



PRELIMINARY STATEMENT OF THE EISA ELECTION OBSERVATION MISSION TO THE 2016 LOCAL GOVERNMENT ELECTIONS IN THE REPUBLIC OF SOUTH AFRICA

Pretoria, 4 August 2016

“The 2016 Local Government Elections were conducted in a transparent, fair and credible manner in line with the constitutional and legal framework of elections as well as regional and international electoral standards. The Mission urges all stakeholders to pursue values of political tolerance and to strongly castigate the surging malpractice of alleged political assassinations.”

1. Introduction

The Electoral Institute for Sustainable Democracy in Africa (EISA) deployed a regional election observation mission (EOM) to 3 August 2016 Local Government Elections in South Africa following an invitation by the Independent Electoral Commission (IEC). The Mission is led by Mr. Denis Kadima, the EISA Executive Director, and comprised 14 Short Term Observers (STOs) drawn from civil society organisations (CSOs) from the African continent.

The Mission's assessment of the elections was premised on the constitutional and legal framework governing elections in the Republic of South Africa as well as international, continental and sub-regional norms, principles and standards on democratic elections as stipulated in the Declaration of Principles for International Election Observation, the African Charter on Democracy, Elections and Governance, and the Principles for Election Management, Monitoring and Observation (PEMMO). South Africa has subscribed to this normative framework which is an expression of the country's commitment to democratic values and principles.

Since its creation in 1996, EISA has been involved in successive electoral processes in South Africa including the deployment of election observation missions. The Mission complements EISA's ongoing longer term electoral assessment efforts that involves local researchers engaged in the gathering of information to produce EISA South African Election Update 2016.

On 30 July 2016, EISA deployed seven teams of STOs to various provinces namely Gauteng, Eastern Cape, KwaZulu-Natal, Mpumalanga, Limpopo and Western Cape. As part of the observation methodology, the STOs consulted with various electoral stakeholders including the IEC, political parties, media and CSOs. They also observed the concluding phase of the election campaign process, the special voting on 1-2 August 2016 as well as the polling and counting processes on 3 August 2016. The STOs were equipped with computer tablets which enabled them to gather and transmit election observation data in real-time. This statement reflects the preliminary findings and recommendations of the Mission up to 4 August 2016. EISA will continue to monitor the post-election phase and produce a comprehensive report on the electoral process which will be rendered public in due course.

2.1 Key Preliminary Findings:

2.1 General Context: The Local Government Elections constitute a bedrock of accountable governance as citizens are able to influence local decision-making processes that directly impact on their daily lives in the community. The 2016 elections were deemed to be the most competitive with the highest number of candidates (61,014 in total) since the introduction of multi-party democracy in 1994 as South Africa continues to consolidate its democracy. They were also the first Local Government elections in which the “born-free” generation of citizens exercised their democratic choice of leaders in local governance. The political environment preceding the polls was relatively heightened by activities which characterised pluralism and contestations regarding policy and delivery of public services to the citizens. Similarly, the context was marked by the disqualification of one of the political parties and a few candidates.

The uncertainty regarding the conduct of 3 August 2016 Local Government Elections was assuaged by the Constitutional Court ruling of 3 June 2016. The ruling allowed the IEC to organise the polls as planned in light of a previous Electoral Court judgment which prevented the election management body from conducting by-elections in Tlokwe due to problems related to the lack of voters’ physical addresses in the voters’ register. The Constitutional Court ruling allowed the IEC to undertake this corrective measure on the voters’ register within 18 months.

2.2 Electoral and Legal Reforms: The Mission noted that the IEC has commendably continued to engage in consultative electoral and legal reforms processes in a bid to improve the management of the electoral process. Key among these reforms include the introduction of the Universal Ballot Template to facilitate voting of the visually impaired voters. In addition, the IEC has introduced a procedure for enhancing the ability of voters to exercise their democratic right by granting voters the opportunity to be issued a new ballot paper in cases where they have made an error or changed their minds before dropping their ballot in the box. More so, the regulatory framework for processing candidate nominations has been improved by including the provision for electronic submission of candidate nomination documents, electronic payments of nomination fees, and notification of relevant parties and candidates of disqualification.

2.3 Election Campaign and Party Finance: The Mission noted that the campaign process was generally peaceful albeit vibrant. However, the run-up to the polls had incidents of violence including alleged political assassinations, particularly in the KwaZulu-Natal and Eastern Cape provinces, due to the increased intra-party competition. Such incidents are clearly a setback as the country strives to consolidate its democracy, and ran contrary to Bill of Rights enshrined in the Constitution, particularly the right to life, freedom and security of the person and political rights. Moreover, EISA observers were informed about destruction of campaign posters in some regions, in contrary to the provisions of the Code of Conduct. The Mission was informed about the IEC's record of 28 complaints of alleged violation of the Code of Conduct as of 2 August 2016. The majority of complaints have reportedly been addressed through mediation and legal process.

The Mission also noted that the regulatory framework governing party financing is the same as in the previous electoral processes. Whilst the public funding of parties is regulated, there still exists gap in the law regarding regulation of private sources of funding for parties. As electoral contest becomes increasingly competitive in South Africa, this regulatory gap may have a greater bearing on the negative influence of money in electoral politics with particular regard to electoral fair-play, and on politics more generally.

