



EUROPEAN UNION
ELECTION OBSERVATION MISSION - SIERRA LEONE 2012
PRESIDENTIAL, PARLIAMENTARY AND LOCAL COUNCIL ELECTIONS

PRELIMINARY STATEMENT

Well-conducted elections conducive to democratic consolidation despite unequal playing field

With high participation in a largely peaceful atmosphere, the 2012 elections represent an important moment in the history of Sierra Leone as the country moves towards embedding democracy. Further progress will depend on the will of national institutions to address shortcomings.

Freetown, 19 November 2012

EXECUTIVE SUMMARY

- The 17 November elections in Sierra Leone have, so far, been conducted in a largely peaceful environment. Sierra Leoneans have participated in high numbers demonstrating their commitment to the democratic consolidation of their country. Despite the complexity and logistical challenges of holding four simultaneous elections, NEC was able to organise an election day that was overall assessed by EU EOM observers as having been well conducted.
- The conduct of voting operations was assessed positively in 95 per cent of the 404 polling stations visited by the EU EOM, with voting procedures being largely followed. Generally, the voting was conducted in an orderly, calm and peaceful manner despite long queues being reported. Political party agents of both main parties were present in 90 per cent of polling stations visited while at least one domestic observer was present in 85 per cent of polling stations visited.
- The NEC has, so far, acted independently and impartially throughout the election process and key decisions were made in consultation with stakeholders with a notable exception regarding the prescription of nomination fees. The biometric voter registration was a notable achievement of the 2012 elections and the EU EOM regards the registration process as transparent and credible. Technical electoral preparations were successfully completed in a timely manner despite the absence of a publicly available electoral calendar. Regrettably, the decentralised regional and district tally procedures were published by the NEC extremely late, only three days before elections.
- Despite the widespread fear of violence, the election campaign was largely calm and peaceful. Freedoms of speech and movement were respected. However, the election campaign calendar limited the right of political parties to assemble freely. Many candidates realised that it was *de facto* impossible to organise public meetings all over their constituencies in the three-day period, which also imposed excessive travel requirements on flag-bearers. The two main parties frequently breached the campaign calendar by campaigning outside their allotted days.
- An unequal playing field was evident throughout the campaign period. Although the ruling APC and the main opposition SLPP dominated the campaign, APC clearly benefited from the advantages of incumbency by making use of state resources, also enjoyed more media coverage and clearly had more financial resources for campaigning. The campaign was notable for the very low levels of activity of all other registered political parties.
- The NEC failed to provide timely and adequate voter education at the ward level. The EU EOM believes that significantly more civic voter education over a substantially longer period was needed to guarantee the right to an informed choice for voters.
- The legal framework provides an acceptable basis for the conduct of democratic elections which is in line with regional and international principles subscribed to by Sierra Leone. However, some

deficiencies still remain, namely in the protection and promotion of full participation in the electoral process. The consolidation of pre-existing electoral law into the Public Elections Act, 2012, represents an improvement, but represents only very partial progress towards necessary legal and constitutional reform.

- Unbalances in electoral coverage both by public and private media were observed. However, printed and electronic media, including community radio, provided a reasonable diversity of opportunity for political parties in an environment of general respect for freedom of expression. SLBC gave access to almost all political parties both on radio and television. Nevertheless, in key areas such as news bulletins and election related programmes SLBC showed biased coverage in favour of the ruling party.
- Despite the public commitment made by all political parties to enhance female participation, the percentage of women nominated to contest parliamentary elections remained disappointing at 11 per cent as in 2007. The principal barriers to female participation in these elections were an absence of political will to promote women, long-standing societal attitudes and the lack of financial resources on the part of female aspirants.

PRELIMINARY FINDINGS

BACKGROUND

The 17 November 2012 elections were the third elections since the end of the civil war in Sierra Leone. The country has moved from a period of post-conflict elections to the beginning of democratic consolidation. These elections were also the first ones to be led by the National Electoral Commission (NEC) and, at the same time, the most complex ones as for the first time presidential and parliamentary elections were held simultaneously with mayoral/district chairperson and local councillors' elections. These elections were therefore a critical test for the NEC's capacity and independence. Nine out of the ten registered political parties nominated presidential and vice-presidential candidates. For the directly elected 112 seats of the House of the Representatives, 602 candidates were nominated, 32 of which were independent, many of whom were not awarded a party symbol either by APC or SLPP. Only two parties, APC and SLPP, nominated parliamentary candidates in each constituency, although the candidature of two SLPP candidates was restrained by court order. For the local council elections, 1,624 candidates competed for the 475 councillor seats including 6 mayoral and 13 district council chairperson seats.

