

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Tel 251-11-5517700 Fax. 251-11-5517844

**AFRICAN UNION ELECTION OBSERVATION MISSION
TO THE LEGISLATIVE ELECTIONS
IN THE REPUBLIC OF SEYCHELLES
8 - 10 SEPTEMBER 2016**

PRELIMINARY STATEMENT

MAHÉ, 12 SEPTEMBER 2016

INTRODUCTION AND BACKGROUND

At the invitation of the Government of the Republic of Seychelles and the Electoral Commission of Seychelles, the Chairperson of the African Union Commission, H.E. Dr. Nkosazana Dlamini Zuma, deployed an All-Woman African Union Election Observation Mission (AUEOM) to observe the Parliamentary Elections of 8-10 September 2016. The deployment of the first-ever historical Women-Only observation mission was in line with the African Union's commemoration of the year 2016 as the "African Year of Human Rights with a Special Focus on the Rights of Women", and in recognition of the 2015 declaration of the Year of Women's Empowerment and Development Towards Agenda 2063.

The AUEOM was led by **H.E. Fatuma Ndongiza**, former Chairperson of the African Peer Review Panel of Eminent Persons, who was supported by the Commissioner for Political Affairs, H.E. Dr. Aisha L. Abdullahi; and Special Envoy for Women and Peace and Security, Madam Bineta Diop. The Mission was launched on 05 September 2016 with the deployment of 29 short-term observers (STOs) drawn from 21¹ African countries, representing institutions such as the Permanent Representatives' Committee (PRC), the Pan-African Parliament (PAP), Economic, Social and Cultural Council (ECOSOCC), Election Management Bodies (EMBs) and Civil Society Organisations (CSOs).

The AUEOM's mandate was based on relevant AU instruments such as the 2007 African Charter on Democracy, Elections and Governance (ACDEG); the 2002 AU/OAU Declaration on Principles Governing Democratic Elections in Africa; and the 2002 AU Guidelines for Elections Observation and Monitoring Missions. The Mission is also informed by regional and international human rights instruments that promote women's participation in political and electoral processes. These include, among others, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), and the 2004 Solemn Declaration on Gender Equality in Africa (SDGEA).

The assessment and observations of the Mission were guided by the principles and guidelines stated in the above-mentioned instruments, and other relevant international instruments guiding international election observation and the legal framework for the elections in the Republic of Seychelles.

In its assessment of the 2016 electoral process in Seychelles, the Mission paid attention to how gender issues are integrated into the entire electoral process including in electoral frameworks and structures.

The Mission was briefed by representatives of political parties, namely Parti Lepep and Linyon Demokratik Seselwa (LDS), the Electoral Commission of Seychelles and representatives of civil society organisations. Additionally, the Mission Leadership met with the Minister of Foreign Affairs and Transport; Minister of Social Affairs, Community Development and Sports; the Chief Justice of the Supreme Court; the opposition leader of the Popular Democratic Movement in the National Assembly; the official leader of (LDS), the opposition coalition; Ambassador for Women and Children in the Ministry of Foreign

¹ The countries include: Algeria, Botswana, Burundi, Cameroon, Cape Verde, Cote d'Ivoire, Democratic Republic of Congo, Ethiopia, Gabon, Kenya, Malawi, Mauritania, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Uganda and Zimbabwe.

Affairs; Seychelles National Human Rights Counsel; Bishops of the Anglican and Catholic Churches; members of the media. The Head of Mission also met with leaders of international observation missions, and paid a courtesy call to the office of the President of the Republic of Seychelles James A. Michel.

This statement presents the AUEOM's preliminary findings, recommendations and conclusion on the 2016 legislative elections in Seychelles. This statement reflects only the Mission's observations up to the conclusion of the counting process at polling station level on 10 September, and the subsequent announcement of results.

A final report of the 2016 Legislative Elections in the Republic of Seychelles will be published by the AUC within two months after the completion of the process, and shared with the government of Seychelles.

POLITICAL CONTEXT

The 8-10 September 2016 legislative elections in Seychelles were the sixth since the country returned to multiparty democracy in 1993. The elections took place in the wake of a tightly contested two-round presidential election less than a year ago, in December 2015, whose result is still in court. The political environment was observed by the AUEOM as being highly polarized.

