



## Electoral Institute for the Sustainability of Democracy in Africa

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## EISA Observer Mission to the Malawi Presidential & National Assembly Elections 2009

### Interim Statement

Blantyre, 21 May 2009

### Introduction

EISA, at the invitation of the Malawi Electoral Commission (MEC), deployed a mission to observe the Presidential and Parliamentary Elections held on 19 May 2009. This interim statement contains an assessment of the pre election phase, polling day and tabulation of the results at the time of this press release.

The Mission will continue to follow the process, including the announcement of final results, in order to evaluate the post election phase. EISA will produce a more comprehensive and detailed account of the entire election process in a final report. It will include recommendations for the consolidation of democracy and good governance in Malawi, as elections are not an end but a process.

The EISA Observer Mission extends its deepest gratitude and appreciation to the people of Malawi for the warm welcome and hospitality accorded to the Mission.

### Mission Composition

The Mission was led by Mr Denis Kadima (Executive Director, EISA) and was composed of ten experienced individuals drawn from civil society organisations from the following countries: Democratic Republic of Congo, Kenya, Mozambique, Namibia, Sierra Leone, South Africa, Sudan and Zimbabwe. Members of the Mission began arriving in Blantyre on 10 May and observed the last phase of electoral campaigning, the voting and early tabulation of results. Methodology During the period preceding the polls, members of the Mission consulted with various electoral stakeholders including members from the MEC, civil society organisations, the media, political parties, domestic election observer groups and other international observer missions. A total of four teams were deployed in the three regions of Malawi: one team each in the Northern and Central regions and two teams in the Southern region. Teams based in Mzuzu, Lilongwe and Blantyre also covered surrounding rural areas. Furthermore, teams attended rallies of various political parties and candidates in the three regions. On polling day the Mission was able to

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visit several polling stations throughout the country, covering randomly selected rural and urban areas. In its assessment, the mission was guided by the Principles for Election Management, Monitoring and Observation in the SADC region (PEMMO).

### **Findings of the Mission**

The 2009 Presidential and Parliamentary elections were the fourth democratic elections in Malawi after the restoration of multiparty democracy in 1994. Previous elections were held in 1994, 1999 and 2004. It is the expectation of the mission that recommendations in regard to these findings will be followed by reforms to improve future electoral processes and enhance democracy in the country. Some of the observations made during the 2009 elections were already highlighted in the previous elections by EISA and other election observer missions particularly in 2004.

Based on the principles entrenched in PEMMO, the following are the findings of the Mission:

### **The Constitutional and Legal Framework**

The main instruments regulating the conduct of elections in Malawi include the Constitution of the Republic of Malawi; the Parliamentary and Presidential Elections Act, 1993; and the Malawi Electoral Commission Act, 1998. The Mission is of the opinion that the legal framework for elections in Malawi is generally conducive to the holding of credible elections.

### **Malawi Electoral Commission**

The Mission noted that according to the legal provisions on the appointment of members of the commission "The President shall, subject to the Constitution and in consultation with the leaders of the political parties represented in the National Assembly, appoint suitably qualified persons to be members of the Commission on such terms and conditions as the Public Appointments Committee of Parliament shall determine". As a result of this provision, the appointment of additional members to the MEC was challenged in court by leaders of some opposition parties claiming that they were not consulted in line with the Malawi Electoral Commission Act (1998). Notwithstanding these claims, the Mission observed that the MEC displayed a degree of transparency in the management of the electoral process thus winning the confidence of the majority of the electoral stakeholders the Mission came into contact with.

### **The Campaign Process and Access to Media**

The Mission observed that the governing Democratic Progressive Party had significantly more campaign material than other political parties. The Mission received several reports of allegations of the use of state resources for campaign purposes by the incumbent party. The EISA observer mission was not in

a position to verify these allegations although it views them most seriously.

EISA teams also observed and learnt that the election campaign was generally peaceful in all the three regions of the country. A few isolated cases of violence were reported but these did not seem to have affected the overall peacefulness of the process and voter's freedom of choice.

The Mission deplored the use of hate speech between political parties which was evident during the campaign. It observed that Malawi Television (TVM) and the Malawi Broadcasting Corporation (MBC) failed to provide equitable access to all parties. Their coverage excessively favoured the DPP who, according to the Malawi Communications Regulatory Authority (MACRA), received on average over 90% coverage. While several private radio stations also gave coverage to opposition candidates, it is important that state owned media give fair coverage to all contesting parties and candidates in order to provide a level playing field.