LEGAL FRAMEWORK

The legal framework provides an acceptable basis for the conduct of democratic elections which is in line with regional and international principles subscribed to by Sierra Leone. The consolidation of pre-existing electoral law into the Public Elections Act, 2012, represents an improvement, but represents only very partial progress towards necessary legal and constitutional reform. Some deficiencies still remain, namely in the protection and promotion of full participation in the electoral process. These include several limitations on the right to stand for public office and on the secrecy of voting, absence of a timeframe stipulated by law for the different stages of the electoral process, and inadequate timeframes for complaints and appeals adjudication.

The right to stand for elections is excessively circumscribed. Candidature for all elective office is limited to citizens by birth, excluding naturalised citizens from participating as candidates in the electoral process, despite being afforded the right to vote. The right of prisoners on remand to participate in the elections were not respected. Also, the requirement that presidential candidates be members of political parties, barring independent candidates from standing for presidential office, violates international commitments on the right to stand for office. Furthermore, the requirement that public servants resign their posts 12 months before elections in order to stand for election is unreasonably long. Finally, the high non-refundable nomination fees for candidates to be eligible to run for any of the elections, passed by the parliament with its APC majority, having been prescribed

by the NEC without consulting with political parties and the justification for which was challenged by key stakeholders, led to an initial boycott of the local council nomination process by eight out of the ten political parties. While the EU EOM commends the compromise solution reached for the 2012 elections, it also considers that the prescribed nomination fees are unreasonably high given the very low level of income in the country. The EU EOM also regrets the necessity for intervention by the government to subsidise the nomination fees in order to guarantee multiparty elections.

While the constitution requires that voting in public elections be by secret ballot, the Public Elections Act mandates numbering of ballot papers, thus undermining the secrecy of the ballot. Ballot papers and their corresponding counterfoils for these elections included an identical serial number creating an opportunity to determine the choice of a particular voter. Also the absence of tactile ballot guides for visually impaired voters further disrespected secrecy rights of these voters, aggravated by the fact that tactile ballots have been used in previous elections.

The Public Elections Act, 2012 confers upon NEC unfettered power to enlarge or reduce the time period provided in the Act for any activity. This means that any potential electoral calendar in the future may always remain provisional, to be altered at the will of NEC, thus depriving the electoral process of legal certainty and predictability.

The time frames for adjudication of electoral disputes allow for procedures to continue past polling day, denying timely and effective remedies to aggrieved parties. The law does not provide a time limit for decisions on challenges to the nomination process of members of parliament and local councils before election day, aggravated by the relative brevity of the period between nomination and election day. This makes it possible that decisions on the validity of nominations may be delivered only after the election has taken place.

ELECTION ADMINISTRATION

The NEC has acted independently and impartially throughout the whole election process and key decisions were made in consultation with political parties and other stakeholders. A notable exception, however, was the process of prescribing nomination fees, which did not include any consultations.

Technical electoral preparations were successfully completed in a timely manner despite the considerable logistical and staffing challenges of conducting four elections simultaneously. However, the absence of a publicly available consolidated electoral calendar made it difficult for stakeholders to assess the real state of electoral preparations prior to election day. As confidence building measures, the NEC organised regular stakeholders' meetings and press conferences to update stakeholders and the general public on electoral preparations and to ensure the transparency of the process. Nevertheless, minutes of the NEC meetings and decisions adopted at these meetings were not published and some essential information regarding the electoral process, such as legal instruments regulating elections and disaggregated Final Voter Register data, were not easily accessible.

The voting and counting procedures provided sufficient safeguards to ensure the integrity and transparency of the voting and counting process. Although the Public Elections Act provides for voting outside the place of registration for several categories of voters, the procedures narrowed these categories to polling staff and members of Sierra Leone Police (SLP) only. These arrangements, furthermore, discriminated against SLP members who were allowed to vote only in the presidential election regardless of their working location, while polling staff could vote in as many elections as their working location allowed.

