



Ghana

FINAL REPORT

**Presidential and Parliamentary Elections 2008
February 2009**

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

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I. EXECUTIVE SUMMARY

General elections were held in December 2008 for voters to elect a president, who is elected as Head of State and 230 parliamentary members elected for a four year term in single seat constituencies. Periodic elections have taken place since 1992 and these were the fourth fully competitive general elections to take place since 1996 in Ghana. The European Union Election Observation Mission (EU EOM) was present in Ghana from 1 November 2008 to 24 January 2009 following an invitation from the Electoral Commission of Ghana. The EU EOM was led by Nickolay Mladenov, Member of the European Parliament (Bulgaria). The mission deployed observers from 24 European Union Member States and Norway to all 10 regions of the country to assess the electoral process against international and regional standards for elections as well as the laws of Ghana. The EU EOM is independent in its findings and conclusions and adheres to the *Declaration of Principles for International Election Observation* commemorated at the United Nations in October 2005.

These presidential and parliamentary elections were conducted in an open, transparent and competitive environment. Fundamental freedoms such as the right to stand for election, the right to vote and the freedoms of assembly, expression and movement were respected across Ghana in line with the country's international and regional commitments. Key international and regional standards for elections were generally met and voters turned out in high numbers to cast their ballots. Central institutions such as the Electoral Commission, the judiciary and security forces demonstrated an ability to remain impartial and played a positive role in ensuring these elections were conducted with transparency and openness.

The Electoral Commission organised the elections in a largely transparent, competent and professional manner. Throughout the country its staff mostly acted with impartiality and demonstrated a high level of commitment to their work. The schedule for the preparations for these elections, however, was extremely tight for a number of key components of election preparations and this put its staff under unnecessary pressure. Also because of time constraints there was not always enough time for the Electoral Commission to implement some of its transparency mechanisms to best affect. This was a result of a lack of forward planning to take advantage of the full legal time period that could have been used to organise these elections. At times, such as following the limited voter registration drive, this also led to a temporary loss of confidence in preparations. Overall, the Electoral Commission retained the confidence of major stakeholders and managed to deliver credible and transparent elections, despite these pressures.

The legal framework governing presidential and parliamentary elections in Ghana provides a reasonable and comprehensive basis for the conduct of genuine and democratic elections in line with international standards. Freedoms, including those of association, movement, assembly and speech as well as citizens' political and civil rights are all guaranteed in the constitution. The constitution also protects other fundamental freedoms and political rights such as the right to vote, the right to participate in public affairs, based on the principle of non-discrimination and equality, and the right to a fair trial.

There were no unreasonable requirements to register as either a parliamentary or presidential candidate. Despite criticism from political parties financial deposits and other requirements for presidential and parliamentary nominations are reasonable. A large number of candidates registered to contest these elections. A total of eight candidates competed for presidential

office and 1060 candidates for parliamentary seats throughout the country providing voters a range of choice as to whom to vote for to represent them in government.

Basic freedoms of assembly and movement were respected throughout the campaign period and political parties campaigned freely across the country for both rounds of elections. The rallies were generally calm and peaceful with a festival-like atmosphere, particularly during the larger rallies of the presidential candidates. The campaign environment for the run-off election was more subdued than the first round, and there were fewer large rallies and an increase in door-to-door canvassing of voters. Although the environment remained largely calm it became more acrimonious between the two political parties towards the end of the second round campaign period as the National Democratic Congress (NDC) and New Patriotic Party (NPP) accused one another of trying to undermine the election process.

Although many advantages of incumbency were reduced to minimise their impact on the campaign there were areas where either a conflict of interest or the advantage of public office did not provide a fully level playing field. In general there were no tangible signs that incumbency or access to state resources was exploited to the advantage of the governing party's candidates during the election campaign period on a national level. On regional and district levels, however, no adequate provisions were in place to prevent appointed regional ministers and district chief executives that contested parliamentary seats from using the resources at their disposal because of incumbency, for campaign purposes.

On a national level there were a large number of advertisements in the media from a range of organisations and the Electoral Commission as well as the National Commission for Civic Education (NCCE) promoting voter awareness. At times the mandates of the Electoral Commission and the NCCE in respect to voter and civic education was unclear and the latter institution lacked adequate funds for these activities. Although significant, these initiatives were not sufficient, to ensure a fully informed electorate and were not a satisfactory replacement for grass roots initiatives, and EU observers throughout the country report inadequate levels of voter education and insufficient funding for such activities.

Freedom of speech in the media was respected and there were no reports of any incidents affecting the media's freedom to report on the campaign. The media provided a wide range of neutral coverage of the election campaigns with the two major political parties, the NPP and NDC receiving a considerable percentage of all coverage followed by the Convention People's Party (CPP) and People's National Party (PNC). The remaining political parties received very little attention in the media. The state-owned media did cover the president's activities widely, thereby granting the NPP an advantage in terms of the amount of coverage allocated to the parties on television and radio. Towards the end of the campaign for the presidential run-off election a section of the media acted irresponsibly by broadcasting a wide range of unsubstantiated rumour and speculation questioning the veracity of the elections.

Despite constitutional provisions promoting gender equality, women are under-represented in the political sphere and these elections have resulted in a decrease in the representation of women in parliament. Of the 1,060 contesting parliamentary candidates only 103 were women, representing less than 10 per cent of all candidates and none of the eight presidential candidates were women. Three of the presidential running mates, were however, female. A total of 20 women were elected to parliament that represents a reduction in their representation from the outgoing parliament. There were no legal or technical obstacles to the participation of minority groups either as candidates or voters.

There is a vibrant, mobilised and well organised civil society in Ghana and non governmental organisations played a key role in observing these elections. Reflecting this high degree of engagement over 7,000 domestic observers were deployed on election days to observe polling and counting. In both rounds of elections civil society also played a positive role, in publicly calling for, a peaceful election and supporting the Electoral Commission's work. The major political parties deployed their party agents to all polling stations. They performed an important role in observing polling, counting and the aggregation of results that provided an inclusive environment for scrutiny of procedures.

The High Court, in order to expedite the conclusion of any petitions, established a system comprising of at least two judges from High Courts in each of the nine regions to deal solely with parliamentary petitions and there were a further three Fast Track courts in Accra also assigned this role. To assist judges a manual on election adjudication was published by the judiciary services. These initiatives appear to have built greater confidence amongst political parties in the preparations of the legal system to deal with petitions compared to previous elections, though no deadlines for conclusion of petitions are set out in law and the system is yet to be fully tested.

Polling was generally orderly over both election days. Whilst there were some cases where polling officials did not fully comply with procedures during the 7 December 2008 elections on the whole polling officials acted impartially and competently and overall, procedures were complied with in most polling stations. Polling staff were committed and professional in polling stations visited. Party agents and domestic observers had unobstructed access to observe all stages of the election process across the country providing for a highly transparent election day.

For the second round presidential run-off election on 28 December 2008 in most of the country a similar pattern was evident with the majority of polling officials providing for an inclusive and transparent election day. Compliance to procedures improved after further training by the Electoral Commission of its staff. There were some exceptions to this and claims by the parties that their party agents were intimidated in the strongholds of their opponents as tension increased in certain parts of the country. There were a limited number of incidents where party agents were assaulted in Ashanti and Volta regions and this led the NDC and NPP requesting their agents not to sign the result forms. Logistical problems also led to the postponement of the election in one constituency of Tain, Brong Ahafo Region, that was held on 2 January 2008 after an *ex parte* application for an injunction to suspend the election in this constituency was rejected by the High Court in Accra.

Following the presidential and parliamentary elections on 7 December 2008 the aggregation of results was not conducted to the same generally high standards as other components of the elections in the first round. In many cases procedures were not fully complied with and the quality assurances in a number of collation centres were not properly managed. In most centres visited by EU observers polling officials failed to sign the handover documents and the form filling process was neglected. The high degree of transparency was maintained at collation centres and the consensus retained largely because of this openness. Compliance to the procedures during the aggregation of the results of the presidential run-off election improved after further training was provided by the Electoral Commission for its staff and the environment generally remained the same as during the first round elections. There were, however, five constituencies with unusually high turnout in Ashanti Region that were not adequately investigated by the Electoral Commission.

On the announcement of the final results there was general acceptance of the veracity of the process and confidence in the Electoral Commission's capacity and ability to conduct credible and transparent elections. However, a comprehensive set of detailed recommendations is included at the end of this report for consideration by the relevant authorities in order to further improve certain areas in the election process. Key recommendations include:

- The introduction of statutory provisions establishing clear rules for regulating the campaign environment as well as the introduction of greater transparency measures in the financing and expenditure of political parties to enhance public accountability.
- Enhanced transparency measures to be introduced by the Electoral Commission at all levels of the electoral administration to guarantee accountability throughout the election process. The Electoral Commission should also publish a detailed electoral calendar and review some of its structural procedures such as the minimum time period for its preparations for an election and the length of the appointment of the Commissioners.
- An extensive review of the voter register to be undertaken as well as a review of the procedures and safeguards currently in place to ensure its accuracy. Greater transparency measures should also be introduced to ensure stakeholder confidence in the register.
- A satisfactory statutory framework developed for the broadcasting sector be introduced including provisions clearly setting out the obligations of broadcasters and the establishment of an independent regulatory authority with a clear mandate for the regulation of this sector.

II. INTRODUCTION

The European Union Election Observation Mission (EU EOM) was present in Ghana from 1 November 2008 to 24 January 2009 following an invitation from the Electoral Commission of Ghana. The EU EOM was led by Nickolay Mladenov, Member of the European Parliament (Bulgaria). The mission deployed observers from 24 European Union Member States and Norway to all 10 regions of the country to assess the electoral process against international and regional standards for elections as well as the laws of Ghana. The EU EOM is independent in its findings and conclusions and adheres to the *Declaration of Principles for International Election Observation* commemorated at the United Nations in October 2005. On election day, of 7 December 2008, 70 observers visited 466 polling stations in 70 of the 230 constituencies throughout Ghana to observe voting and counting. For the second round presidential run-off election that was held on 28 December 2008 a total of 56 observers visited 327 polling stations in 70 constituencies. The EU EOM issued two preliminary statements in Accra on 9 December 2008 and 30 December 2008 following both rounds of elections.

