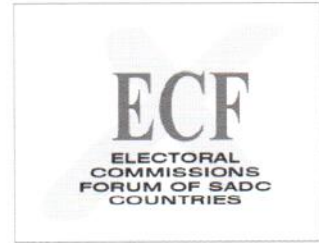


Electoral Commissions Forum of SADC Countries

Plot 50669, Unit 1A, Tholo Office Park, Fairgrounds
Private Bag 00284
Gaborone, Botswana
Tel: (+267) 3180012 Fax: (+267) 3180016
www.ecfsadc.org



PRELIMINARY STATEMENT OF THE ELECTORAL COMMISSIONS FORUM OF SADC COUNTRIES (ECF-SADC) ON THE TRIPARTITE ELECTIONS OF THE REPUBLIC OF MALAWI 21 MAY 2019

Introduction and background

1. The Electoral Commissions Forum of SADC Countries (ECF – SADC) received an invitation from the Malawi Electoral Commission (MEC) dated 12th March 2018 to observe the Tripartite Elections then scheduled for 21st May 2019. In line with its mandate of strengthening co-operation amongst Electoral Commissions in the SADC region, the ECF-SADC deployed an observer mission for these elections.
2. This is the third time that the ECF – SADC has observed elections in the Republic of Malawi, the last being the 2014 Tripartite Elections held on 20th May 2014.
3. The ECF-SADC Election Observer Mission was led by Mr Irfan Abdool Rahman, the Electoral Commissioner of Mauritius. The Deputy Mission Leader was Dr Nomsa Masuku, a commissioner of the Electoral Commission of South Africa.
4. The Mission comprised twenty-one (21) observers from the Electoral Commissions of Botswana, Comoros, Eswatini, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zambia and Zimbabwe. The Mission commenced its work on 12th May 2019.

Guiding Election Observation Instruments and Values

5. ECF-SADC election observation missions are guided by the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO, 2003), the Revised SADC Principles and Guidelines for Governing Democratic Elections in the SADC Region (2015) and the African Charter on Democracy, Elections and Governance (2004).
6. ECF-SADC Election Observer Missions are guided by the values of impartiality, neutrality, transparency, and objectivity. These are consistent with the above-mentioned instruments.

Observation Methodology and Activities undertaken

7. The observation mission employed complementary data collection methods including (i) documentary review (ii) electronic and print media (iii) paying courtesy visits to the host Commission (iv) conducting refresher training for the members of the Mission (v) observing campaign rallies (vi) hosting a seminar with local stakeholders (vii) the polling and (viii) counting processes.
8. The Mission also interacted with both domestic and international observer missions in order to exchange information. The various activities undertaken enabled the Mission to gather strategic and comprehensive information so as to assess the administration and management of the 2019 Tripartite Elections of the Republic of Malawi.

Deployment

9. The deployment period of the Mission was 18th – 22nd May 2019. Six teams were deployed to Blantyre, Dowa, Lilongwe, Nsanje, Ntcheu and Zomba.

10. The Mission was able to attend final political rallies of a number of the presidential candidates held in Blantyre and Lilongwe. The Mission found these rallies to be peaceful. It should be noted that campaigning ceased on 19 May 2019 at 06h00 as per the law.
11. The Mission noted the use of security personnel in the dispatch and guarding of electoral materials ahead of polling.

A. Pre-Election Phase

i. Pre-Election Assessment Mission

12. A pre-election assessment visit was undertaken from 11th – 13th April 2019. The objectives of this visit were to ascertain:
 - i. The preparedness of, and challenges faced by the MEC to hold credible elections in line with the PEMMO and the Revised SADC Principles.
 - ii. Adoption and implementation of the recommendations made in 2014.
 - iii. The political environment and whether it was conducive for credible elections.
 - iv. The role of electoral stakeholders and non-state actors in establishing technical and financial support rendered to the MEC and the electoral process as a whole.

The pre-election visit was also undertaken in the spirit of fostering relationships and solidarity between member commissions.

