



East African Community Election Observation Mission to the General Elections of the Republic of Uganda held on the 18th February 2016

PRELIMINARY STATEMENT

I.0. INTRODUCTION

1. In response to the invitation by the Electoral Commission of the Republic of Uganda and the Standing Decision of the East African Community (EAC) Council of Ministers to observe elections in all EAC Partner States, the EAC deployed an Election Observation Mission (EOM) to Uganda for the 18th February 2016 General Elections. The EAC- EOM was led by H.E. Ali Hassan Mwinyi, retired President of the United Republic of Tanzania. It comprised 55 members drawn from the East African Legislative Assembly (EALA), National Electoral Management Bodies, National Human Rights Commissions, Ministries responsible for EAC Affairs, youth Ambassadors and Civil Society Organizations from four EAC Partner States namely Burundi, Kenya, Rwanda and United Republic of Tanzania.

2. The Mission deployed seventeen (17) teams to observe the polling and counting processes in Kampala, Arua, Gulu, Mbale, Nakasongola, Mbarara, Wakiso, Masaka, Moroto, Kabale, Mubende, Soroti, Jinja and Fort Portal and the surrounding districts.

3. The East African Community Election Observation Mission (EAC-EOM) was preceded by a Pre-Election Experts Mission which held consultative sessions with various stakeholders. The EAC-EOM collectively held consultative meetings with Electoral Commission, civil society organizations, judiciary, police, Inter religious council, law society, political parties and media among others. This statement contains preliminary findings, recommendations, observations and conclusions made by the Mission based on independent observations and interactions with the above listed electoral stakeholders. As the electoral process is still ongoing,

this statement limits itself to the assessment made up to the polling and results counting processes for the Presidential and Parliamentary elections. In due course, the Mission will avail a more comprehensive, detailed and final report on the electoral process in the Republic of Uganda through the EAC policy organs.

2.0. PRELIMINARY FINDINGS

2.1 General Political Context

4. The 2016 General Elections are the third since the re-introduction of multiparty politics in Uganda, as the country shifted from the movement system. The political space in Uganda has continued to widen thus leading to increased political participation and competition in the 2016 elections.

5. The presidential race attracted a total of eight candidates; four of whom were party sponsored while four vied as independent candidates. The entry of the former Prime Minister and Secretary General of National Resistant Movement brought a new dimension to the electoral contest as he sought to challenge the dominance of his own party. The political atmosphere of the electoral context was also shaped by the dynamics resulting from defections of the candidates who lost in the party primaries but opted to vie for elective posts as independent candidates against their own party members. This collectively contributed to a highly competitive electoral contest.

6. For the first time in the electoral history of Uganda, presidential debates were held, thus offering the candidates a platform to engage each other on policy issues relating to governance of the country. The debate offered a platform to advance political tolerance and diversity of opinion as well as opportunity for the public to appreciate policy positions of various candidates.

2.2 Legal and Institutional Framework

7. The conduct of elections in Uganda is governed by the Constitution and a set of electoral laws which provide for the basic conditions for holding competitive democratic elections. The Constitution promotes democratic principles which empower and encourage the active participation of all citizens in governance.

8. The Constitution contains fundamental rights and freedoms that safeguard the exercise of democratic rights by citizens. It also provides for separation of powers to promote independence and accountability of institutions involved in the conduct of elections. Whilst there exists some gaps in the legal framework it is largely enabling for the conduct of democratic elections.

2.3 Electoral System:

9. The electoral system used in Uganda is the first- past- the post for presidential and parliamentary elections which promotes direct accountability of the elected leaders to the citizens. For a candidate to be elected as president he or she must garner more than 50% of votes, failure to which a run-off election is held. It is important to note that the electoral system for presidential contest does not provide for term-limits.

10. The electoral law provides for allocation of seats for Special Interest Groups to ensure a more inclusive representation in governance in line with the African Charter on Human and Peoples Rights. The system provides for special seats for – Uganda Peoples Defence Force (10) representatives at least two of whom must be women), Persons with Disabilities (5) representatives at least one must be a woman), workers (5) representatives at least one must be a woman, youth (5) representative at least one must be a woman. In addition, the law provides for direct election of 112 women representative from every district.

2.4 Campaign Financing

11. The Presidential Elections Act and the Parliamentary Elections Act prohibits the use of government or public resources for the purpose of campaigning. However, the Presidential Elections Act expressly allows an incumbent president to use, during the campaign period, government facilities attached to and utilized while in office. This has the potential of impacting negatively on the level playing field in the electoral contest. The absence of a legal requirement for disclosure of campaign income and expenditure makes accountability difficult and promotes negative influence of money in electoral competition.