III. POLITICAL BACKGROUND

A. Political Context

Since the restoration of democracy in Ghana and the introduction of the 1992 constitution the country has maintained continuous progress towards strengthening fundamental freedoms and rights and developing a multiparty democracy. A highly competitive political environment and an electoral commission with a strong reputation and a good track record in organising elections provided the backdrop to the December 2008 presidential and parliamentary elections. Elections were held for president, who is elected as Head of State and 230 parliamentary members elected for a four year term in single seat constituencies using a first-past-the-post election system. Periodic elections have taken place since 1992 and these were the fourth fully competitive general elections since 1996. These elections were widely regarded as important in the broader context of the development of democracy in the continent after some recent failures to hold credible elections in a number of key African states. The elections in Ghana therefore offered an opportunity to provide a positive reference point for democratic development in Africa.

As the incumbent president, John Kofi Agyekum Kufuor, of the New Patriotic Party (NPP) reached his two-term limit established in the constitution he was not eligible to stand for election for presidential office. The NPP therefore selected Nana Akufo Addo, as their candidate. He faced a strong challenge from Professor John Evans Atta Mills of the National Democratic Congress (NDC), who has stood in the previous presidential elections in 2000 and 2004. There were a further five party candidates competing for presidential office alongside the candidates of the two largest political parties and one independent presidential candidate. In total ten political parties nominated parliamentary candidates from 16 registered political parties, but only the Convention People's Party (CPP), NDC and NPP and to a lesser extent the People's National Party (PNC), contested seats nationwide as the other parties fielded a limited number of candidates.

B. Key Political Actors

The two largest political parties that dominate contemporary politics in Ghana, the NPP and NDC, have both enjoyed two consecutive terms in presidential office and majorities in parliament, the NDC from 1992-2000 and the NPP from 2000-2008. Whilst the two larger parties claim to have divergent political views their manifestos for these elections were fundamentally similar with little to differentiate the political parties in terms of policy directions.

The presidential candidate of the incumbent party in government was Nana Akufo Addo who was selected uncontested in a second round of this party's primaries in December 2007 after failing to receive over 50 per cent of votes cast in a first round as required by the party's internal constitution. He previously served as Attorney General and as Foreign Minister in the NPP administrations. His running mate was the former Deputy Governor of the Reserve Bank, Mahamudu Bawumiah, from the north of Ghana. The NPP won the presidential elections in both 2000 and 2004. This party perceives itself to be a centre right party ideologically and during these elections it committed to continue the reforms that it has introduced during its last two terms in office including developing the economy and improving the public sector, based on a liberal economic model of governance.

Professor John Evans Atta Mills was the presidential candidate for the NDC. He was previously vice president in the NDC administration 1996-2000. Professor John Evans Atta Mills was elected by the NDC as its candidate for the 2008 presidential election in primaries in 2006 with a majority of 81.4 per cent. His vice presidential candidate was John Mahama, a former minister and communications consultant, who has served two terms in parliament and is also from the north of Ghana. The NDC is a social democratic party founded by former president Jerry Rawlings, who first came to power in a coup in 1979, remaining president for 19 years.

Only two other parties made any significant effort to contest the presidential and parliamentary elections. The first of these was the CPP, which is a socialist pan African party whose candidate was Dr. Paa Kwesi Nduom. This party was re-launched recently and originally formed in 1949 by Kwame Nkrumah to campaign for independence and ruled from 1957 to 1966. The only other party to have parliamentary representation prior to these elections and who seriously contested them was the PNC and this party's presidential candidate was Dr. Edward Nasigrie Mahama.

IV. LEGAL ISSUES

A. Legal Framework

The legal framework governing presidential and parliamentary elections in Ghana provides a reasonable and comprehensive basis for the conduct of genuine and democratic elections in line with international standards guaranteeing the protection of fundamental freedoms and political rights. Freedoms of association, movement, assembly and speech as well as citizens' political and civil rights are all guaranteed in the constitution. The constitution also protects other fundamental freedoms and political rights including the right to vote, the right to participate in public affairs, based on the principle of non-discrimination and equality, and the right to a fair trial.

B. Universal and Regional Standards

Ghana has ratified all major international and regional treaty standards for elections. These include the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1966 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the 1952 Convention on the Political Rights of Women (CPRW) and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC). As a member of the African Union and of the Economic Community of West African Countries (ECOWAS), Ghana has ratified the 1981 African Charter on Human Rights and Peoples' Rights (ACHRPR) and the 2001 Protocol on Democracy and Good Governance. It is also a signatory to the African Union's African Charter on Democracy, Elections and Governance, 2007. Most of the provisions of these international instruments are incorporated into the 1992 Constitution of the Republic of Ghana. In particular, the International Covenant on Civil and Political Rights is reproduced in chapters V and VII of the constitution of 1992.

C. Other Applicable Election Legislation

The presidential and parliamentary elections are regulated by a diverse range of laws and regulations that include the Constitution of the Republic of Ghana of 1992 as amended, the Representation of the People Law (PNDC Law 284) of 1992 as amended, the Presidential Elections Law (PNDCL 285) of 1992 as amended, the Electoral Commission Act (Act 451) of 1993 as amended, the Public Order Act of 1994 (Act 493), the Political Parties Law (Act 574) of 2000, the Criminal Offences Act of 1960 as amended, the Citizenship Act of 2000, the Representation of the People (Parliamentary Constituencies) Instrument (C.I. 46) of 2004, the Public Elections (Registration of Voters) Regulations (C.I. 12) of 1995 and the Public Elections Regulations (C.I. 15) of 1996.

The legal framework is comprehensive and in conformity with international standards and best practices addressing the majority of areas relating to the electoral process. Whilst in line with these instruments there are some areas that need to be more precisely regulated since in the current legislation they are left to the discretion of political parties and the Electoral Commission rather than established clearly in law.

A satisfactory set of legal provisions to regulate the campaign environment are lacking and although freedom of assembly is guaranteed by the constitution there are neither specific regulations for the conduct of campaign activities or provisions for length of the official campaign period. In order to address the lack of an adequate framework for campaign activities a Code of Conduct was signed by nine political parties in May 2008. This code includes rules for a campaign moratorium of 48 hours before polling, an agreement not to use inflammatory language, and a prohibition on the use of state resources for campaign purposes. Its non-legally binding nature, however, limited its application and political parties at times disregarded some of its provisions. There are also other areas such as the publication of results at all levels, including polling stations, that are neglected and there is an absence of deadlines for dispute settlement set out in the legal framework for elections, which would provide greater legal certainty and transparency.

D. The Electoral System

The 1992 Constitution of Ghana declares Ghana to be a republic with sovereignty residing in the Ghanaian people and it establishes a presidential and legislature system of governance with a president, parliament and local government assemblies who are all elected on the basis of universal suffrage. The Parliament of Ghana is unicameral and has 230 members plus a speaker, elected for a four year term in single seat constituencies. The president is elected by popular vote in a single national constituency. To be elected president a candidate must receive above 50 per cent of valid votes and in the event that any single candidate fails to receive the number of votes to cross this threshold in a first round election a second round presidential run-off election is called between the two candidates whom receive the largest percentage of votes in the first round of elections.

The constitution establishes a system of checks and balances, with power shared between the president, parliament, a Council of State that acts in an advisory role to the president, and an independent judiciary. Executive authority rests with the Office of the Presidency, together with the Council of State. The president has wide ranging powers and is Head of State, head of government, and commander in chief of the armed forces. The president appoints the vice

president and the ministers of state, half of which should be selected from members of parliament according to constitutional provisions. The president is also responsible for appointing individuals to senior regional and district posts. Legislative functions are vested in parliament. To enter into law, legislation must have the assent of the president, who thereby has a qualified veto over all bills except those to which a 'vote of urgency' is attached.

E. Delineation of Constituency Boundaries

Pursuant to Article 47 of the constitution of 1992 the Electoral Commission has responsibility for the delimitation of constituency boundaries. The Electoral Commission exercised this power by increasing the number of constituencies from 200 to 230 (Representation of the People (Parliamentary Constituencies) Instrument (C.I. 46), 2004), which entered into force for the 2004 general elections. The changes were actually challenged in the Supreme Court that ruled in favour of the revisions. As a result Ghana is divided into 10 regions with 230 single seat constituencies. The principles underlying the demarcation of boundaries are also established in the constitution, according to which each constituency should be located in a single region and the population of a single constituency should be as equal as possible to the population, with geographic and demographic considerations included (Article 47). The 230 single seat constituencies are currently: Western Region: 22 constituencies; Central Region: 19; Greater Accra Region: 27; Volta Region: 22; Eastern Region: 28; Ashanti Region: 39; Brong Ahafo Region: 24; Northern Region: 26; Upper East Region: 13; Upper West Region: 10. Although constituency boundaries are drawn up based on a combination of population, demography and geography there are marked differences in the population sizes between some constituencies. For example the number of registered voters varies from 13,679 in Nadowli East constituency in Upper West Region to 162,646 in Weija constituency in Greater Accra Region.

V. ELECTION ADMINISTRATION

A. Structure and Composition of the Election Administration

The constitution of 1992 and Electoral Commission Act of 1993 (Act 451) establish the Electoral Commission as an independent body with responsibility for the conduct, management and supervision of all public elections in Ghana. In accordance with Article 43 of the constitution a board of seven commissioners is responsible for oversight of the Electoral Commission's work in all ten regions. The board is comprised of a chairman, two deputy chairmen and four non-executive members. Each of the executive members of the Commission is responsible for elections in two of the 10 regions of Ghana and the non-executive members one region each. The president on the advice of the Council of State appoints the members of the Commission for an unspecified period in accordance with Article 70 of the constitution of 1992.

The Electoral Commission is organised into two main divisions. The first of which is Operations and Finance and the second Administration. At the pinnacle of the decision making structure are the Chairman and the two Deputy Chairmen. The two departments undertake a range of activities including accounts, information technology and data control, voter registration, public affairs and education, research, evaluation and training. The Electoral Commission also has regional and district electoral representatives and executive

officers. The offices in all 10 regional capitals are managed by directors and the 166 district offices are headed by district electoral officers. These district electoral officers are largely responsible for organising elections on the district level.