13. The delegation was able to meet with the MEC as well as the Malawi Electoral Support Network (MESN) and the National Initiative for Civic Education (NICE). The following key findings were made:
 - i. The government of Malawi had fully funded the 2019 Tripartite Elections.
 - ii. The biometric voter registration process had yielded just over 6.8 million registered voters, eliminating duplications and other ineligible voters. Political parties and members of the public were given an opportunity to verify their registration details.
 - iii. Public debates between presidential candidates and their running mates took place, though not all participants availed themselves of this opportunity.
 - iv. Although the media played a critical role in disseminating electoral news, they were still seen to be partisan.
 - v. Pockets of political violence had been reported in some parts of the country.
 - vi. A number of proposed electoral reforms following the 2014 elections had not been approved.
 - vii. The stakeholders engaged were generally satisfied with the preparedness of the MEC and their ability to run a credible election.

ii. Consultation with Stakeholders

14. The Mission engaged both the Commissioners and the Secretariat of the MEC on 17th May 2019 on their state of preparedness.
15. The Mission held a seminar at Protea Hotel, Ryalls, Blantyre on 17th May 2019 with electoral stakeholders representing different sectors of society. These included, but were not limited to the legal fraternity, the media, academia, political parties and non-state actors. This accorded the Mission an opportunity to understand the conditions in which the elections would take place.
16. Summary of issues raised by stakeholders

16.1 Positives

- i. Tactile ballot guide
 - A tactile ballot guide was been developed by the sector representing persons with disabilities together with the MEC to assist visually impaired voters in casting their ballots in secret.
- ii. Prohibition of handouts
 - S41 of the Political Parties Act, 2018 provides for the prohibition of handouts by political parties and candidates; failure to adhere to the Act can lead to a fine of K10 000 000. This Act is not yet in force, but the spirit of this prohibition is important for credible elections.
- iii. Confidence in the MEC
 - A number of stakeholders engaged expressed their confidence in the MEC to conduct the elections. Although there were still areas of contention, stakeholders were satisfied that a number of strides had been made following the 2014 Tripartite elections.
 - The new national identity card has contributed positively to the electoral process, specifically, the bio-metric voter registration process that led to a more accurate voters' roll.

16.2 Challenges

- i. Results management process
 - The Mission was advised by the stakeholders that the revised results management process had not been clearly articulated to all stakeholders. However, the MEC, during its state of readiness presentation took the Mission through the results management process.
- ii. Participation of women in the electoral process.
 - There was general consensus amongst electoral stakeholders that there had been little progress regarding the participation of women in the electoral process in the run up to the 2019 Tripartite Elections.

- iii. Independence of the Malawi Electoral Commission
 - A number of stakeholders expressed their discontent at the fact that Commissioners are nominated by political parties based on the votes attained in the previous election. This process means that political parties with more seats in parliament are able to have more Commissioners within the MEC.
- iv. Media
 - The media landscape in Malawi is polarised, with the public media being accused of affording more coverage to the ruling party. Similar accusations were made against the private media in favour of the opposition parties. The Mission will provide a proper analysis of this matter in their final report.
- v. Transferred voters
 - The choice of voters who cast their ballots at a polling station other than where they were registered may be compromised in relation to the parliamentary and local government election.
- vi. Access to polling stations by persons with disabilities
 - Stakeholders representing persons with disabilities advised the Mission that access to polling stations remains an issue.
- vii. Transport and delivery of materials
 - Stakeholders raised concerns regarding the timely transportation and delivery of electoral materials to districts and polling centres, as delays would affect the start of polling. Stakeholders made further references to the 2014 situation related to transportation.

17. The Mission held a bilateral meeting with the Commonwealth Observer Group (COG) on 16th May 2019. The Mission also participated in the Heads of International Observation Missions meeting organised by the African Union (AU) Election Observation Mission and COG on 20th and 22nd May 2019 respectively. Missions were able to share their observations on the pre-polling, polling, and post-polling phases.

18. Key Mission observations during the pre-polling phase:

- i. The electoral period was generally peaceful, save for a few pockets of violence which the security services confirmed they were monitoring closely.
- ii. There was robust campaigning by the main contenders of the presidential election, with a number of televised debates between contenders as well as with their running mates.
- iii. The accreditation process for international observers was significantly improved.

- iv. There was growing use of social media. The Mission also noted the initiatives by the Malawi Communications Regulatory Authority (MACRA) and Facebook to curb the spread of fake news.
- v. The openness of the MEC to engage various electoral stakeholders which resulted in a healthy working relationship between them.