For the 2016 legislative elections, the main opposition parties consolidated the alliance they formed for the second round of the 2015 presidential election, making this year's contest a race between the ruling party, Parti Lepep, and a united opposition front, the Lynon Demokratik Seselwa (LDS).

The Mission is of the opinion that the widening of political competition and the legal reforms introduced after 2011 have contributed to a more leveled playing field in the electoral process.

In line with continental election principles and best practices, a number of improvements will be outlined in the recommendations of the final report, which will contribute to deepening the democratic development of the Seychelles.

PRELIMINARY FINDINGS

The Constitutional and Legal Framework

The Constitution of Seychelles guarantees fundamental civil liberties and human rights. Citizens are entitled to freedom of expression, freedom of assembly and association, freedom of movement, the right to equal protection of the law and the right not to be discriminated against on the basis of race, origins, gender, and political opinion.

After the 2011 presidential election, a number of legal reforms, which the Mission views as very positive steps, were introduced including the establishment of a five-member Electoral Commission; the introduction of campaign finance regulations; changes to voter registration procedures; and the repeal of the Public Order Act and its replacement with the Public Assembly Act, among others.

Additionally, some new election procedures were introduced ahead of the 2016 elections, based on lessons learned from previous elections; in order to improve the integrity of the process, namely the splitting of voters and voter registers by alphabetical order at each polling station, the verification of the number of ballot papers allocated to each polling station, the verification of the number of voters who have been ticked off the voter register after voting, and the access to copies of the results forms by party and candidate agents at the end of the counting process.

In Seychelles, the rights of women are enshrined in the Constitution, including the right to political participation, and there are no legal barriers for their participation in the electoral process. The Mission noted however that there are no legal provisions in place to ensure gender parity including special measures such as quotas, in elective office positions, such as the National Assembly, in compliance with the Maputo Protocol, which Seychelles ratified in 2006; and the SADC Protocol on Gender and Development, which Seychelles signed in 2008.

Although there is no set date for the holding of legislative elections, the Constitution states that such elections shall be held during the period starting at the beginning of the fifty-seventh month and ending at the end of the fifty-ninth month of a session of the National Assembly, which in the Mission's opinion constitutes reasonable advance notice for all stakeholders to prepare adequately for the elections.

The AUEOM is of the view that the constitutionally-guaranteed rights and freedoms, as well as the provisions of the Electoral Act and the legal and procedural reforms introduced since 2011 establish solid conditions for democratic elections in Seychelles.

Election Management

The AUEOM notes the open application process for membership of the Electoral Commission of Seychelles (ECS), its statutory independent status, and its appointment by the President, based on a shortlist submitted by the Constitutional Appointments Authority.

The ECS is generally perceived by most stakeholders as technically competent. The ECS received all the required resources to organise the elections efficiently, and implemented the electoral calendar in a timely manner. The procurement of election materials, the setting up of polling stations, and the recruitment and training of polling officials were done within the required timeframe and standards. However, several stakeholders questioned the independence and impartiality of the ECS because it is appointed by the Executive. Stakeholders have indicated that an appointment process more independent from the Executive would strengthen the Commission's independent status. AUEOM noted with concern the under-representation of women in the five-member electoral Commission, which is currently constituted by one woman.

Campaign finance

The Mission acknowledges the introduction of campaign finance regulations, which put limits on individual contributions, and requires disclosure of the identity of donors, who make contributions above a certain amount. These are positive developments towards greater electoral transparency and reducing the negative influence of private politics and public governance.

However, the Mission is concerned that the campaign finance regulations do not establish limits on the amount each campaign is allowed to spend, and that there is no public campaign funding, which may contribute to an unlevel playing field among the different election contestants.

The Mission is also of the opinion that there are no regulations that oblige the allocation of campaign funds to support women candidates and aspiring political leaders in line with the growing global trends. For example, a few African countries, including Burkina Faso, Kenya, Mali, Cape Verde and Niger have laws linking provision of public funding to the gender equality of political parties' candidates.

Voter Registration and the Voter Register

The AU Mission noted that Seychelles has a population of about 96,858 inhabitants, according to UN estimates², and there are 71,932 thousand registered voters, which seems too high for the age structure of the Seychelles population. This points to a bloated voter register.