2.4 Polling Operations

Special Voting: EISA observers witnessed special voting in their areas of deployment. The EISA EOM commends the IEC for affording this opportunity to voters who found themselves in one of the following situations: physical infirmity, expectant women and registered voters who could not vote in their voting station on election day by virtue of being on duty as a member of security services in connection with the election; or serving as an officer in the elections concerned. Given the relatively low number of voters having applied for early vote, it was not clear to the EISA Mission why the Special Votes were not carried out in one single day instead of two days. The EISA teams observed a number of challenges. There were cases where EISA noted some confusion amongst polling staff with regard to the required number of ballot boxes and envelopes to be used. With regard to the envelopes, EISA noted that voters' names were written on the envelope B which contained envelope A which, in turn contained the marked ballot papers. This procedure carries the potential risk of traceability of the voters' choice, thereby impacting on the secrecy of special voting.

A number of voters also seemed to be lacking adequate information regarding the requirements for special voting. EISA noted that some voters showed up to vote without having gone through the application process to obtain approval for enlisting in special voting process as provided for in the election procedures. In other cases, there were notable technical challenges where some voter had applied for enlisting for Special Voting via SMS service but did not receive a confirmation by the IEC and in other instances where the voter received confirmation for enlisting but their names did not feature on the system. In view of these challenges, whilst there was a provision for these affected voters

to still cast their votes on 3 August 2016, the EISA Mission cannot ascertain whether the affected voters eventually voted on the ordinary polling day.

Opening of the polls: On 03 August, most voting stations opened at 7 am as per the procedures. For the stations that opened late for reasons such as late arrival of election materials and inadequate preparation of the voting staff, polling usually started no later than 7:30 am. The EISA Mission was pleased to note that the large majority of voting stations were accessible to all categories of voters, including those living with physical infirmity.

Election Materials: EISA teams noted that election materials were available in adequate quantity in 95.1% of voting stations visited. For cases of stations which did not have sufficient materials the IEC undertook rapid measures to avail these materials in order to allow smooth voting process.

Voting Process: Generally, the voting process was carried out as per the procedures in stations visited by EISA teams. The layout of voting stations as well as commendably notable efforts for queue control by voting staff allowed the voting process to proceed smoothly. The voting process was transparent with the visible presence of agents of political parties and candidates. The secrecy of the ballot was preserved in all voting stations visited by EISA teams.

EISA teams noted cases of inconsistencies with regard to the number of ballot boxes used per voting station. Some stations used one ballot box while others used two. In places where EISA observed, there were also certain cases where the card reader commonly known as Zip Zip machines were dysfunctional which made the voting staff to resort to a manual process of identification of voters. More so, there were instances where a number of voters were turned away either because they presented themselves at the wrong voting stations; they were duly registered voters but the Zip Zip machine identified them as deceased or their names did not feature in the national population register.

Closing and counting process: Most voting stations visited closed at 7 pm as per the procedures. For cases where there were voters in the queue at the time of closing, they were allowed to cast their vote. Counting started immediately after voting and continued until the early hours of 4 August 2016. EISA teams noted that counting was generally conducted in line with the procedures. There were, however, notable delays in a number of cases due inadequate familiarity with procedures by the voting staff. More so, the use of a single ballot box for more than one ballot augmented the delays in sorting of ballot papers per type of election before reconciliation and counting.

Election security: The polling operations were generally peaceful in all stations observed by EISA teams and did not witness any incident of violation of law and order. Security forces were visibly present until the close of election day operations and maintained a professional conduct. The EISA Mission noted that there were enhanced deployment of security personnel in various regions which were considered as hot spots in order to ensure a smooth voting process.

3. Preliminary Recommendations

3.1 To Parliament

- Consider legal reforms governing party funding to include accountability of private sources of funding; and
- Consider establishing a regulatory framework for election campaign financing.

3.2 To the Independent Electoral Commission

- Review the number of days slated for special voting by assessing the possibility of conducting the process in one day;
- Undertake measures to strengthen the mechanisms of application for special voting;
- Consider reviewing the procedure of indicating the names and identification number of voters on envelope B during special voting in order to minimise the potential risk of undermining secrecy of the ballot;
- Undertake measures to enhance training of voting staff;
- Undertake measures to improve the accuracy of the voters' roll in order to prevent the disenfranchisement of voters;
- Improve training of voting staff on the reconciliation of ballot papers; and
- Provide for one ballot box per type of election.

3.3 To political parties and candidates

- Uphold the spirit and values of political tolerance and accommodation of diversity which are key for democratic consolidation; and
- Consider reviewing procedures for intra-party candidate selection for various elective posts as well as party policies in order to enhance internal democracy.

3.4 To law enforcement agencies

- Spare no efforts to timely arrest the instigators and executors of alleged political assassinations in order to discourage this undemocratic practice.

4. Conclusion

The 2016 local government elections are a milestone in the democratic consolidation of South Africa. The EISA Election Observation Mission concludes that the 2016 Local Government Elections were conducted in a transparent, fair and credible manner in line with the constitutional and legal framework of elections as well as regional and international electoral standards. The Mission urges all stakeholders to pursue values of political tolerance and to strongly castigate the surging malpractice of alleged political assassinations.

The EISA Mission commends the IEC for the efforts undertaken to continuously improvement the management of elections in order to be inclusive, peaceful and

transparent. The Mission also commends the security agencies for their efforts to maintain law and order throughout the electoral process. The EISA Mission encourages all stakeholders to engage in continued electoral reforms in order to improve the conduct of future elections in South Africa. As the results aggregation process is still ongoing, the EISA Mission therefore urges all electoral stakeholders to maintain peaceful conduct and explore established channels to resolve any dispute that may arise from the outcome of these elections.