For each parliamentary constituency the district electoral officer of the Electoral Commission appoints a returning officer and two deputy returning officers. The position of returning officer is a temporary post and positions are filled from applicants responding to public advertisement for these posts. Individuals can challenge these appointments at the Electoral Commission on grounds of suitability. Presiding officers are also appointed by the Electoral Commission to supervise individual polling stations. The Electoral Commission has an estimated 1,000 permanent staff and approximately 110,000 temporary members complement these during an election period. The 230 returning officers are responsible, under the direction of the district electoral officers, for the single member constituency based parliamentary election. The Chairman of the Electoral Commission is the returning officer for the presidential election.

B. The Administration of the Elections

The Electoral Commission organised these elections in a largely transparent and professional manner generally in accordance with regional and international standards.¹ Throughout the country the Electoral Commission's temporary and permanent staff mostly acted with impartiality and prepared for the elections in a committed and competent manner. Party agents and domestic observers had the right to unobstructed access to observe all stages of the election process which provided a high level of transparency on both election days in most of the country. The Electoral Commission also employed an open and effective communication strategy in the media and commissioners attended public forums across the country to explain and inform the public on the preparations for the elections.

Although the Electoral Commission met many international and regional standards in its work it did face challenges that were mostly related to the timetable that it set itself. The schedule for these elections was extremely tight for a number of key components of election preparations and this put staff under unnecessary pressure. Also because of time constraints there was not always enough time for the Electoral Commission to implement some of its transparency mechanisms to best effect. This was a result of a lack of forward planning to take advantage of the full legal time period that could have been used to organise these elections. At times, such as following the limited voter registration drive, this also led to a temporary loss of confidence in preparations. Overall, however, the Electoral Commission retained the confidence of major stakeholders and managed to deliver credible and transparent elections, despite these pressures.

Whilst it therefore performed its role to a generally high standard the Electoral Commission experienced some problems at key junctures in its preparations. The voter registration drive conducted earlier in the year was perceived to be highly problematic and resulted in inflated

¹ Article 25 of the International Covenant on Civil and Political Rights (ICCPR), Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 20: "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant." Transparency could, however, have been enhanced by the introduction of published minutes of the Commissioners' meetings and minutes and formal procedures for IPAC meetings. See also Article 17 (1) African Union, African Charter on Democracy, Elections and Governance, 2007.

numbers because of registration of individuals who were not eligible to be included in the register. Special voting and voter transfer that were conducted prior to both rounds of elections were also problematic and not handled adequately by the Electoral Commission (see voter registration section). These problems made the Electoral Commission vulnerable to challenges and at times political parties were critical of the quality of its work and there were also allegations by the NDC that it was not impartial. As part of its tendency to accuse all public institutions of overt bias, the NDC constantly criticised the Electoral Commission for lack of impartiality without any substantial grounds for many of its allegations. This was despite all other political parties generally expressing confidence in the Electoral Commission to be able to carry out its activities independently and effectively and no indication that the Electoral Commission, in its preparations for these elections, acted in any other manner than impartially.

Although the Electoral Commission demonstrated a consensus driven approach to these elections time constraints also meant it did not always use the opportunity to convene Inter Party Advisory Committee (IPAC) meetings in order to exploit the full potential of this platform. A lack of formal rules of procedures for these meetings also at times created confusion as to the interpretation of key points between political parties and they tended to use this platform to air their personal inter-party differences. The Electoral Commission did intensify its efforts to host these meetings during the period immediately prior to the elections, which increased confidence amongst all political parties in election preparations. And generally all political parties had the opportunity to participate fully in the development of proposals tabled by the Electoral Commission.

To its credit the Electoral Commission was also able to react to improve its procedures after a review of the elections on 7 December 2008 based on the difficulties that its staff encountered during the first round of elections. One of its key recommendations discussed with political parties was to extend the voting facilities of larger polling stations to improve voter flow for the second round run-off. This idea however, was rejected by the NDC party at an IPAC meeting prior to election day and the Electoral Commission withdrew the plan, demonstrating a positive ability to react to demands of political parties. In some local district IPACs it was agreed that additional facilities be introduced. For the second round run-off election the Electoral Commission also requested polling officials to be more proactive in explaining the procedures to voters in an attempt to reduce voter misunderstanding. Further briefings for returning and presiding officers focusing on procedures and forms as well as aggregation processes were also conducted in advance of the second round. Individuals on a reserve list replaced polling officials and returning officers who had not followed procedures properly during the 7 December 2008 elections.

VI. VOTER REGISTRATION

A. The Right to Vote

The right to vote is established in the constitution of 1992. Any person of 18 years of age or above at the time of registration that is eligible to vote has the right to be included in the voter register. The Public Elections (Registration of Voters) Regulations provides a generally sound framework for the registration of voters, including adequate procedures for the public to inspect the voter register and for voters to challenge their exclusion or the wrongful

inclusion of an individual who is not eligible. Furthermore, any person qualified to register as a voter, registration officers or party representatives are entitled to challenge an application for registration.

There have been amendments to the Representation of the People Law in 2006 that further extends the right to vote to Ghanaians living abroad that qualify as voters. However, the Electoral Commission is yet to make regulations to establish the modalities for the implementation of this amendment and did not conduct registration outside of Ghana on the grounds of financial constraints. Although certain categories of citizens abroad did vote by proxy other sections of the population overseas were effectively disenfranchised. The rights of prisoners was also neglected as there were no provisions for them to vote in these elections due to a clause in Section 7 (5) of the Representation of the People Law stating that ‘a person who [...] is detained in legal custody in any place shall not be treated as resident there’ for the purposes of qualifying as a voter.² According to the Legal Resources Centre of Ghana, there are an estimated 13,000 convicted prisoners and 3,000 prisoners are on remand awaiting trial. In particular the position of prisoners on remand and their exclusion from voting is not in line with international commitments.³

B. Voter Registration Procedures

A limited voter registration drive organised by the Electoral Commission from 31 July to 12 August 2008 was widely criticised by all political parties. Both the NDC and NPP claimed the lack of safeguards during the registration exercise allowed the opposing party to inflate the number of names on the register. Both parties also criticised by the Electoral Commission for trying to undermine the process. Poor forward planning, the absence of adequate safeguards and voter education coupled with a lack of resources such as forms and photographic equipment to cope with demand from people wishing to register compounded problems of a tight timeline for the completion of registration. People applied to register for a variety of reasons including individuals wishing to obtain an identification card for general purposes. There was also some confusion as to what constituted double registration as well as overt attempts to undermine the veracity of the register. The latter registrations included intentional double registrations and a large number of minors who registered. There were also incidents of individual candidates and political parties providing transport for their supporters to register with inadequate control mechanisms to screen the eligibility of people who could register at registration centres. Generally the candidates and political parties were perceived by observers to have been too involved in voter registration and the Electoral Commission did not use adequate safeguards to ensure this did not negatively affect the accuracy of the register.

² Two cases have been filed at the courts seeking to address the issue. The Legal Resources Centre filed a case at the High Court to compel the Electoral Commission to register prisoners and to provide conditions for them to vote enabling them to participate in the 7 December 2008 elections. Another case was filed at the Supreme Court by the Centre for Human Rights and Civil Liberties seeking the rights of remand prisoners to vote. The High Court dismissed the first case since it involved interpretation of constitutional provisions which falls out of its jurisdiction. The second case is still pending at the Supreme Court.

³ Article 25 ICCPR, Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 14: “The grounds for such deprivation [of the right to vote] should be objective and reasonable. If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence. Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote.”

Following the limited voter registration drive the Electoral Commission publicly acknowledged that the increase in entries to a total of 12,822,474 was a result of a significant number of anomalies. Even after an exhibition period of the updated voter register, from the 5 to 11 of October 2008, the Electoral Commission still estimated there were a considerable number of entries that should not have been included in the register. According to the number of entries on the revised register distributed to political parties there are a total of 12,472,978 voters on the register, which means a total of 349,496 entries were expunged as a result of either public objections or the Electoral Commission exercising its *ex officio* powers. Those removed include minors, double registrations and deceased persons. The voter register was distributed only shortly before election day as the Electoral Commission issued a revised register after initial auditing and distributed it to the political parties without photographs in electronic format two weeks prior to election day on 7 December 2008.⁴ The Electoral Commission also continued to remove entries from the voter register where it found anomalies until the last days of the campaign period.

The voter transfer process, that allowed voters to change their place of registration for voting, took place from 27 October to 17 November 2008 and was also problematic in some areas of the country. There was a sharp increase in demand from voters to transfer their votes and electoral officials report an increase in numbers in parts of Eastern, Upper East and Volta regions as well as other areas in the country. Increases were particularly high in marginal seats where results were expected to be extremely close between votes for the NPP and NDC in constituencies in Brong Ahafo and Central regions. As was the case for the limited voter registration drive there were claims by political parties that transport was provided for party supporters by opposing parties to the centres where transfers took place. One such incident led to clashes between students and members of NDC in Cape Coast, Central Region. The limited time meant that some lists, such as the absentee and special voters' ones, were not distributed to the parties.

For the run-off presidential election the right of voters to transfer their location where they could vote was limited to the student population who were allowed to re-transfer their votes to their home constituencies. This process required students to simply cancel their original transfer allowing the Electoral Commission to remove their names from the absentee voter list in their home constituencies to enable them to vote there. Those registered for special voting that took place on 23 December 2008 did not have to re-register as their original registration was accepted. The same system of extension also applied to proxy voting, and if a voter who received the right to vote by proxy did not withdraw their application, this right was retained. There was a notable increase in the number of special voters in Ashanti (a total increase of 49 per cent, or 8,593 voters), which was a source of complaint by the NDC. A rise was also evident in parts of Brong Ahafo Region with the whole region recording an increase of 1,845 special voters. Otherwise special voting levels remained largely the same as in the first round for the rest of the country.

In spite of the large number of anomalies in the initial voter register and the increase in voter transfers in the first round and special voters in the second round; political parties all expressed the view, that elections could still go ahead with the revised voter register as long as there was a high degree of public vigilance on polling days to ensure that any attempts at

⁴ Article 4, Economic Community of West African States (ECOWAS), Protocol on Democracy and Good Governance, 2001: "The voters' list should be prepared in a transparent and reliable manner, with the collaboration of political parties and voters who may have access to them whenever the need arises."

double or underage voting were prevented. This appeared to have worked in most of the country, despite a small number of reports from EU observers of minors voting.