Stakeholders contacted by the Mission raised concerns that the voter register contains thousands of non-residents, as well as many deceased voters. They further argued that the only solution to resolve this problem is to overhaul the current register and conduct a new voter registration process.

The Mission noted that voters are still not provided with voters' cards, which makes it difficult to determine if a voter whose name does not appear on the Voter Register on Election Day was indeed registered.

The AUEOM however, notes the fairly high number of registered female voters and the availability of sex disaggregated data.

Voting Rights

The Mission noted the commendable legal provisions and mechanisms put in place to ensure that all registered voters residing in Seychelles exercise the right to express their choice, including through early voting procedures for different special groups. However, registration and voting rights have not yet been extended to citizens living abroad so that they can exercise their right to vote in the countries where they reside, including those who are abroad on official duty.

Electoral Justice

All stakeholders contacted by the Mission expressed trust in the judicial system and in their ability to resort to the courts to address complaints regarding the electoral process.

The Mission commends the impartial and independent manner in which the Judiciary has arbitrated and resolved election-related disputes so far. However, the Mission notes the continued absence of non-judicial alternative dispute resolution mechanisms, which could make the adjudication of election-related conflicts speedier, and alleviate the burden of election-related petitions on the judicial system. The Mission notes with satisfaction that Seychelles has appointed its first female Chief Justice.

² United Nations Department of Economic and Social Affairs: Population Division

The mission was unable to ascertain the existence of election-related violence particularly targeted at women.

Women participation in elections

With 50.7%, women make up the majority of registered voters, and were well represented at campaign rallies, at the polling stations as polling officials, polling agents, and citizen observers.

However, the Mission noted that women are under-represented in the ECS, in the top leadership of parties, and as candidates. For instance, there is only one woman president of a political party, and only 20 of the 76 candidates, that is 26.3%, were women.

Up to date, with 45% representation – Seychelles has ranked fourth (4th) in the world, second (2nd) in Africa, and first (1st) in the SADC region in terms of women representation in parliament. However, the AUEOM notes that since the re-introduction of multi-party politics in Seychelles in 1993, women representation in the National Assembly has consistently been under 30% with the notable exception of the 2011 National Assembly.

The high proportion of women in the outgoing National Assembly was not the result of sustained legal and structural mechanisms to ensure consistently high numbers of elected women. It was rather the unintended result of an election in which Parti Lepep, the only party which regularly fields high numbers of women candidates, contested the election largely unopposed.

In the current elections, Parti Lepep, at 44% was again the only party with high numbers of female candidates. The Seychelles Patriotic Movement (SPM) had only 21.7% and the Linyon Demokratik Seselwa (LDS) only 16%. As a result, the newly elected National Assembly will revert to the historically lower levels of women representation. The AU Mission regrets to note that of the 25 constituency seats, only 4 (16%) were won by women.

The AUEOM is cognisant of the difficulties women face in running for elected office in single-member-constituency majoritarian systems in Africa. However, the Mission notes that these challenges are not particular to the African continent or culture. The Mission has also taken particular note of the explanations provided by opposition parties for the reasons few women accept to run for the National Assembly on behalf of the opposition.

The AUEOM therefore, urges the Seychelles political parties to use the discretionary mechanism at their disposal of appointing the Proportional Representation Members of the National Assembly to increase the number of women MNAs (members of the National Assembly) in the incoming parliament until other mechanisms are introduced to improve the representation of women in a more sustained manner.

Party and candidate registration and nominations

The Mission took note of the Supreme Court decision instructing the ECS to strike the registration of two political parties, the Linyon Sanzeman and the Lafors Seselwa Demokratik, and remove their candidates from the candidates' lists, for choosing party names that were too similar to those used by other political forces.

The Mission noted that all other parties and candidates, including independent candidates, were allowed to participate in the elections, in accordance with the law.

The Media

The Mission noted that all candidates were entitled to equal time for free campaign broadcasts on the public broadcaster in line with good practices in the continent. Opposition parties however complained that the public media has shown some bias towards the ruling party in their coverage of the election campaigns. The AUEOM was not able to verify this claim independently.