The decentralised regional and district tally procedures were approved and published by the NEC extremely late, only three days before election day, despite the fact that decentralised result management is a completely new element of the electoral practice in Sierra Leone. As a consequence, the political parties and other stakeholders had only a very limited time available to familiarise themselves with these procedures in order to effectively scrutinise the results tallying process.

The NEC has failed to provide timely and adequate voter education at the ward level. The Ward Electoral Education Committees did not receive the necessary support on time and as a result they

became operational very late. Insufficient voter education and its possible impact on the number of invalid votes was a common concern of almost all stakeholders across the country given the complexity of these four-fold elections and the high illiteracy rate. Given the high levels of illiteracy in the country and the level of democratic development, the EU EOM believes significantly more civic voter education over a substantially longer period was needed by all relevant state institutions in order to guarantee the right to an informed choice of the voters.

VOTER REGISTRATION

Universal and equal suffrage for eligible Sierra Leonean voters was respected with the exception of those in detention and non-resident citizens, despite the Public Elections Act foreseeing this possibility for the latter. The NEC announced that the Final Voter Register (FVR) included 2,692,635 voters. The introduction to the Biometric Voter Registration is a notable achievement of the 2012 elections. The estimated registration rate of 88-90 per cent can be considered a success. Electronic copies of FVR were distributed to all contesting political parties. Political party agents and domestic observers had access to all phases of the biometric voter registration process and the EU EOM regards the registration process to have been transparent and credible, despite the delays in implementation and the technical problems encountered especially during the initial phase of capturing biometric data.

CANDIDATE NOMINATION

The legal provisions regarding candidate nomination were generally respected. Only four objections were received by the NEC, none of which was upheld. The nomination process for local councils was completed before the Final Voter Register was made available even though District Returning Officers were supposed to verify whether a nominated candidate and his/her nominators were registered voters in the ward in which the candidate sought election.

ELECTION CAMPAIGN

A fear of return to violence was a widespread concern raised throughout the electoral process, but the continuous messages of non-violence which emanated from all sectors of society contributed to a largely calm and peaceful election campaign. There were a few small-scale isolated incidents which had a limited impact on the electoral atmosphere. The most serious of these took place in Kono involving APC and SLPP supporters. The police force, however, was able to control the situation, and stakeholders engaged in conciliation talks.

Although concerns were frequently expressed to the EU EOM about alleged bias in the security forces and about the role of police at rallies, the EU EOM noted the code of conduct and the training of security forces and the generally proportionate level of policing at campaign events including visibility of mostly unarmed officers. The EU EOM recognises that security remains a key challenge as election results become known.

Freedoms of speech and movement were respected as candidates campaigned actively throughout the country. However, the EU EOM noted several instances of the use of abusive language during campaign speeches. Nevertheless, the election campaign calendar issued by the NEC limited the right of political parties to assemble freely. Although all political parties were consulted and accepted the campaign calendar, many candidates, mainly from SLPP and APC, subsequently realised that it was *de facto* impossible to organise public meetings all over their constituencies in the three-day period and imposed excessive travel requirements on flag-bearers. Also, the NEC initially did not allocate any campaign days for independent candidates, which represents discrimination vis-à-vis political party candidates. The campaign calendar was not uniformly applied across the country. While some NEC district officers or police authorities tolerated political parties campaigning outside of their allocated days, in some districts the authorities applied a more restrictive approach. The two main parties frequently breached the campaign calendar by campaigning outside their allotted days without any police enforcement of respect for the calendar but where local mediation by PPRC officials in some areas was observed. The two most significant of these breaches occurred in Kambia when APC organised a public meeting on the day allocated to NDA, thereby preventing NDA from campaigning

and in Freetown where APC organised its campaign activity during the day of religious holiday which was allocated to PLP.