2.5 Dispute Resolution

12. The law provides for a detailed framework for dispute resolution in the electoral process. With regard to presidential elections, any aggrieved

candidate may petition the Supreme Court within ten (10) days. The court is required to make a determination and issue findings not later than thirty (30) days from the date the petition is filed. For Parliamentary petitions, the law vests the High Court with jurisdiction to determine the dispute. The election petition is to be filed within thirty days and concluded within six months. Any candidate aggrieved by the decision of the High court has a right of appeal to the Court of appeal and if dissatisfied to the Supreme Court.

13. In preparation for resolving disputes in the 2016 general elections, the judiciary undertook measures to recruit and train judicial officers to effectively and expeditiously determine election petitions. The EAC observer mission was satisfied with the level of preparedness of the judiciary.

2.6 Electoral Administration

14. The Electoral Commission is the electoral management body in Uganda established under Article 60 of the Constitution. The Commission consists of the Chairperson, a Deputy Chairperson and five members appointed by the President in consultation with Parliament. The removal of a member of the commission requires the appointment of an independent tribunal which enhances its independence.

15. The Electoral Commission has a permanent workforce both at the Commission Headquarters and in the Districts. The decentralized structures at regional and district levels enhance the management of electoral processes.

2.7 Voter Registration and Voters' Roll

16. The Constitution mandates the Electoral Commission to compile, maintain, revise and update the voters register. For the 2016 elections the Commission did not directly register voters. This is because the government constituted a multi-sectoral agency of different ministries of government that deal with registration of persons. The multi-sectoral agency brought together representatives from the National Registration Bureau, Immigration and the Electoral Commission. For the first time, Uganda introduced the use of Biometric Voter Registration technology (BVR). By close of registration, the Commission had a register of 15,277,196 eligible voters.

17. The Commission introduced the use of Biometric Voter Verification kits for ensuring that only eligible voters are allowed to vote. The introduction of a Voter Location Slip made it possible for voters to easily locate their polling stations. The introduction and use of new technology in the management of elections is commendable as it enhances the credibility of the process.

2.8 Election Campaign

18. Presidential campaigns started in November while Parliamentary started in December 2015 and both ended on the 16th February 2016 in accordance with the electoral calendar.

The presidential candidates upon nomination signed a memorandum of understanding committing to keep peace during election period and to adhere to the harmonized campaign schedules ostensibly aimed at avoiding collision of political parties and candidates during campaigns. However, there were isolated cases of breach of the electoral campaign guidelines given by the Commission. Most reported cases were mainly on parties and candidates campaigning beyond the stipulated time. Other cases were to do with accusations and counter-accusations of defacing of campaign posters. The Ugandan electoral laws do not provide for a code of conduct for parties and candidates which hinder the Commission from effectively enforcing campaign guidelines.

19. Overall the campaign period was generally peaceful though the situation changed towards the last day of campaigns with witnessed cases of confrontation between the police and supporters of an opposition party resulting in one fatality, several injuries and arrest of a presidential candidate.

2.9 Role of the Media

20. Under the Presidential Elections Act, all presidential candidates are entitled to equal treatment on state-owned media, while the Parliamentary Elections Act provides that a candidate in an election shall not be denied reasonable access to and use of State-owned communication media.

21. The media played its primary role of educating and informing the public on the electoral process. However, there were concerns of discrepancies in allocation of airtime to political parties and candidates. There was widespread use of social media during the electoral period.

However on polling day, the government issued a directive to shut down all social media platforms. This measure was widely criticized by the public and the international community as it was seen to be an infringement on freedom of information.

3.0 Security Environment

22. The security environment for the electoral process was generally peaceful in spite of isolated incidences such as clashes between rival supporters, physical assault against individuals and candidates as well as the defacing of posters during the political campaigns.

23. Presidential candidates were provided with 24 hour close security protection, inclusive of their official residences and a motorized security cover throughout the campaign trail. For the purpose of the Election Day, sufficient security personnel were deployed to safeguard peace and security during election.

24. The timing of the engagement of crime preventers during the electoral period created anxiety among electoral stakeholders. Whereas the police described the crime preventers as part of the community policing structures, other stakeholders raised concerns on the legality of their recruitment and deployment without a clear legal and regulatory framework.

25. The creation of youth groups allied to parties remained an issue of security concern. The Black Mambas, the Red Tops of Kampala, and the Power 10 were among those groupings that remained under police surveillance to ensure they do not disrupt tranquility.

3.1 Civic and Voter Education

26. In accordance with its Constitutional mandate, the Electoral Commission developed voter education materials and for implementation, they have contracted Service Providers at the regions. The Service Providers who were competitively contracted were accredited to carry out voter education in each of the 12 regions. In addition, the Commission partnered with various stakeholders whom they accredited, trained and furnished with voter education materials.

3.2 Participation of Women

27. The legal framework in Uganda encourages active participation of all citizens including women at all levels in governance. There are 112 women

representatives from each District. However, despite the fact that women represent 52% of the population of Uganda, out of the eight Presidential candidates, only one was a female contestant. There were 83 women contesting for directly elected parliamentary positions in the 290 constituencies.