The AUEOM also noted the increased use of media as a growing trend in popular engagement during elections. However, the Mission observed that social media was also used in this election as a medium for hate speech.

Rights of special groups

The Mission observed with satisfaction that pregnant women, nursing mothers, people with disabilities and the elderly are entitled to priority voting and assistance.

The Mission noted however that there were no mechanisms or procedures for instance, for blind voters to vote unassisted using the brail system, should they wish to do so, as it is best practice in other countries.

The Role of Security Forces and Security of the Election

Stakeholders generally expressed confidence on the neutrality and professionalism of the security forces throughout the electoral process, with few allegations by the opposition of improper conduct by individual members of the security forces, or excessive presence of security forces at opposition campaign events, which the AUEOM was not able to verify and confirm independently.

The Mission noted however, the professional manner in which the Seychelles Police Force provided security to the last two rallies of all parties and candidates; to the distribution of election materials prior to election day; at the polling stations on Election Day, and to the transportation of marked ballots from the polling stations to the ECS headquarters.

The mission also positively noted the presence of a fairly high number of women police officers deployed to support the Election-Day process.

Electoral Campaign

The electoral campaign took place in a robust and festive manner, but was generally peaceful. The AU observers were able to witness the last two rallies of Parti Lepep and LDS on the 4th of September. These events were well-attended by all groups, including the youth, women and the elderly.

There were concerns from stakeholders with regards to incidents of use of hate speech between supporters of different parties and candidates, and use of inflammatory language between the two main contesting parties.

The Mission observed that all candidates were free to disseminate their campaign manifestos and messages; and noted the active participation of women in campaign activities.

The Mission also received reports of attempted vote buying by both main political parties, but was not able to verify these allegations independently.

No incidents of violence were witnessed by or reported to the AU observers. The Mission noted however a few cases of defaced campaign materials of different parties and candidates, in clear violation of the law and the code of ethical conduct.

The Mission noted with satisfaction that all candidates were able to make full use of their political party broadcasts on the Seychelles Broadcasting Corporation (SBC) without hindrance.

Election monitoring and observation

All candidates were entitled to appoint polling agents to monitor all steps of the voting process including in the Outer Islands. AUEOM also acknowledged the participation of large proportion of women observers was also acknowledged.

Civic and Voter Education and Information

Voter education and information activities were conducted by the ECS, as well as by civic groups and political parties. Stakeholders reported concerns to the Mission that civic education regarding democratic and human rights principles and values, and the role of elected Members of the National Assembly was insufficient.

Polling Day Observations

The atmosphere in which polling was conducted over the three voting days was peaceful, calm and orderly, and in compliance with the laws of the country. The AU Mission commends the high turnout and orderly voting and counting processes.

Polling officials were generally professional and efficient in the management of election day processes, and the spirit of collaboration between them and polling agents and observers greatly contributed to the smooth, orderly and transparent conduct of the polls.

In addition, the AUEOM noted the high number of women polling officials, including many Electoral Officers and party agents. However, no persons with disabilities were observed performing any of those duties.

Observations regarding Special Polling Stations on Mahé Island (8th September)

Opening Procedures

The AUEOM observed the opening, voting and closing processes in all five special polling stations on Mahé island on the 8th of September. The environment was orderly and peaceful at all polling stations, and operations were conducted in a professional and competent manner. Party and candidate agents and national and international observers were present throughout the day.

Two of the five polling stations delayed opening for one hour or more. At Montagne Posée polling station, the ballot paper booklet for one of the electoral districts was missing, and voting only began at 08H20, after the booklet arrived. At the North East Point Home for the Elderly polling station, AU observers were told that voting would only start at 08H00, although all preparations were concluded on time, because 07H00 was too early for the elderly and patients who were supposed to vote at that location.

At all polling stations, all ballot papers were counted and the numbers recorded before the beginning of voting, as instructed.

Voting

Most voters coming into the polling stations at the time the AUEOM observers were present were able to vote. The only significant exception was at the Montagne Posée polling station, where 16 remandees, who claimed to be registered voters, were not able to vote because their names did not appear on the voter register. This number represents 20% of all remandees who showed up at the polling station. At the National House polling station, at least one voter was turned away because his name was not on the voter register.