VII. REGISTRATION OF CANDIDATES AND POLITICAL PARTIES

A. *Registration of Political Parties*

Article 21 (3) of the constitution of 1992 together with the 2000 Political Parties Act guarantee the right to form political parties. The Political Parties Act of 2000 was being reviewed at the time of the elections and a proposed Bill replacing some of its provisions has been published for consultation. The 2000 Act permits any citizen of Ghana that has reached the age of 18 years to establish a political party for the purposes *inter alia* of sponsoring candidates for any public election. Parties are permitted to operate freely as long as their activities are in compliance with the constitution and meet the registration requirements in their application to the Electoral Commission. There are also a number of restrictions placed on individuals intending to establish a political party including a prohibition on establishing a party based on ethnic, gender, religion or regional lines. These legal provisions for establishing parties are reasonable and generally in line with international and regional standards related to freedom of assembly.⁵

B. *Registration of Candidates*

There were no unreasonable requirements to register as either a parliamentary or presidential candidate.⁶ Persons qualifying to be a presidential candidate should be a citizen of Ghana by birth, over the age of 40 years; and a person who is otherwise qualified to be elected a Member of Parliament. Other criteria include the submission of documents signed by the candidate and two other persons who are registered voters in each district assembly. Similar requirements are placed on parliamentary candidates who should be over 21 years of age and a citizen of Ghana as well as a registered voter. Parliamentary candidates should submit their nomination papers to the returning officer in the constituency that they intend to stand for election together with 20 signatures of registered voters resident in the constituency. Candidates should have been resident in the constituency they are contesting for a minimum period or have been born in that said constituency. Public employees are not permitted to stand for election unless they leave their posts. Likewise, Chiefs are also not allowed to stand for parliament. Finally, individuals that have been found unfit for public office by a committee or inquiry and those that have been convicted of treason or an offence concerned with state security are disqualified from standing for office.

Despite criticism from political parties the financial deposits of 5,000 Cedis (€2,885) for presidential candidates and 300 Cedis (€223) for parliamentary nominations are reasonable in

⁵ Article 25 ICCPR, Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 26: "The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25." See also ECOWAS Protocol on Democracy and Good Governance, Article 1(i) "Political parties [...] Shall have the right to carry out their activities freely, within the limits of the law."

⁶ Article 25 ICCPR, Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 17: "The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties. If a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy."

the Ghanaian context, particularly considering the allocation of security and transport to the presidential candidates and parties during the campaign period. If a parliamentary candidate receives more than 12.5 per cent of votes cast in parliamentary elections the deposit is refunded and in the case of a presidential candidate this threshold is more than 25 per cent.

Following primaries for parties to select presidential candidates the Electoral Commission accepted the candidatures of eight nominees after the nomination period closed on 17 October 2008.⁷ A further three presidential nominees had their nominations rejected by the Electoral Commission as they failed to file nomination papers or filed incomplete documents (see complaints and appeals). The parties with presidential candidates were the NPP, NDC, CPP, PNC, Democratic Freedom Party (DFP), Democratic People's Party (DPP), Reformed Patriotic Democrats (RPD) and there was one independent candidate.

For the parliamentary election 1,062 candidates filed nomination papers to contest 230 single member constituency based seats. Only two parliamentary nominees, one from NDC and one from CPP failed to submit complete nomination papers and did not qualify as candidates. Both of the larger parties, the NDC and NPP had candidacies accepted to contest 229 of these seats. The CPP had 206 candidacies accepted by the Electoral Commission followed by the PNC 129, DFP 108, DPP 49, RPD 10 and the New Vision Party (NVP) four. The Great Consolidated Popular Party (GCPP) fielded two candidates and Ghana National Party (GNP) one. A further 95 independent candidates registered their candidacies to contest parliamentary seats. In total ten political parties nominated parliamentary candidates from a total of 16 registered political parties providing a wide range of choice for voters.

There was an average of five candidates contesting each constituency seat with wide variations between constituencies: for example in Greater Accra as many as nine candidates contested the seat in Ayawaso East and as low as two candidates contested the seat in Abokobi/Madina. The fact that the revised voter register was not complete at the time of nominations could have presented problems of verification of signatures supporting the nomination of candidates, but no problems were reported related to this aspect of the registration process. At least five candidates withdrew their candidacies for the parliamentary election and a further one candidate was disqualified because he received a prison term for double registration.

VIII. ELECTION CAMPAIGN AND PRE-ELECTION ENVIRONMENT

A. Background to the Election Campaign Environment

The campaign was undertaken in an environment where the freedoms of assembly, movement and expression have been continuously strengthened over the past decade. The two larger parties provided a highly competitive atmosphere that remained throughout the campaign period. A whole range of campaign strategies were employed by political parties

⁷ The Electoral Commission is responsible for supervising the political parties' election of executive officers and primaries. However, in practice there is no scrutiny on the actual degree of the internal party primaries which is widely perceived to have become monetised: dependent on financial status rather than popular support within the constituency and party. Many informal complaints came from female candidates who claimed that they could not meet the financial requirements necessary to be elected within their parties. There were also six cases filed at the courts by NDC and NPP party members challenging the conduct of the primaries within their own party. The majority of these cases were resolved between the parties.

including large rallies and door-to-door canvassing of voters. Detailed campaign manifestos were also published reflecting a maturing political culture of parties in their approach to voters.

B. Overview of the Election Campaign

Basic freedoms of assembly and movement were respected throughout the campaign period and political parties campaigned freely across the country for both rounds of elections.⁸ The one exception to this was in Bawku, Upper East Region, where a dusk to dawn curfew has been in place for an extended period after chieftaincy related disputes. Parties did, however, still campaign in this area. Candidates campaigned on policy driven issues such as social welfare and the economy and published comprehensive manifestos. The campaign environment was lively and the parties canvassed voters across Ghana with the presidential candidates of the NPP and NDC extensively touring the country. Campaigns of the NPP and NDC were very visible in the run up to the 7 December 2008 elections throughout the country and rallies, door-to-door canvassing, jogging rallies and town hall meetings were held across Ghana. The rallies were generally calm and peaceful with a festival-like atmosphere, particularly during the larger ones of the presidential candidates. The only region with any degree of tension was Brong Ahafo, though even there only a very few incidents of violence were reported. At some of the rallies the tone of campaigning was negative with the two major parties criticising one another openly and EU observers reported incidents of inflammatory language. Rallies ranged in size from small localised ones of 300 supporters to very large gatherings of NDC and NPP with as many as 50,000 supporters attending. The CPP and PNC also held rallies in parts of the country that followed a similar pattern, though these were considerably smaller.

The larger political parties also distributed party paraphernalia such as t-shirts and scarves and provided food at rallies. Debates between the presidential candidates of the four parties with parliamentary representation were organised prior to the first round elections in Accra, Tamale and Cape Coast, the first two of which were attended by all presidential candidates of these four political parties. The final debate was between the running mates of these candidates and all three debates were aired live by all major media outlets. The other six political parties competing in the elections all complained about the lack of adequate resources to mount an effective campaign and felt marginalised from mainstream activities such as the presidential debates and media coverage. These remaining political parties did not hold any significant rallies and EU observers report very low level campaign activities of these parties.

The campaign environment for the run-off election was more subdued than the first round, and there were fewer large rallies than in the campaign period for the 7 December 2008 elections. The parties increased their low visibility campaign activities such as door-to-door canvassing of voters and organised smaller meetings with their supporters. The NPP lobbied local chiefs in an effort to increase their grass roots support. Both parties focused their activities on improving voter awareness of the procedures in an attempt to make every ballot count in their heartlands. The campaign was again largely peaceful for the run-off, with only a few isolated incidents of violence, and there were no reports of any restrictions to the

⁸ Article 25 ICCPR, Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 12: "Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected."

campaign activities of either political party. For the second round run-off the NPP and NDC also provided transport for their supporters and voters to enable them to reach their home constituencies immediately prior to election day in the absence of rules prohibiting such activities.

Although the environment remained largely calm it became more acrimonious between the two political parties towards the end of the second round campaign period as the NDC and NPP accused one another of trying to undermine the election process. No evidence was presented to support any of these claims. In the final days of the campaign period such accusations became excessive and inflammatory with unsubstantiated claims issued by the two parties and published in the media that were primarily intended to heighten suspicion of election fraud between different supporters of political parties. The most notable case was an unverified recording allegedly of an NPP member of parliament outlining plans to disrupt the election in Volta Region that was first aired by Radio Gold. Radio stations tended to compound these suspicions by airing a whole range of rumour and speculation that increased tensions without adequate editorial responsibility being applied. These events served to increase divisions between communities and particularly around the days prior to, and after the second round election, tension between supporters of the different political parties was palpable in some areas of the country.

C. Election Related Violence

There were relatively few incidents of violence during both rounds of elections and in nearly all of the country a peaceful environment was maintained. In Brong Ahafo Region EU observers reported tension throughout the campaign period between supporters of political parties, but even here there were relatively few incidents of violence. This was despite some concerns about the security environment in parts of the country due to long standing disputes between chieftaincies. Tension did increase in the run up to the second round election that was mainly fuelled by political parties and certain sections of the media, but this did not lead to a significant increase in incidents reported during the campaign period. During the days immediately preceding the election on the 28 December 2008, as part of the growing tension, both the Chairman of the Electoral Commission and the director of election operations received threats by telephone from anonymous callers.

D. Use of State Resources

Despite the fact that many advantages of incumbency were reduced to minimise their impact on the campaign there were areas where either a conflict of interest or the advantage of public office did not provide a fully level playing field. In general there were no tangible signs that incumbency or access to state resources was exploited to the advantage of the governing party's candidates during the election campaign period on a national level. On regional and district levels, however, no adequate provisions were in place to prevent appointed regional ministers and district chief executives that contested parliamentary seats from using the resources at their disposal because of incumbency, for campaign purposes. Furthermore, as these positions hold responsibility for oversight of security agencies, a key area in election preparations, the security environment, was potentially open to abuse. In order to reduce this role police commanders were put in charge of the regional security task forces responsible for election security. Nevertheless, in cases where holders of public office such as the district

chief executives stood as candidates in the parliamentary election the structures for ensuring a level playing field were inadequate.