### **Voter Registration and Voter's Register**

The Mission gathered that MEC had conducted a massive voter's register overhaul in 2008, an exercise which aimed to produce an accurate, comprehensive and inclusive voter's register. The Mission learnt that 5 930 949 voters were registered to vote. At an EISA election observer mission briefing meeting, the MEC acknowledged that during the exercise they were faced with a number of logistical and technical challenges that included faulty equipment and irregularities in the voter's register such as missing names, duplicated names, incorrect placement of pictures and transfer of names that was not effected. To address these problems MEC provided a reference voter's register to complement the one used on polling day.

### **The Voting Process and Counting**

The Mission observed polling day operations from the opening at 06h00 until the close of polling at 18h00. The teams observed long, meandering queues at most polling stations especially in the morning. Voters were calm and expressed much enthusiasm to cast their ballot. The teams did not witness or hear of any interruptions caused by acts of violence or intimidation at any of the polling stations they visited.

An attempt was made by the MEC to provide special ballots for the blind. However electoral staff appeared not to have received sufficient training on the use of this special ballot.

Security forces were present at all polling stations visited and were professional in their conduct.

Counting started shortly after closing of voting at most polling stations. The teams did not observe any incidents of disruptions during counting. The MEC provided each polling station with generators to ensure a smooth counting process. With regard to the voter's register the teams observed a few cases of omissions

and inaccuracies. Although a sizeable number of voters were affected by these problems, most of these technical problems regarding the register were ultimately resolved by the electoral staff, though inconsistently.

### **Conflict Management Mechanisms**

The Mission commends the MEC for establishing multiparty liaison committees (MPLCs) at district level throughout the country. These committees enabled the electoral commission and the contesting political parties to consult each other on an ongoing basis and address any problems that arose.

### **Election Observation**

The EISA observer mission came across many international observers whose presence contributed to the transparency of the electoral process. However the Mission noted the limited number of domestic observers in the areas visited by the teams on polling day.

### **Recommendations**

Noting the observations above, the mission proposes the following recommendations:

#### **MEC**

- The provision on the appointment of members of the commission should be reviewed to guarantee its independence, transparency and professionalism. Regional trends and standards have been to appoint an independent electoral commission whose members are selected based on their expertise, integrity and political independence.
- The Mission recommends that the electoral commission builds on its achievements during the just ended elections and uses an electoral cycle approach to election management in future which entails an ongoing programme for the professionalization of the commission. Areas of focus would include the rectification of irregularities identified in the voters' register and continuous updating of this register.
- In addition to the MPLCs, the MEC is advised to introduce community based conflict management mechanisms at national, regional and local levels that will address not only problems relating to parties and candidates but also those affecting the electorate as a whole throughout the electoral process.

#### **Media**

- Successive incumbent governments have tended to monopolise the state owned media to their advantage. Malawian authorities need to align the country to the best regional electoral practices by allowing all the contesting parties and candidates to have equitable access to this taxpayer funded media and to allow the electorate to make informed choices.

#### **Political Parties**

- Political parties in Malawi have demonstrated a lack of commitment to internal democracy within their organisations. This lack of intra party democracy has been most visible in the choice of office bearers and the selection of party candidates. This has affected the institutionalisation of parties, leading to an unstable party system characterised by frequent fragmentation. The democratisation of political parties will go a long way towards consolidating democratic development in the entire country.

#### **Development partners and election stakeholders**

- The Mission calls upon development partners and national election stakeholders to support domestic election observation as an integral part of the electoral cycle so as to add value to the electoral process through professional domestic election observation.

### **Conclusion**

Overall the elections up to the time of the release of this statement were held in conformity with the PEMMO. Accordingly, the Malawi electoral stakeholders generally enjoyed all the freedoms associated with participation in elections, such as freedoms of association, movement and assembly. On the other hand, the Mission noted the unlevel playing field in terms of access to campaign finance and state media. In spite of this, the EISA Observer Mission believes that Malawians were generally able to express their will.

As the electoral process moves to its conclusion, the Mission encourages the MEC to continue to demonstrate transparency in the tabulation and announcement of results and to address any complaints brought by candidates timeously. On the other hand, such complaints should be substantiated and not aimed at causing unnecessary delays in the announcement of the final results.



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*Pictured right: Denis Kadima and His Excellency John Kufuor, leader of the Commonwealth Observer Mission to the Malawi Elections.*