Since registered voters are not issued with voters' cards as proof of registration, it was difficult to ascertain whether those people who were turned away were indeed unregistered voters.

Conversely, a group of five Air Seychelles crew members, presented themselves at the English River polling station for early voting with proof that they were going to be on duty on the 10th of September. Although their names were not on the list of pre-approved voters, they were allowed to vote after consultations with the Electoral Commission and the party agents.

The AUEOM noted that all voters requiring assistance with voting were duly assisted, but there were some inconsistencies in the provision of assistance. For instance, at the North East Point Home for the Elderly polling stations, AU observers witnessed two cases where voters were assisted in marking the ballot by relatives, and the Electoral Officer only assisted in placing the ballots in the ballot box.

Police officers were present at all five polling stations, and their behaviour was described by AU observers as professional and discreet.

Closing Procedures

The English River polling station was the only polling station that closed after the scheduled time as there was still a queue of voters at 16H00. All voters in the queue were allowed to vote, in accordance with the law, and voting ended at 16H20.

Polling officials followed strictly all closing procedures. The number of voters' names ticked off on the voter register was counted, recorded and reconciled with the number of ballot papers received, used and unused.

AU observers did not report any irregularities throughout the process, nor any formal complaints.

Observations regarding Regular Voting on Mahé Island (10th September)

The AU Mission observed all twenty-two polling stations on Mahé island, and did not deploy observers to Praslin and La Digue islands for logistical reasons.

Opening Procedures

AUEOM observed the opening procedures at eight (8) polling stations, namely Anse aux Pins, Mount Buxton, Mont Fleuri, Roche caïman, Anse Royale, Port Glaud, and Bel Ombre, and Beau Vallon.

All polling stations observed at opening time followed the required procedures, including counting and recording the number of ballot papers received, crossing off the names of early voters, locking and sealing the ballot boxes after showing them to be empty to all present. At the Bel Air polling station, there were less ballot papers than registered voters - since 128 of the 137 voters had already voted on the 8th and 9th, the polling station opened with 9 ballot papers short.

Two of the eight polling stations where the AUEOM observed the opening procedures opened late, namely Anse aux Pins and Anse Royale. Anse aux Pins opened 20 minutes late due to delays in crossing off the names of early voters. Anse Royale opened 40 minutes late due to lack of enough polling station staff, and delays in crossing off the names of early voters.

Of the 15 polling stations the AU teams visited after the opening process, only 2 polling stations reported opening late. St. Louis opened late by 15 minutes due to delays in counting ballot papers, and Les Mamelles opened 30 minutes late for the same reason.

At opening time, all polling stations had all the necessary materials to conduct voting operations.

Voting

The voting process was largely orderly and peaceful. In some polling stations, the organisation of voters by alphabetical order caused some initial confusion and delays, but in most of them the procedure actually made voting smoother.

Electoral officers were generally very consultative and transparent in their management of the process.

Unarmed police officers were present at all polling stations, and their behaviour was consistently described by the AU observer teams as professional and discreet. Most of them were women.

Polling agents from the two main parties were present at all polling stations throughout the voting period and were able to monitor the process without hindrance. Citizen observers were found in 86% of the observed polling stations. Women constituted 76% of polling officials, 78% of party and candidate agents and 66% of national observers.

The AU observers noted with satisfaction that there were very few observed cases of voters turned away without voting because their names were not on the voter register. That was the case at Takamaka polling station, where a resident of Ile Perseverance

claimed to be registered in that electoral area, but his name was not found in the voter register. At Anse Etoile polling station the name of one voter was also not found on the register, and at Bel Ombre polling station two names were not found on the register. At the Port Glaud polling station, one police officer was refused access to vote because he was in police uniform.

In some instances, voters' details on ID cards did not match the details on the voter register, but generally those voters were allowed to vote after consultation with the Electoral Commission.

The layout of polling stations was adequate to ensure the secrecy of the vote and the easy flow of voters. The AU observers noted that average time for voters to go through the polling station cycle was under three minutes, which indicates good knowledge and management of voting procedures by polling officials and voters alike.