E. Campaign Finance

There is no campaign spending limit for political parties.⁹ The Political Parties Act of 2000 does however, set out requirements for political parties to submit audited accounts of their spending. According to the provisions of the Act, 21 days before a general election political parties should submit to the Electoral Commission statements of assets and liabilities. They should also submit a detailed statement within six months of a general election of all expenditure incurred for that election supported by a statutory declaration. A deadline of 16 November 2008 was established for all contesting parties and independent candidates to submit their statements of assets and liabilities. In practice, neither political parties submit their statements nor does the Electoral Commission demand them since it does not possess the means to verify this information.

Parliamentary candidates standing on behalf of a political party received some financial support from their parties ranging from 1,000 to 2,000 Cedis (€650 to €1,300) which in the context of Ghana is not a significant amount. Therefore, most of the campaign costs were borne by the candidates themselves. The Ghanaian state provides some support through the allocation of vehicles to the political parties every four years in proportion to their representation in parliament and through exemption of taxes. During the campaign period political parties with 10 or more parliamentary candidates were allocated an assignment of government vehicles for campaign purposes: the NDC and NPP 12 vehicles each, the CPP 10, PNC five and the DPP two. A review of financing of political parties is currently in its final stages with the publication of a bill on funding political parties that will relax the source of donations and provide public funding to parties as well as provide incentives for political parties to increase the representation of women in parliament.

F. Voter Education

On a national level there were a large number of advertisements in the media from a range of organisations and the Electoral Commission as well as the National Commission for Civic Education (NCCE) promoting voter awareness, and some of these were produced in vernacular languages to reach grass roots level in the first round of elections. At times the mandates of the Electoral Commission and the NCCE in respect to voter and civic education was unclear and the latter institution lacked adequate funds for these activities. Following the 7 December 2008 election there was criticism from civil society groups and other stakeholders that the lack of voter education led to the relatively high number of rejected ballots in the first round of elections. In the Ghanaian context the total of 2.37 per cent of rejected ballots is perceived to be high. The Electoral Commission reacted to this problem and made some efforts to extend its voter education activities in the media. The NCCE was also more pro-active in voter education for the run-off election, but these efforts remained inadequate.

⁹ Article 25 ICCPR, Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 19: "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party." See also Article 1 (i), ECOWAS, Protocol on Democracy and Good Governance, 2001.

Due to the limited time to initiate voter education programmes and financial restraints there was a failure to reach all levels of society and particularly local communities at grass roots level. The number of rejected ballots was reduced for the second round run-off election to one per cent, though much of this reduction is largely a result of the simplified nature of the ballot paper used. Civic education promoting non violent and peaceful elections was widespread particularly following localised incidents of violence in the early part of the campaign period. There were significant efforts made to promote civic responsibility during election days and throughout the campaign period. Political parties and security forces also made public calls for a peaceful election period.

IX. MEDIA AND THE ELECTIONS

A. Media Environment

In the last decade there has been an expansion in the diversity of the media in Ghana with the growth of independent radio stations throughout the country. Radio is the key medium and is widely available and considered the most important source of news information for the public. There are an increasing number of independent radio stations broadcasting programming in English and vernacular languages. The state owned broadcaster, the Ghana Broadcasting Corporation (GBC), also operates radio and television services including one television channel and a number of radio stations broadcasting in a variety of vernacular languages. There is a growing television sector, which includes four privately owned terrestrial analogue channels. The print media is diverse with 11 daily newspapers. Most titles are privately owned and either independent or affiliated to a political party, while there are two state-owned titles published daily. Ghana also has a good track record in protecting the freedom of the media with a high degree of freedom to report maintained under the NPP administration.

B. Legal Framework for the Media and Elections

Freedom of speech in the media was respected during the campaign period for these elections in line with Ghana's regional and international commitments.¹⁰ There were no major incidents affecting the media's freedom to report on the campaign of the candidates or their parties. In this respect, the provisions in Chapter 12, Article 21 of the constitution of 1992 providing for freedom of speech and expression including freedom of the press and other media have been met. The constitution also establishes election specific obligations for the state-owned media whose programming should provide equal access to all parties to present their manifestos to the public and requires equal airtime to be granted to presidential candidates (Article 55 (11) et seq.). A Supreme Court interpretation of the constitution in 1993 in a case against GBC submitted by the NPP further reiterates the principles on fair coverage deriving from these constitutional provisions, by affirming that the state-owned

¹⁰ Article 25 ICCPR, Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 25: "The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion."

media should provide equality of access and equal time for different opinions.¹¹ Despite these provisions there is generally a lack of legal obligations for the media and an inadequate system for ensuring that the media respects the provisions that do exist.

Whilst there is technically a regulatory structure in place for the audiovisual media in practice these structures are not satisfactory given the growth in the sector over the last decade. The National Media Commission (NMC) is established by the constitution of 1992 to promote free and independent media, quality in standards as well as ensuring that state-owned media are independent from government control. The NMC published a number of handbooks prior to the elections in an effort to promote standards in election reporting and it also undertook some limited media monitoring that was unpublished. Before the campaign period the NMC also received a number of complaints, mainly related to publication of inaccurate or untrue information or aggressive language in programming. The lack of a range of statutory measures to provide redress, however, limited the NMC in its decisions and in terms of independently implementing standards in the media the overall impact on the media sector of the regulatory framework during the election campaign period was marginal.

C. Monitoring of Media Coverage of the Elections

Print and audiovisual media provided extensive coverage of the elections throughout the monitoring period.¹² Reflecting their strong position in Ghanaian politics the NPP and NDC received a wide range of coverage across the media. In contrast the smaller parties, including those with presidential candidates, received very low levels of coverage. Despite the generally positive nature of most media coverage, there were instances of aggressive and negative campaigning, both in the paid-for-advertisements of the parties as well as in the discussion programmes aired by some private radio stations. A positive development on election days was that radio stations provided wide coverage of polling and played an active role in alerting the Electoral Commission to any problems and provided a very constructive contribution to election day.

The state-owned television and radio broadcasters failed to provide equal or equitable coverage of the candidates or their parties in line with constitutional provisions.¹³ During the campaign period for the 7 December 2008 elections Ghana Television (GTV) dedicated 33 per cent of its peak time coverage of political actors to NPP. This included coverage of ministers in the course of them carrying out their official activities. NDC received 19 per cent, with CPP afforded 15 per cent and PNC 10 per cent. Presidential activities were widely

¹¹ During the campaign period there was an ongoing legal case brought by the Democratic People's Party (DPP) against the Institute for Economic Affairs (IEA), which organised the presidential debates and the GBC. The DPP filed a submission at the Supreme Court arguing that it was unconstitutional not to include all parties in the debates. The claim stems from an initial case against a bill proposed by the Political Parties Programme of the IEA on the public financing of political parties that is based on the principle of equity and proportionality. The case is pending a Supreme Court ruling on an earlier case.

¹² From 11 November to 27 December 2008 the EU EOM monitored a cross section of Ghanaian media. The sample of media included three television channels (the state-owned Ghana TV and the private channels Metro TV and TV3) and four Accra based radio stations (the state-owned GBC Uniiq FM, and private stations Joy FM, Peace FM and Gold FM). A further two private radio stations were monitored in the regions of Ashanti and Tamale (limited sample of news). Four daily newspapers were monitored including the state-owned the *Daily Graphic* and the *Ghanaian Times* and the private titles the *Daily Guide* and the *Chronicle*.

¹³ Article 17 (3), African Union, African Charter on Democracy, Elections and Governance: "State Parties [should] ensure fair and equitable access by contesting parties and candidates to state controlled media during elections."

covered by GTV and these activities received a total of 20 per cent share of this channel's coverage of political actors, thus granting the NPP an advantage in terms of the amount of airtime it received. The coverage of Radio Uniiq followed a broadly similar trend with 32 per cent of its coverage of political actors afforded to NPP, 19 per cent to NDC, 15 per cent to CPP and 10 per cent to PNC. The president received 17 per cent share of political coverage on this station. There was a very small amount of coverage devoted to other parties and candidates on GTV and Radio Uniiq. During the second round run-off campaign period 70 per cent of GTV's coverage of political actors was of the NPP, its ministers or the president. Similarly, they received 66 per cent share of coverage of political actors on Radio Uniiq. The tone of the content of the state-owned media largely remained positive or neutral.

Private radio stations also had extensive coverage of political parties and their phone-in and frequent panel discussion programmes provided listeners with a vibrant platform for debate. At times some of the tone of the content of these programmes could be defamatory and very harsh towards one of the two major political parties, but overall, most of the commercial radio stations monitored by the EU EOM acted with responsibility for most of the campaign period. The one exception was Radio Gold that constantly criticised the NPP in its programming. During the campaign for the first round the NPP and NDC received the majority of coverage of the commercial radio stations. Joy FM and Peace FM provided balanced coverage of the two main parties with NPP and NDC receiving a 38 and 34 per cent share of coverage of political actors on Joy FM and 32 and 28 per cent on Peace FM with the remaining coverage largely afforded to the PNC and CPP. Radio Gold allocated a greater amount of airtime to NDC (46 per cent) than to NPP (32 per cent). For the second round election the airtime afforded to the NDC and NPP was also generally balanced on Peace FM and Joy FM. Peace FM devoted 46 per cent of its coverage to NDC, 49 per cent to NPP and five per cent to the president. Joy FM afforded a 51 per cent share of its coverage of political actors to NPP, 45 per cent to NDC and four per cent to the president. The coverage of Radio Gold during the period preceding the second round afforded NDC 48 per cent share of coverage and NPP 42 per cent. The president received the remaining 10 per cent share of this station's coverage of political actors.

Commercial television broadcasters monitored provided broadly balanced coverage of the two main parties. During the campaign period for the first round election Metro TV allotted 33 per cent of its coverage of political actors to the NPP and 30 per cent to the NDC, while TV3 devoted 32 per cent to the incumbent party and 28 per cent to the NDC. This trend was also carried through to the second round with television channels maintaining a relative balance between the two parties. The news coverage of the two regional radio stations monitored in Tamale (Diamond Radio) and Kumasi (Capital Radio) also provided balanced coverage of the NPP and NDC, though in the second round run-off Capital Radio tended to demonstrate a preference for the NPP in terms of airtime. In contrast, Diamond Radio's coverage, tended to be more critical of the incumbent party.

