall prepare reports on its activities, which shall be made public.
- b) There shall be an appropriate and independent external audit of the accounts of the EMB.
- c) Decisions of the EMB regarding its core functions and the electoral process shall be duly reasoned in accordance with the law and shall be made public.
- d) Decisions of the EMB shall be subject to judicial review. Such review shall however only be in respect of the lawfulness of its activities.
- e) The EMB shall allow accredited observers free access to its processes in accordance with the law.

## E. Implementation

In order to give effect to the implementation of these *Principles and Guidelines*:

- a) EMBs shall examine the existing constitutional and legal frameworks governing them to determine the extent to which they comply with these *Principles and Guidelines*.
- b) The Electoral Commissions Forum of SADC Countries shall promote the creation of favourable conditions for the adoption and implementation of these *Principles and Guidelines*.
- c) EMBs shall lobby their respective governments to review their existing laws using these *Principles and Guidelines* as minimum standards and to ensure compliance therewith.

- d) EMBs shall collectively through the Electoral Commissions Forum of SADC Countries encourage SADC Member States to adopt these *Principles and Guidelines* as a SADC Declaration on the Independence of EMBs.
- e) The Electoral Commissions Forum of SADC Countries shall put in place mechanisms to monitor and evaluate progress in the implementation of these *Principles and Guidelines*.
- f) The Electoral Commissions Forum of SADC Countries shall establish strategic partnerships with other organisations promoting democratic elections such as the SADC Parliamentary Forum and the Electoral Institute of Southern Africa in order to advance the ideals of these *Principles and Guidelines*.





## Electoral Commissions Forum of SADC countries



The Electoral Commissions Forum of SADC countries (ECF-SADC), is an independent organization in which each country of the SADC region is represented by its electoral management body. The ECF members include the electoral management bodies of 14 SADC countries. The Forum has been in place since July 1998. It has played an important role in ensuring that the management of elections in the SADC countries is improved and in building the capacity of election management bodies to fulfill their roles.

The ECF-SADC Constitution mandates it to perform, inter-a-lia, the following functions:

- To strengthen co-operation amongst Electoral Commissions in the SADC region;
- To promote conditions conducive to free, fair and transparent elections in the SADC region
- To promote, in general, democracy and good governance in the political systems of responsible and accountable governments in the SADC region through the electoral process.

## Friedrich Ebert Foundation (FES)



Founded in 1925 as Germany's first political foundation, the Friedrich Ebert Stiftung (Stiftung is the German word for foundation) or FES is a private, non-profit organization committed to the concepts and basic values of social democracy. It bears the name of the first democratically elected president of Germany, Friedrich Ebert, preserving his legacy: the promotion of freedom, solidarity and social justice through the political process. The FES is active in over 100 countries world wide, with 23 offices in Sub- Saharan Africa. In close cooperation with its partners FES is implementing programmes of political education, economic and social promotion, studies as well as research.

The Electoral Commission Forum of SADC Countries' Secretariat based in Gaborone, Botswana has worked closely with FES- Botswana office and as such received support from FES since 2005