An unequal playing field was evident throughout the campaign period. Although the ruling APC and the main opposition SLPP dominated the campaign, APC clearly benefited from the advantages of incumbency by making use of state resources, enjoying more media coverage and clearly having more financial resources for campaigning, including considerable sums spent on paid media airtime as compared to SLPP and other political parties. The volume of resources invested in the campaign by the ruling party clearly exceeded that of the SLPP. The other political parties including PMDC were much less visible as they lacked financial resources to conduct large-scale public campaign events. CDP, UNPP, PLP or PDP did not organise any public meeting during the days allocated to them in a number of districts, despite many candidates campaigning door to door. As no state financial support is made available to political parties, their ability to compete in elections is impaired. The two main parties provided supporters with campaign materials, t-shirts, food, drink, including alcoholic beverages, and free transportation to rallies. Distribution of money was directly observed by the EU EOM at APC campaign events in Bonthe, Bo and Kenema. Campaign finance is barely regulated and PPRC has little control over the source and volume of campaign funds. This makes possible a blurred separation between the ruling party resources and state resources. EU observers reported the use of a significant number of government vehicles by the APC presidential candidate for campaigning in Kenema and Kailahun. The webpage of the State House promoted the APC manifesto and the campaign declaration speech of their presidential candidate. Many Paramount Chiefs across the country were openly partisan predominantly in favour of the ruling party in contravention of the Declaration on the 2012 Elections that called for their neutrality as well as being subject to some pressure by government representatives.

MEDIA

Significant unbalances in the electoral coverage by public and some private media monitored by the EU EOM were observed. However, in general both printed and electronic media, including community radio, provided a reasonable diversity of opportunity for political parties in proportion to their level of activity in the electoral campaign. Freedom of speech was generally respected during the entire campaign period.

The public broadcaster Sierra Leone Broadcasting Corporation (SLBC) gave access to all political parties on radio and to nine political parties on television. Contestants were granted two hours of free airtime to present their political proposals on the public TV channel during the campaign period – although only PMDC, UDM, SLPP, RUFP and PDP made use of it. SLBC national and regional radio stations also offered free airtime to political parties and local candidates to address their messages to voters. Nevertheless, in key areas like news bulletins and election related programmes SLBC showed significant quantitative unbalance in favour of the ruling party. EU EOM's media monitoring¹ findings show that, from 17 October to 15 November, SLBC TV allocated double the amount of airtime (40 per cent) to APC than to SLPP (18 per cent). On top of that, additional 21 per cent of airtime was devoted to APC led government activities, meaning that 61 per cent of all coverage was devoted to the governing party. On SLBC radio the unbalance was slightly lower, with APC receiving 40.5 per cent of total airtime on news and programmes and SLPP being afforded 23 per cent of the coverage. None of the remaining seven parties received more than 8.5 per cent of coverage either on SLBC Radio or on SLBC TV. The tone of the coverage on SLBC Radio was generally neutral, while 23 and 27.5 per cent of news on SLBC TV related to APC and the government, respectively, were presented in positive tone.

The degree of impartiality in the electoral coverage provided by some of the private media analysed by the EU EOM was very diverse, with the print media registering the most evident cases of biased

¹ The sample of media monitored included SLBC TV, SLBC Radio, Radio Democracy, Cotton Tree News (CTN), Star Radio, *Concord Times*, *Awoko*, *Standard Times*, *Awareness Times*, *Global Times* and *The Exclusive*.

coverage both in terms of space allocated and tone used. Out of the nine private media monitored by the EU EOM, four (Star Radio, *Standard Times*, *The Exclusive* and *Awareness Times*) showed significant unbalances in allocation of time/space and tone in favour of APC, and one (*Global Times*) in favour of SLPP. Star Radio and SLBC TV breached the campaign silence by airing on 16 November APC adverts (Star Radio) and studio interviews with UNPP flag bearer and CDP secretary general calling for voters to support APC presidential candidate (SLBC TV).