A wide range of opinion and viewpoints were published in newspapers and as was the case for the audiovisual media the two main parties tended to receive the large majority of coverage followed by the CPP and then to a lesser extent PNC. Newspapers were at times partisan with clear editorial support for one of the political parties evident. In terms of space afforded political parties in the state-owned *Daily Graphic* and *Ghanaian Times* the NPP enjoyed most coverage. During the campaign period for the 7 December 2008 elections the *Daily Graphic* devoted 39 per cent of its coverage of political actors to NPP representatives, 27 per cent to the NDC and 10 per cent to the president. The *Ghanaian Times* allotted 40 per

cent of its coverage of political actors to NPP, 26 per cent to NDC and 11 per cent to the president. The privately owned titles, the *Daily Guide* and the *Chronicle* afforded the NPP 45 and 43 per cent and NDC 37 and 35 per cent respectively. During the campaign for the run-off election the NPP received 58 per cent share of coverage in the *Ghanaian Times*, the president nine per cent and the NDC 33 per cent. In the *Daily Graphic* coverage of the parties was almost equal with NDC receiving 44 per cent and NPP 47 per cent and the president the remaining nine per cent. In the *Daily Guide* the NPP was afforded 53 per cent share of coverage and NDC 39 per cent with the president receiving the final eight per cent share. Finally, the *Chronicle* afforded the NPP 46 per cent and the NDC 47 per cent shares of its coverage of political actors during the second round run-off campaign period.

There were a high number of paid-for-political-advertisements in the media largely placed by the NPP and NDC parties and some of these openly criticised the opposing party. Also, the parties purchased large amounts of airtime to air their own programming that ranged from coverage of their campaign rallies to documentaries about the achievements of the parties. There was an absence of clear labelling separating these programmes from the programmes produced by the broadcasters themselves that tended to blur editorial boundaries. There was also inconsistency in applying taste and decency standards to paid-for-advertisements with some broadcasters refusing to air material that was deemed to be offensive and others accepting the same material. In early 2008 the GBC also devised a scheme to provide free airtime for political parties to air party political broadcasts. The original scheme included, *inter alia*, five minutes free access spots starting from 1 November 2008 for the parties with candidates standing in the elections. However, after reviewing the party political broadcasts that were submitted for airing, the internal committee for political broadcasts at GBC decided to withdraw the initial plan because of issues concerned with the tone of the content submitted by the political parties that were seen as too negative.

X. PARTICIPATION OF WOMEN AND MINORITIES

A. Participation of Women

Women's rights and gender equality are guaranteed by the constitution of 1992 and in the international instruments Ghana is a party to. Despite this women remain under-represented in the political sphere and decision making process. The problem of a lack of satisfactory representation of women in political life is compounded by differences in access to education and unequal economic conditions between the sexes. There have been some initiatives targeted at promoting the participation of women in public life with the development of the Women's Manifesto. There were also other activities to increase votes for female candidates to parliament, but in terms of real representation in political life participation of women remains marginal. Of the 1,060 contesting parliamentary candidates only 103 were women, representing less than 10 per cent of all candidates while none of the eight presidential candidates were women. Three of the presidential running mates were, however, female. A total of 20 women were elected to parliament (see results section). The primaries for the parties to elect their candidates were also perceived to work against greater female participation in the elections as they lacked the financial resources to compete on a level playing field with their male counterparts. A positive outcome of the election was the nomination, for the first time in Ghana, of a woman as Speaker of Parliament.

B. Participation of Minorities and Special Needs Voting

There were no obstacles reported to the participation of minority groups either as candidates or voters except access to financial resources in a country that has large discrepancies in wealth distribution. It is also estimated that between 7-10 per cent of the Ghanaian population suffer some kind of physical disability and significant efforts were invested in accommodating special needs voters both in the voting process itself and the campaign. Tactile ballots were designed to use at polling stations to allow blind people to vote and some party manifestos were published in brail. Television coverage of the presidential debates included sign language for the hearing impaired, as did a significant amount of televised voter education. Polling stations were adequate to accommodate the physically disabled and provisions were made for those voters requiring assistance to use that right. The election observation of the Commission for Human Rights and Administrative Justice (CHRAJ) specifically focused on assessing how the rights of the disabled had been met in the administration of the elections.

XI. PARTICIPATION OF CIVIL SOCIETY AND ELECTION OBSERVATION

There is a vibrant, mobilised and well organised civil society in Ghana and non governmental organisations played a key role in observing these elections. The Coalition of Domestic Observers was the largest domestic observer group and it deployed over 4,000 observers on both election days. This organisation undertook a parallel voter tabulation in a sample of polling stations that provided increased transparency in the results process. The Civil Forum Initiative also deployed a total of 1,000 observers and was one of numerous civil society groups to actively participate in these elections. Civil society organisations and faith based groups also played an important role in publicly calling for a peaceful election, and supporting the Electoral Commission's work by expressing confidence in its ability to ensure the election was organised transparently and effectively.

Public institutions established by the constitution such as CHRAJ and the NCCE also deployed observers. The NPP and NDC mobilised large numbers of party agents who were present in nearly all of the 21,007 polling stations to observe polling and counting processes and they played a key role in ensuring transparency on election days and for the period of the aggregation of results. As part of its consensus building role the Electoral Commission also provided training for observers from civil society organisations and party agents. These elections were also observed by a range of international observation missions including the African Union, Pan African Parliament, The Carter Center, Commonwealth and the Economic Community of West African States (ECOWAS) with ECOWAS deploying the largest short term observation mission of 200 observers. All of these missions returned to observe the second round election.

XII. COMPLAINTS AND APPEALS

The legal framework provides generally sound mechanisms for the enforcement of its provisions. There are clear and appropriate channels for addressing election related offences and complaints. The judiciary is responsible for handling complaints and appeals against decisions of the Electoral Commission through judicial review and petitions against the

election results in accordance with international standards.¹⁴ The judiciary enjoys broad confidence and was not perceived to be dependent upon or influenced by the executive power throughout the electoral process. Nevertheless, fixed deadlines for the resolution of electoral petitions within the judiciary would have enhanced the system and guaranteed a timely remedy to petitioners.

A. Electoral Offences

Electoral offences are set out in Part V of the Representation of the People Law (PNDC 284), Part IV of the Registration of Voters' Public Elections (Registration Regulations), (C.I. 12) and sections 255, 256, 258 of the Criminal Offences Act of 1960 as amended. Electoral offences are ruled on by District or Circuit Courts, or even by the High Court depending on their seriousness. Judgements can be appealed to the next higher court and penalties include up to two years imprisonment and/or a fine and disqualification from being a voter for a period of five years on release. The length of prison term prescribed in the law is not proportionate according to international standards.¹⁵ A person convicted of an electoral offence is permanently disqualified to stand for presidential elections and for parliamentary elections a temporary disqualification for a period of ten years is provided by law.

Despite numerous allegations made by political parties only 48 complaints relating to electoral offences were officially lodged with the police. At the time of writing, official complaints included 12 cases of illegal possession of identity cards, linked with allegations of organised activities by political parties' supporters buying voter cards. In total this involved approximately 500 voter identity cards. There were a further nine complaints of illegal transfer of voters (seven in Brong Ahafo Region, one in Central Region and one in Upper West Region); ten cases of double registration, one case of impersonation in Upper East Region and one case of an allegation of bribery of polling agents. There were five complaints regarding electoral officials that were filed alleging unauthorised voter registration, changing of results in Tain constituency, the illegal possession of ballot papers and intentional invalidation of ballot papers. These five cases are still under investigation.

In respect to double registration four sentences were issued. Two NDC parliamentary candidates were charged with double registration. Of these one of the NDC candidates was sentenced to one year imprisonment with hard labour, while the case that involves the NDC elected parliamentary candidate for Aowin (Western Region) is still pending. Three cases related to double registration are also outstanding in Brong Ahafo Region where the police have requested advice from the Attorney General's office before moving forward with a case against the NPP's youth organiser, Malik Agyei and two others. One case was dismissed and the sentence for the remaining two cases did not involve imprisonment but a fine of 200 Cedis (€117) and 600 Cedis (€353) for the offenders.

¹⁴ Article 25 ICCPR, Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 20: "There should be [...] access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes."

¹⁵ Article 25 ICCPR, Genuine Elections, United Nations Human Rights Commission, General Comment No. 25, paragraph 14: "If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence."

B. Complaints and Appeals

Decisions of the Electoral Commission can be appealed to the courts, including cases involving voter registration and candidate nomination. Settlement of challenges to an application to register as a voter is under the responsibility of the District Registration Review Committee and its decision can be appealed to the Chief Registration Officer (High Court Judge of the region). Objections or complaints related to the provisional voter register are settled by the District Registration Revising Officer who is the Magistrate of the District Court and the decision can be appealed to the High Court.

During the electoral process, the Police, Electoral Commission and the IPAC meetings mainly dealt with complaints that did not have a criminal nature relating to the Political Parties Code of Conduct through mediation. This provided an effective mechanism since disputes were resolved at constituency level where violations occurred. Prior to the elections there were also a total of 24 challenges to individuals appointed electoral officials. After investigations by the Electoral Commission a total of eight of these complaints led to the replacement of the respective officers, from a total of nearly 22,000 staff in these posts.

Although one of the shortcomings of the appeal system is the lack of deadlines imposed by law, the initiative of the Chief Justice in prioritising election related cases inside the courts strengthened the right to an effective remedy to the complainant.¹⁶ Two of the three presidential candidates whose nomination papers were rejected appealed the Electoral Commission's decisions in the High Court. The court dismissed the cases since it found the Electoral Commission had acted within the law. There were also four cases in the High Court challenging the results of the primaries earlier in the year and consequently the nomination of the respective candidates, however, none of these candidates were elected and the cases were discontinued.