B. Election Phase

i. Polling Day

19. The Mission made the following general observations on polling day:

- i. Generally, polling stations opened late. Amongst the reasons reported were the late arrival of staff and the set-up of polling stations.
- ii. The MEC confirmed that polling stations that opened late would be allowed to stay open to make up for lost time.
- iii. Both local and international observers were present at most polling stations visited.
- iv. Party agents (monitors) were present at most polling stations visited.
- v. Shortage of furniture was noted in some polling stations.
- vi. Many polling stations visited had long queues in the morning, but these were managed adequately by the polling staff.
- vii. In some instances, the streams were too close to each other, thus causing confusion. However, the layout of the polling stations did not compromise the secrecy of the ballot.
- viii. Voters not registered in the polling stations where they presented themselves were turned away. The Mission is aware that the MEC made certain concessions to allow university students to vote where they were not registered.
- ix. Progress reports were provided by the MEC at press conferences throughout the polling day.
- x. At most polling stations visited, women formed part of the staff component.
- xi. Youth were visible as voters, polling staff and party agents.
- xii. Security personnel were present and did not interfere with the polling process.

- xiii. At the polling stations visited, voting took place in a calm and peaceful environment.

i. Counting and Management of Results

20. The Mission observed the closing and counting processes and noted the following:

- i. A number of polling stations did not close at the stipulated time (18h00) as they had started late.
- ii. Closing procedures were mostly adhered to in the presence of party agents (monitors) and observers.
- iii. The lighting in some polling stations was inadequate.
- iv. The counting procedures at some polling stations were followed but the process was very slow.
- v. In some polling stations observed, security personnel and party agents (monitors) did not seem to understand their role in the counting process.
- vi. There were inconsistencies in the treatment of null and void ballots.

LESSONS LEARNT

21. The following lessons drawn from the 2019 Tripartite Elections of the Republic of Malawi stand out as good practices in the SADC region:

- i. The capacity of the Republic of Malawi to self-finance the 2019 Tripartite Elections.
- ii. The various Codes of Conduct developed, including for the media and Chiefs.
- iii. Voting by prisoners.
- iv. The reduction of participation fees for marginalised groups.
- v. The forty-eight (48) hour cooling off period for campaigns ahead of the elections.

AREAS NEEDING IMPROVEMENT

The Mission notes the recommendations it made following the 2014 elections and advises that they remain relevant especially on areas relating to transport, despatch of materials, training of poll staff and provision of lighting .

KEY RECOMMENDATIONS

22. The ECF – SADC Mission makes the following key recommendations:

- i. Opening of polling
 - Staff need to adhere to the polling station opening times as this causes delays at the start of polling day. Many stations began setting up when the voters were already waiting in queues
- ii. Logistics
 - There is a need to improve the timely dispatch and transportation of election material to districts and polling stations.
- iii. Political party agents (monitors)
 - Training needs to be improved to capacitate political party agents (monitors) in electoral processes better.
- iv. Security
 - The presence and role of the security services in keeping law and order at polling stations is commended. The fact that most were armed could be perceived as intimidating to voters.
 - Training of security personnel on their role in electoral processes requires strengthening.
- v. Polling stations
 - The MEC should consider the provision of shelter from the elements for polling staff.
- vi. Training of polling staff to address inconsistencies
 - Polling staff need further training on the closing and counting processes in order to address inconsistencies at the polling stations.
- vii. Transferred votes
 - The MEC should review the current provision for transferred votes and consider alternate options including advanced, early or special voting.

CONCLUSION

- i. The ECF- SADC Mission notes the efforts of the Malawi Electoral Commission in preparing and managing the 2019 Tripartite Elections.
- ii. The Commissioners of the MEC have discharged their duties according to their mandate and in a credible manner.
- iii. The Mission congratulates the people of the Republic of Malawi on the manner in which they conducted themselves during the electoral period. They were able to exercise their democratic right to express their will.
- iv. As the electoral process is not yet complete, the ECF-SADC encourages the people of the Republic of Malawi to remain tolerant, peaceful and to accept the outcome of the election results.

Signed on this 23rd May 2019 in **Blantyre, Republic of Malawi**



Mr Irfan Abdool Rahman

Mission leader

Electoral Commissions Forum of SADC Countries, Republic of Malawi