ELECTORAL JUSTICE

Although there is a gap in the Public Elections Act, 2012, as no procedure is laid down for dealing with contested parliamentary nominations in the period between the close of nominations and election day, matters come to court instead by way of ordinary civil proceedings. Delay, particularly in dealing with urgent matters, and excessive attention to time-wasting preliminary matters, contribute to a situation where cases drag on for so long that no timely outcome is achieved. The result of this is evident in two on-going High Court cases dealing with disputed nominations of SLPP parliamentary candidates in constituency no. 5 in Kailahun and constituency no. 15 in Kenema. Subsequent to nomination, injunctions, which should be temporary in nature, were secured restraining NEC from proceeding with the nomination of these candidates. As a consequence SLPP was unable to field a candidate in either constituency known to be SLPP strongholds. An intra-party dispute within the NDA also resulted in an injunction which prevented the party from nominating a presidential candidate. Preliminary objections delayed proceedings excessively. Read together, these cases reveal some significant deficiencies in the justice system of Sierra Leone. A more robust attitude from the bench could have ensured that the cases were dealt with more speedily. The EU EOM believes that overall this demonstrates excessive judicial delay in relation to the proper conduct of elections.

PARTICIPATION OF WOMEN

The 65 women nominated for parliamentary elections represented 11 per cent of candidates, identical to the figure in 2007. APC fielded 11 per cent of female candidates, SLPP nominated eight per cent and percentages for the other parties range from a high of 34 per cent for the CDP to 1.8 per cent for the RUFPP. Women comprised 11 per cent of independent candidates. For local elections, women represented 21 per cent of the candidates. There is no female candidate for the office of President, while four of the nine running mates for vice-president are female. These are disappointing statistics, given the public commitment to work expeditiously to enhance female participation made by all political parties in the Declaration on the 2012 Elections of 18 May. The principal barriers to female participation in these elections were an absence of political will to promote women, long-standing societal attitudes and the lack of financial resources on the part of female aspirants. Failure to enact a gender quota law revealed that incumbent politicians were unwilling to implement affirmative action.

Despite significant support having been provided in the training and capacity building, no financial support was made available to female candidates, apart from a single initiative in Kailahun by the Kailahun Women in Governance Network. This resulted in 15 per cent of parliamentary candidates and 36 per cent of local government candidates nominated in Kailahun being women.

DOMESTIC OBSERVERS

The election process was observed by a high number of domestic observers who contributed significantly to the transparency of the process. The leading network, National Election Watch (NEW) consisting of approximately 300 NGOs, observed the entire election process using a long term observation methodology. Prior to the campaign period, 224 long term observers were deployed by NEW to all parliamentary constituencies. On election day, NEW planned to deploy 9,493 observers covering all polling stations in the country. Several other civil society groups also deployed a smaller number of election day observers.

POLLING AND COUNTING

Overall, the conduct of voting operations was positively assessed in 95 per cent of the polling stations visited by the EU EOM, with voting procedures being largely followed. Of the polling stations visited during opening 95 per cent opened on time or with a delay of less than one hour. Generally, the voting was conducted in an orderly, calm and peaceful manner despite long queues being reported in many polling stations visited.

EU EOM observers reported insufficient protection of the secrecy of the vote in 29 per cent of polling stations visited, mainly due to inappropriate polling station layout and inadequate or missing voting screens. Political party agents of both main parties were present in 90 per cent of polling stations visited while at least one domestic observer was present in 85 per cent of stations visited.

Counting in the polling stations visited was conducted in the presence of political party agents and observers and the integrity of the counting process was sufficiently protected. However, copies of the reconciliation and result forms were not always publicly displayed and not always given to party agents. In some polling stations results were neither displayed nor given to the party agents present during the count.

The European Union Election Observation Mission (EU EOM) has been present in Sierra Leone since 27 September following an invitation from the Government of Sierra Leone and the National Electoral Commission. The Mission is led by Chief Observer, Richard Howitt, Member of the European Parliament (United Kingdom). In total, the EU EOM deployed 100 observers from 26 EU Member States, and Norway across the country to assess the whole electoral process in accordance with international and regional commitments for elections as well as the laws of Sierra Leone. A delegation of members of the European Parliament, headed by Mariya Gabriel, MEP, also joined the mission and fully endorses this Statement. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005. The EU EOM will remain in country to observe post election developments and the tabulation of results and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process. The EU EOM wishes to express its appreciation to the government of Sierra Leone and the National Electoral Commission and other Sierra Leonean authorities, political parties and civil society as well as the people of Sierra Leone for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Union to Sierra Leone and the European Union member states' diplomatic missions resident in Sierra Leone for their support throughout.

An electronic version of this Preliminary Statement is available on the Mission website www.eueom.eu/sierraleone2012. For further information, please contact:

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