C. Petitions

According to the Representation of the People Law (PNDCL 284) 1992 and Presidential Elections Law (PNDCL 285) 1992, the validity of the parliamentary election can be challenged by a petition presented before the High Court within 21 days after the date of publication in the Gazette of the election results. However, if a petition questions the election on the grounds of a corrupt practice involving payment of money, it may be presented to the High Court before the official publication of results in the Gazette. In respect to the presidential election, a petition challenging the results can be submitted to the Supreme Court within 21 days after the declaration of the results. In order to expedite the conclusion of any petitions, a system was established at the High Court comprising of at least two judges from High Courts in each of the nine regions to deal solely with parliamentary petitions and there were a further three Fast Track High Courts in Accra also assigned this role. To assist judges a manual on election adjudication was also published by the Judicial Service of Ghana. These initiatives, under the direction of the Chief of Justice, appeared to have built greater confidence amongst political parties in the preparations of the legal system to deal with petitions than had been the case during previous elections.¹⁷

¹⁶ ICCPR Article 2(3) (a) and (c), The Right to an Effective Remedy: "All persons whose rights or freedoms are violated shall have an effective remedy."

¹⁷ Article 7, ECOWAS, Protocol on Democracy and Good Governance, 2001: "Adequate arrangements shall be made to hear and dispose of all petitions relating to the conduct of elections and announcement of results."

The results of the parliamentary election were published in the official Gazette on 5 January 2009. Nevertheless, there were already seven petitions filed by parliamentary candidates at the High Court challenging parliamentary results before publication. Five of them were temporarily withdrawn due to technical shortcomings in the submissions as they were filed prematurely before the final results were published in the Gazette. In Asutifi South (Brong Ahafo) and Akwatia (Eastern Region) constituencies, following petitions filed by losing candidates the court was asked to issue two interim injunctions until the full hearing of the cases. In the first constituency, Asutifi South, the Electoral Commission refrained from declaring the parliamentary results due to a challenge to the results in two polling stations and a court injunction. In the second constituency, Akwatia, an application for an injunction was submitted to the court in relation to the planned re-election in six polling stations, and the Electoral Commission subsequently postponed the re-election until the court ruling. Following the publication of results, three new petitions were filed at the High Court and three of the five previously withdrawn petitions were reinstated. In total, by the end of January 2009, eight petitions were pending at the courts regarding the parliamentary elections in the constituencies of Ablekuma South, Sissala East, Tain, Bibiani-Anhwiso-Bekwai, Asuogyaman, Mfantseman West, Akwatia and Asutifi South.

One day before the run-off election in Tain (see election day) an *ex parte* motion was filed, on behalf of the NPP at the High Court in Accra seeking an injunction to suspend the declaration of presidential results until investigations of allegations of electoral fraud had been concluded in Volta Region. Due to the overriding public interest involving the application, the judge ordered that the interested parties, the NDC and the Electoral Commission, be notified and had a right of response before a ruling could be made. However, the parties were never served and in the absence of a court order, the Electoral Commission declared the results less than 24 hours after the election in Tain. The NPP also withdrew the application shortly following the High Court's decision.

XIII. ELECTION DAY

A. Overview of Voting

During the first round of elections on 7 December 2008 the large majority of polling stations observed opened on time or within 30 minutes of the scheduled time, with a small percentage opening later. Only in five polling stations in one district where material was delivered too late was a decision made to postpone voting for one day. Generally all voting material and polling staff were present on opening to ensure voting started on time, but in a few isolated cases either all materials or individual items were missing. The Electoral Commission reacted to these problems efficiently and resolved issues promptly and the media played a positive role in identifying problem areas. A large number of voters turned out on opening of the poll and queues were long in some polling stations. Polling was conducted in a calm and generally orderly manner with voters patiently waiting to vote. Large numbers of members of the security forces were deployed on election day, but their presence was not intimidating and they acted professionally. The special voting day for officials on duty and party agents on the 7 December 2008 took place on 2 December 2008 and whilst overall, it was conducted in an orderly fashion, there was a lack of safeguards in place due to the absence of the special voter list at polling stations.

Polling procedures in 97 per cent of polling stations visited by EU observers were assessed as satisfactory or positive. Polling staff were committed and largely professional in all polling stations visited. In some polling stations the transfer list and absentee voter list were missing and although transferred voters were generally allowed to vote there was no adequate system to check their details. A small number of minors were also observed voting in polling stations in the constituencies on the borders between Brong Ahafo and Ashanti regions. Efficient processing of voters, use of controls and safeguards by polling staff and the secrecy of the vote were also assessed as very good or good in over 90 per cent of polling stations visited.

For the second round presidential run-off election there was an improvement in compliance to procedures by polling officials compared to the 7 December 2008. Generally all material required for voting and polling staff were present on opening to ensure voting started on time. The long queues that were evident during the first round did not materialise in many polling stations as voters turned up throughout the day rather than before opening. The only major technical problem on polling day was in Tain constituency, Brong Ahafo Region, where logistical and operational failures led to the suspension of the election with the agreement of the political parties.

Overall, voting was once again conducted in a calm manner in most of the country and the process was well organised for the second round. Polling procedures in 98 per cent of polling stations visited by EU observers were assessed as satisfactory or positive as was the case on 7 December 2008. Polling staff were again committed and acted professionally in polling stations visited. The same degree of efficiency in processing of voters, use of controls and safeguards by polling staff was also recorded. Isolated cases of minors voting in Tamale and again in parts of Brong Ahafo Region were also observed. On special voting day for the second round, 23 December 2008, the process of special voting was similar to the first round apart from the increase in numbers. There were some isolated attempts to disrupt polling and some incidents of violence with an increase in tension in parts of the country but these were contained by the large number of security forces that were deployed on election day and did not affect the veracity of the poll. As was the case in the first round some of the lists were not present at polling stations that to some extent reduced the checks and balances at polling station level.

Whilst the environment on the election day of 28 December 2008 was generally calm there were some exceptions to this. Both parties claimed that their party agents were intimidated in the strongholds of their opponents, and there were incidents of intimidation that took place in Volta and Ashanti regions, though not on the scale suggested by the political parties. This led to the NDC instructing its agents in Ashanti to refuse to sign the result sheets at polling stations regardless of the quality of the polling there. The NPP also made a similar instruction to some of its agents in Volta Region. Turnout in five of the constituencies in Ashanti: Bantama, Kwadaso, Manhyia, Nhyiaeso and Suame also demonstrated unusually high numbers of votes cast, which was over 95 per cent of registered voters. In contrast to all other areas in the country the lack of safeguards used by polling officials and an absence of transparency in the transmission of the aggregated results for these constituencies makes the accuracy of results from these areas open to question. The high turn out recorded in these constituencies did not affect the overall results as they showed an overwhelming majority for NPP, who lost the presidential election. These incidents were not, however, adequately investigated by the Electoral Commission. Furthermore, in Wa, Upper West Region observers reported the presence of some fake ballot papers circulating, but these were generally disqualified during counting.

On the announcement of the results for the 229 constituencies the Electoral Commission concluded that because the difference between the two candidates in the run-off was only 23,055 votes, and therefore technically the 53,890 registered voters in Tain constituency could affect the final results, the presidential run-off election would have to take place in the this constituency. The election in Tain was subsequently held on 2 January 2008 under a huge security presence despite the request by the NPP to the High Court in Accra for an injunction (see complaints and appeals). The NPP announced that it would ask its supporters to boycott the election there because it did not perceive the environment to be conducive and the NDC won the constituency. The election in Tain was conducted in a generally calm and orderly manner with no major disruption or incidents reported.

A relatively high turnout of voters was recorded in both rounds of elections. For the first round a total of 8,648,978 eligible voters cast their ballots or 69.3 per cent of the 12,472,978 voters on the voter register. In the second round there was a slight increase recorded with 9,094,364 ballots cast or in percentage terms 72.9 per cent of all eligible voters casting their ballots.

XIV. RESULTS

A. Counting and the Announcement of Results

Immediately after the close of polling, counting commenced, at all polling stations in clear sight of the party agents and election observers. Counting was mostly conducted in a calm and orderly environment with procedures mainly followed during both rounds of elections. Presiding officers and party agents signed the result forms after counting and the process remained transparent throughout (with the exception of Ashanti and Volta during the second round run-off (see above)). Closing was assessed as fair to good in all polling stations visited and the transfer of ballots to collation centres was carried out without major incident.

Following the presidential and parliamentary elections on 7 December 2008 the aggregation of results was not conducted to the same generally high standards as other components of the elections in the first round. EU observers report that in many cases procedures were not fully followed and generally the quality assurances in a number of collation centres were not properly managed. In some collation centres the ballot boxes were not securely stored and this led to a number of incidents and tensions at the centres mainly between party agents. In most centres polling officials failed to sign the handover documents and the form filling process was neglected. In a number of constituencies such as those in Central Region, polling staff experienced problems adding the ballots that were cast on the day for special voters to the total votes due to a design problem in the software for aggregation. The Electoral Commission corrected this problem in the software for the presidential run-off to ensure it did not happen again. The high degree of transparency was however, maintained at collation centres. Generally, although the process lacked procedural clarity and the safeguards that were put in place for the handover of results were neglected it was accepted by stakeholders as adequate. The Electoral Commission acknowledged these problems and initiated further training for its staff to ensure improvements for the run-off.

The process of aggregation improved following the second round run-off election and EU observers reported the procedures were more fully complied with by polling officials

throughout the country. However, there were still some areas that were neglected and in many of the collation centres observed polling officials failed to properly hand over material. Whilst some of the form filling was not in compliance with the regulations the process was assessed as good or very good in 87 per cent of collation centres. Following on from the instructions issued by the NDC and NPP to withdraw their party agents from polling stations in Ashanti and Volta in a number of collation centres in these regions there was an absence of these parties' agents.

The legal framework does not provide for the display of results either at polling station or at the constituency or regional levels in accordance with international best practice on transparency. The Electoral Commission did publish the regional aggregated results on its website, but it failed to provide a complete breakdown of results at constituency and polling station levels. Although in eight constituencies losing candidates have challenged the results of parliamentary election there has been a general acceptance nationwide of both the results of the presidential and parliamentary elections.

B. Political Overview of the Election Results

Results from 228 of the 230 constituencies for the parliamentary election have been released. At the time of writing there were two vacant parliamentary seats in Awkatia and Asutifi South because of the suspension to the announcement of results in these areas (see complaints and appeals). The NDC won most parliamentary seats with a total of 114, NPP candidates won 107 seats, PNC 2, CPP one and independent candidates four seats. A number of the independent candidates that were elected are aligned with NPP and they stood as independent candidates after failing to receive this party's nominations in the primaries in December 2007. The NPP lost a total of 21 parliamentary seats, the NDC winning an increase of 20 seats with the PNC and CPP losing two parliamentary seats each. An independent also lost his seat. Regions where the NDC did particularly well were Greater Accra Region, where it won seven new seats, Central Region where it won nine new seats and Northern Region four new seats. All other regions demonstrated little change in the allocation of parliamentary seats from the outgoing parliament.