28. There was an increase in women participation in the electoral process, a factor attributed to women empowerment and sensitization of their involvement in politics and governance. Notably, political parties have embraced the role of women candidates in party politics.

3.3 Polling and Counting Processes

29. The 17 teams of EAC observers were deployed in various parts of the country and observed polling in 49% of stations within urban centres and 51% in rural areas.

30. The EAC observers reported that at least 78% of the polling stations visited opened late mainly due to late arrival of polling materials and general poor preparation of the polling personnel. Notably, certain polling stations in Kampala, Jinja and Mbale opened as late as 11.00 am. Though polling procedures were generally followed at opening, it was observed that, in some cases, the presiding officers did not seal the ballot boxes as per the procedures.

31. In most polling stations, there were presence of security personnel who contributed to maintenance of law and order for an overall peaceful atmosphere of the polling process. The security agents were involved in the management of queues to ensure that there is a smooth flow of the voters. However in certain stations poor queue management and crowd control as well as isolated incidents of violence and intimidation were observed in MZ Stadium 2, Lashings ward and Nontingamo in Kabale, Namawojjolo and Kitebi in Kampala, and Rukondwa primary school in Nakasongola.

32. It was observed that the voting process was fairly quick as 52% of the voters in the polling stations visited took less than three minutes to cast their vote, while 43% of voters in the polling stations visited took between three to nine minutes to vote. The delay in voting was partly attributed to the slow process of voter identification and inefficiency of some of the polling officials. According to procedures, voters were required to present their voter cards for verification in the register before being issued with ballot papers. EAC observers noted this procedure was observed in all polling stations visited. There were marginal cases of stations that

abandoned the use of the Biometric Voter Verification Kit due to its malfunctioning, and in some instances due to use of wrong codes by the personnel. Despite the use of the Voter Location Slip to assist voters locate their polling stations; it was observed that in at least 15% of the polling stations visited, voters were turned away for being in the wrong stations. In such cases, the voters were redirected to the right stations.

33. EAC observers who witnessed closing and counting process noted that at least 79% of the polling stations visited closed on time. Voting was extended up to 7.00pm in some stations due to late opening of polling stations and high turnout of voters. All voters who were at the queue at closing time were allowed to cast their votes.

34. The presence of citizen observers and party and independent candidates' agents in polling stations visited contributed to the transparency of the counting processes. Agents present in the polling stations signed the results slips after counting. However, not all parties and candidates were represented in polling stations as most agents were from National Resistance Movement, Forum for Democratic Change and Go forward.

35. The Electoral Commission announced suspension of elections in 42 polling stations as a result of operational problems associated to late delivery of voting materials. Polling took place in the affected stations on 19th February 2016.

4.0 PRELIMINARY RECOMMENDATIONS

36. To the Executive and Parliament:

- i. Re-evaluate the utility of the removal of presidential term limits in the electoral system;
- ii. Consider introduction of a legal framework to regulate campaign financing in order to promote an equal playing field for all parties and candidates in the electoral process.
- iii. Explore legal mechanisms for controlling of negative use of Youth by Political Parties and Candidates in the electoral process.

37. To Electoral Commission:

- i. Improve on the logistics and operational plan and implementation to ensure timely distribution of electoral materials;
- ii. Undertake measures to strengthen voter education;
- iii. Develop a working framework and training relationship with journalists on electoral reporting;
- iv. Enhance training of polling officials to increase efficiency and better understanding of polling procedures;
- v. Consider developing a code of conduct for political parties and candidates in the electoral process;
- vi. Undertake measures to improve voter identification system and procedures to enhance credibility of the register.

38. To Political Parties

- i. Promote ethical practices in internal party structures, policies and procedures to underscore observance of the rule of law;
- ii. Undertake measures to undertake internal democracy within parties.

39. To the Media

- i. Embrace responsible and ethical reporting;
- ii. Strengthen the capacity of the media regulatory authority in order to enhance adherence to professional standards of electoral reporting including equitable access by all parties and candidates;
- iii. Develop a self-regulating internal mechanism.

5.0 CONCLUSION

40. The East African Community Election Observer Mission:

- a. appreciates that the February 2016 General Elections was one of the most competitive in the history of Uganda;
- b. commends the people of the Uganda for turning out in large numbers and peacefully participating in the electoral process;
- c. appreciates the cooperation of the electoral commission in sharing information and for its accessibility;
- d. encourages all stakeholders to pursue constitutional and legal reforms in order to improve the electoral process in Uganda;
- e. commits itself to follow closely the remaining stages of the electoral process and avail a comprehensive report of the Mission in due course; and

f. would like to thank the government and the people of Uganda and wish them well in this electoral process.

41. As the electoral process is still on-going, the EAC Election Observation Mission shall make a final pronouncement at the end of the process. In the meantime, I encourage the people of Uganda to remain calm and peaceful.

Issued at Sheraton Hotel, Kampala

**Signed by
Head of Mission
H.E. ALI Hassan Mwinyi**



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20th February 2016