The AUEOM noted with satisfaction that almost all observed polling stations were accessible to voters with disabilities, and that at most polling stations special queues were dedicated to the elderly, the disabled, pregnant women, and nursing mothers. However, there were inconsistencies in the application of procedures for assisted voters. In some cases, voters were assisted by persons accompanying them, rather than the Electoral Officer. At the Cascade polling station, priority voters only started voting at 09H30.

Closing and Counting Procedures

AUEOM observed closing and counting procedures at the eight polling stations where they observed the opening procedures.

Three of the eight observed polling stations closed later than the regular closing time due to the queues of voters still waiting to cast their ballots. In some cases, this was caused by the late start of voting in the morning, and in others it was due to the high number of voters assigned to a single polling station. AU observers reported that in all the polling stations where they observed the closing procedures, all voters on the queues were allowed to vote in accordance with the law.

The closing and counting process as observed by AU observer teams followed all required procedures, but was often tedious, due to the high number of ballot papers to be counted at each polling station.

The AUEOM noted some discrepancies during the counting process. For instance, at the Anse aux Pins polling station, the number of voters ticked off the voter register did not tally with the number of ballots in the boxes by 1, but all stakeholders agreed to accept it.

The Mission noted as it was noted in 2015, that the electoral legislation does not provide for the posting of results publicly outside the polling stations, as it is best practice on the continent. However, party and candidate agents received copies of the results forms, in accordance with the new procedure approved for these elections.

Announcement of Results

The AU EOM noted with satisfaction the transparent and efficient manner in which the results were announced by the ECS, which contributed to the acceptance of the outcome of the elections. The Mission was particularly impressed by the amicable and positive

messages conveyed by both winners and losers at the ceremony of results announcement, where both accepted the outcome without reservations.

CONCLUSION

The AU EOM concludes that the 2016 electoral process in Seychelles was transparent, credible, and peaceful; and was conducted in an atmosphere of peace, order, and tranquillity, in accordance with the constitution and electoral laws of the Republic of Seychelles, and largely met the standards of the AU instruments for the conduct of democratic elections.

The acceptance of the outcome of the 2016 National Assembly elections by the people of Seychelles demonstrated to the African continent and the world their commitment to the continued improvement of democracy in their country.

The AUEOM wishes to express its gratitude to the authorities and people of the Republic of Seychelles for the enabling environment that allowed for the performance of its task.

RECOMMENDATIONS

The AUEOM wishes to present the following recommendations to the electoral stakeholders of the Republic of Seychelles with a view to improve future electoral processes and strengthening the democratic development in the country. Some of these recommendations had already been presented after the 2015 presidential election:

For the National Assembly to consider:

1. Revising the process of appointment of the Electoral Commission to further strengthen the perception of its independence.
2. Introducing mechanisms to improve women representation in the ECS and in the National Assembly; as well as strengthening democratic governance in order to enhance women's participation in politics.
3. Introducing biometric voter registration and issuing voters' cards as proof of registration and as main means of voter identification on election day.
4. Conducting further reforms to campaign finance regulations, especially by placing limits on campaign expenditures and introducing public funding for campaigns, and include special support for female candidates during campaign.
5. Establishing non-judicial mechanisms for arbitration of electoral disputes.
6. The creation of additional polling stations in the electoral areas with the highest number of voters in order to shorten the voting and counting process.
7. Introducing measures to allow voters with disability, especially blind voters, to vote autonomously and thus protect the secrecy of their vote.
8. Making it mandatory to post election results publicly outside the respective polling stations for increased transparency of the process.
9. Extending voting to locations abroad so that Seychelles citizens in the diaspora can exercise the right to choose their leaders.

For the Electoral Commission of Seychelles:

1. Increase the transparency and credibility of the electoral process through improved communication with stakeholders and the public at large regarding the interpretation of the law and application of procedures.

2. Take appropriate measures to improve the integrity and credibility of the voter register.
3. Improve public education regarding voter registration procedures and voting procedures.

For the political parties:

1. Increase opportunities for the participation of women in political leadership and candidates for elections.
2. Refrain from using inflammatory language and other forms of hate speech during campaigns.
3. Enhance inter-party dialogue to facilitate democratic principles and peace in the country.
4. In the spirit of collaboration, post-election healing and reconciliation, political party leaders should engage in dialogue to deepen multi-party democracy and advance socio-economic development in the country.