Of those elected to the new parliament 20 are women: 14 from the NPP, five from the NDC and one from the CPP. This represents a reduction from the 25 female parliamentarians in the outgoing parliament. High profile political figures to lose their seats include the first and second deputy speakers, the Minister for Information and Orientation and Minister for Tourism. With the current seat distribution there is no absolute majority in parliament and with only two seats outstanding this is perceived to be highly unlikely. This means the independent parliamentarians together with the smaller parties that won a small percentage of votes will have a key role to play in the new parliament unless the two main parties reach a compromise position.

The results of the 7 December 2008 presidential election showed a slim margin between the two candidates of the major parties. Nana Akufo Addo of the NPP party received 49.13 per cent of the vote and Professor John Evans Atta Mills of the NDC, 47.92 per cent. The remaining presidential candidates performed very poorly at the polls that followed recent trends in Ghanaian elections for people to vote for one of the main two political parties. The candidate of the CPP received the third highest percentage of the vote with 1.34 per cent share. The remaining presidential candidates all received below one per cent share of votes.

In the second round run-off election the Electoral Commission declared the final results on 3 January 2009. In a reversal of the first round Professor John Evans Atta Mills of the NDC received the highest number of votes with a total of 4,521,0326 or 50.23 per cent of the popular vote and Nana Akufo Addo of the NPP party 4,480,446 representing 49.77 per cent. On the announcement of the results the Chairman of the Electoral Commission, acting as the returning officer for the presidential election, declared Professor John Evans Atta Mills, as president elect. The new president was inaugurated in compliance with constitutional provisions on the 7 January 2009 and the new parliament was sworn in as well in line with constitutional deadlines.

XV. RECOMMENDATIONS

The following recommendations to improve the electoral process and related areas are offered for consideration and action by the Government of Ghana, Electoral Commission, political parties, civil society and the international community.

Legal Framework

1. The legal framework regarding campaign regulations should be clarified. The provisions of the Political Parties Code of Conduct should be made legally binding and penalties for its violation should be imposed by the Electoral Commission on political parties. Greater clarity and legal certainty should also be provided for certain areas in the election process such as re-counting and requests for re-aggregation of results.
2. Provisions to adequately regulate instances when appointed regional or district chief executives intend to stand for election that disqualifies them from holding public office during the period prior to, and during, campaign periods should be introduced.

Electoral System

3. A review of constituency boundaries should be undertaken to ensure boundary demarcations reflect population density and weighting in parliamentary representation. This should continue to be undertaken taking into consideration the geography and demographics of Ghana as is currently the case.

Election Administration

4. The Electoral Commission should consider using the maximum length of time it has to organise elections. A precise and detailed calendar should be published for the organisation of elections with clear deadlines for the delivery of key components at the time of publication of the writ of notice of poll. The Electoral Commission should also increase its transparency measures and introduce minutes of all meetings of the Commissioners and ensure these are published in a timely manner.
5. The permanent tenure of the Commissioners should be reviewed in order to decrease the length of term of office each Commissioner can serve. A two term limit could be considered and appointments should be made by an independent panel based on best practice principles for public appointments.

6. Provisions for special, transfer and proxy voting should be more adequately managed to ensure proper safeguards are in place against malpractices. The Electoral Commission should also be more pro-active in following up any allegations of irregularities in the election process, perhaps by establishing investigation panels for the duration of an election at national and local levels. A provision for domestic observers to sign the result sheets should also be introduced at polling station level.
7. The Electoral Commission should finalise its regulations for citizens overseas to ensure they have access to the right to register and vote. Greater clarity will also be needed as to the modalities of overseas voting. The right of prisoners on remand awaiting trial should be reviewed for consideration for them both to be included in the voter register and permitted to vote in elections.
8. The IPAC meetings should be developed as a more regular platform of dialogue between the Electoral Commission and the political parties. Full transparency measures need also to be introduced including formal rules for meetings and published minutes.
9. The Electoral Commission should increase its training activities and design a permanent and rolling programme for polling officials to ensure all areas of the technical process are fully understood by officials.
10. A review of the information technology department of the Electoral Commission should be undertaken. Adequate training for staff responsible in the field for aggregation of results should be provided and more resources available to enable them to carry out their work.

Political Parties and Candidates

11. The national capacity of political parties needs to be strengthened including the introduction of pro-active measures for ensuring inclusive political party structures. The draft bill on the funding of political parties, based on the principle of proportionality, should be promulgated by parliament. Registration of political parties should be removed from the mandate of the Electoral Commission and transferred to a suitable body.
12. Party agents should receive more training on their role during elections and an adequate code of conduct be introduced. They should also receive visibility material identifying them as agents and should refrain from taking on a too proactive role in the process.

Voter Registration

13. An extensive review of the voter register and the voter register exercise should be undertaken. Digital technology with photographs and any other relevant identification should be developed. More adequate safeguards should also be introduced during registration to ensure minors of other individuals that are not eligible to vote are excluded from the register. A greater period of time should also be planned for public exhibition of the register and a permanent registration process should be considered.
14. In conjunction with the development of the national identity card scheme the voter register should be overhauled and a greater degree of centralisation introduced in ample

time for entries to be checked and if necessary removed. The parties should also receive copies of the register well in advance of elections, together with copies of all special, proxy and absentee registers at regional and national levels. These should also be displayed in public in the vicinity of polling stations.

Campaign Environment

15. The system for campaign spending should be reviewed as it is inadequate. Consideration should be given to placing a ceiling on spending and introducing an appropriate and transparent system for public accountability in campaign spending. To complement their annual financial reports the political parties should submit accounts of their donations and spending on a bi-weekly basis to a relevant authority for the duration of the campaign period ensuring maximum transparency.
16. Provisions for regulating the campaign environment and the conduct of political parties in their campaigning should be included in statutory legislation that should include the length of the official campaign period, a period of moratorium for campaigning immediately prior to elections, and penalties for infringements.

Voter Education

17. More extensive and permanent voter and civic education should be introduced throughout the year to inform and educate voters of both their rights as voters as well as registration and voting procedures. The responsible institutions should also ensure this reaches grass roots level and the authorities provide an adequate budget for these activities to be undertaken. The mandates of the Electoral Commission and the NCCE should be clarified in respect to voter education and greater cooperation sought between these two institutions in this field.

The Media Sector

18. A broadcasting act should be developed in public consultation to ensure a satisfactory regulatory environment for the broadcast media, whilst respecting the principle of freedom of speech. It should set out programme standards and broadcaster obligations as well as provisions relating to media coverage of elections.
19. Constitutional clarification should be given to the provision for equal access to state-owned media for presidential candidates and political parties that takes into account the parliamentary representation and/or number of constituency seats political parties have candidates contesting.
20. An independent regulatory authority should be established for the audiovisual sector that possibly combines the responsibilities of the Media Commission and the National Communications Authority. This regulatory authority's functions and mandate should be clearly defined and it should have an adequately funded secretariat to undertake management responsibilities. It should also have statutory powers for it to adequately deal with complaints against programming and ensure editorial standards are maintained.

21. A regulatory structure should be established to ensure that the Ghanaian Broadcasting Corporation fulfils its legal obligations as a public service broadcaster. Mechanisms should be set up to ensure the independence and public accountability of state-owned media and a clear monitoring mechanism introduced to guarantee impartiality and balance is maintained.
22. A committee for political advertising should be established prior to future elections to ensure consistency in the application of programme standards and taste and decency. Key provisions such as those pertaining to free access slots for party political broadcasts should be clarified and precisely defined as to the rights of the parties and candidates in law. Political advertisements should be clearly labelled and the practice of buying large amounts of airtime for documentaries and campaign rallies of the parties limited during campaign periods.

Promote the Participation of Women and Minorities

23. A stronger position for women and minorities in parliament, governance and political parties should be encouraged through affirmative action within the political parties themselves. The Electoral Commission should also consider introducing quotas in its recruitment policy for women.

Civil Society and Domestic Observation

24. The active position of civil society in Ghana should continue to be supported in respect to their election related work. Civil society organisations should continue to work together in observing elections to ensure coordination between organisations.

Complaints and Appeals

25. The system for nominating high courts throughout the country to deal with election related petitions should be established in law in order to guarantee an expeditious response to disputes. Moreover, a continuous training programme should be developed, to ensure judges are fully aware of electoral legislation and proceedings related to elections.
26. Time limits for parliamentary petitions should be established as 21 days after the announcement of the results rather than their publication in the official Gazette. Furthermore, deadlines for conclusions to election petitions should be implemented providing an effective and timely remedy to petitioners.
27. The prison sentence of up to two years is not proportional for most electoral offences and therefore should be reduced to more appropriate penalties. Greater consistency in penalties in the regional High Courts should also be sort for the same categories of offences.

Polling, Counting and Publication of the Results

28. There should be an increase in the number of polling stations in higher population density areas. A maximum ceiling should be placed on the number of voters registered at an individual polling station to ensure regular voting patterns and less crowding.

29. A more adequate set of safeguards should be introduced at polling stations to ensure the veracity of the process. An extra polling official should be posted at all larger polling stations to ensure crowd control and regulate entry and exit points as well as to ensure that only eligible persons are inside the polling station area.
30. More training conducted well in advance of election day should be planned by the Electoral Commission. A permanent register of polling officials should be maintained with regular training sessions conducted throughout the country.
31. Consideration should be given to adjusting the closing time of polling stations to ensure that counting can be conducted in a suitable environment with adequate lighting and visibility. This is particularly the case for polling stations that are situated outside in the open air.
32. Provisions to guarantee results are posted and displayed outside of polling stations for the public to inspect should be introduced. This process should also take place at all levels of the aggregation process to ensure maximum transparency in the results process.
33. Greater safeguards need to be introduced to guarantee the accuracy of the aggregation process. Staff should receive advanced training in handling the handover of documents and data entry. The environment should also be more regulated to ensure crowd control.