

# **EISA Pre-Election Assessment Mission Report**



**REPUBLIC OF ZAMBIA**  
**01-05 December 2014**

## LIST OF ABBREVIATIONS

<b>ADS</b>	Africa Democracy Strengthening Programme
<b>AVAP</b>	Anti-Voter Apathy Project
<b>AU</b>	African Union
<b>CMCs</b>	Conflict Management Committees
<b>CSOs</b>	Civil Society Organisations
<b>ECZ</b>	Electoral Commission Zambia
<b>EISA</b>	Electoral Institute for Sustainable Democracy in Africa
<b>FDA</b>	Forum for Democratic Alternatives
<b>FDD</b>	Forum For Democracy and Development
<b>FODEP</b>	Foundation for Democratic Process
<b>FRP</b>	Fourth Revolution Party
<b>GPZ</b>	Green Party of Zambia
<b>MISA</b>	Media Institute of Southern Africa
<b>MMD</b>	Movement for Multiparty Democracy
<b>NAREP</b>	National Restoration Party
<b>NGOS</b>	Non-Governmental Organisations
<b>OYV</b>	Operation Young Vote
<b>PAM</b>	Pre-election Assessment Mission
<b>PEMMO</b>	Principles for Election Management, Monitoring and Observation in the SADC Region
<b>PF</b>	Patriotic Front
<b>SACCORD</b>	Southern African Centre for the Constructive Resolution of Disputes
<b>SADC</b>	Southern African Development Community
<b>SUV</b>	Suburban Utility Vehicle
<b>ToT</b>	Training of Trainers
<b>UPND</b>	United Party For National Development
<b>UNIP</b>	United National Independence Party
<b>UDA</b>	United Democratic Alliance
<b>ZNWL</b>	Zambia National Women's Lobby

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## EXECUTIVE SUMMARY

Pursuant to its mission of promoting credible elections, citizen participation and strengthening political institutions for sustainable democracy in Africa, the Electoral Institute for Sustainable Democracy in Africa (EISA) deployed a Pre-Election Assessment Mission (PAM) to Zambia from 1st to 5th December 2014 to assess the state of readiness of the Electoral Commission of Zambia (ECZ), political parties, CSOs and other stakeholders for the forthcoming 20th January 2015 presidential by-election. The PAM was also tasked to undertake an assessment of the pre-election context of the election to ascertain whether conducive conditions exist for the conduct of credible elections. The EISA team comprised Ms. Regina dos Santos, Programme Officer, EISA Mozambique, and Mr. Naphtaly Sekamogeng, Projects Coordinator in the Elections and Political Processes Department, EISA Johannesburg.

In fulfilment of its mandate, the Pre-Election Assessment Mission met with key stakeholders in the electoral process based in Lusaka (See appendix1). EISA wishes to thank these stakeholders for availing themselves to provide necessary information to the Mission.

The Pre-Election Assessment Mission noted that the 2015 presidential by-election will take place against the backdrop of the sudden death of President Sata on 28 October 2014 in the United Kingdom.

The elections are expected to be keenly contested by presidential contestants, none of whom is tipped to have a clear lead. The pre-election context is also impacted on by recent internal conflicts within the ruling party, the Patriotic Front (PF), and the main opposition party, Movement for Multiparty Democracy (MMD). This led to factionalisation of these parties and court battles among these factions.

The Mission also noted that the legal framework is quite limited in regulating campaign finance as it does not

provide expenditure ceilings, nor does it provide for mandatory disclosure, thus leaving the process open to uncontrolled influence of money.

On the state of preparedness for the conduct of the 2015 elections which will be the second presidential by-election in Zambia after those conducted in 2008, the Mission noted that the ECZ is adequately prepared. The Mission was also informed that the Commission enjoys good working relations with relevant electoral stakeholders.

Stakeholders raised concerns about the rainy weather conditions within which these elections will be held and the difficulty of reaching hilly areas. The Mission also noted that only one female candidate, Edith Nawakwi of the Forum for Democracy and Development (FDD), is contesting the elections.

Civil Society Organisations (CSOs) continue to play an important and active role throughout the electoral process. The PAM noted that election observers were yet to be accredited at the time of its visit.

## 2. POLITICAL BACKGROUND AND CONTEXT OF THE 2015 PRESIDENTIAL BY-ELECTION

Zambia has experienced political stability and conducted peaceful elections over the past 20 years. Since its independence on 3 July 1964, the country has successfully held five multiparty elections. Following the death of President Michael Chilufya Sata, on October 28 of 2014, Zambians will go to the poll to elect a new president on 20 January 2015 as is stipulated in the Zambian Constitution<sup>1</sup>. This is the second time, in a period of six years that a president has passed away in office. In 2008, President Rupiah Banda was elected in a by-election after the death of President Levy Mwanawasa. The 2008 transition was assessed as peaceful by observers and the same is expected during the 2015 presidential by-election<sup>2</sup>.

<sup>1</sup> Article 38 [Vacancy in office of President] states that:

"If the office of the President becomes vacant by reason of his death or resignation or by reason of his ceasing to hold office by virtue of Article 36, 37, or 88, an election to the office of President shall be held in accordance with Article 34 within ninety days from the date of the office becoming vacant."

<sup>2</sup> Heiner Naumann & Maike Jakusch, 2011: Change of Power in Zambia - A Step Towards More Democracy. Friedrich Ebert Stiftung.

Zambia's first President, Kenneth Kaunda played a vital role in stabilising and unifying the country, albeit under a one-party state like many African States in the 80s<sup>3</sup>. After 17 years of one party rule under the United National Independence Party (UNIP), Zambia held its first multiparty elections in 1991. Since then, the Movement for Multiparty Democracy (MMD) was in power until 2011. A change emerged in 2008 when the competition tightened between the MMD and the main opposition, the Patriotic Front (PF). After the death of President Levy Mwanawasa in 2008, Michael Sata of the PF, alongside other candidates, contested against Rupiah Banda, who was Mwanawasa's Vice President at the time of his death, in a by-election. The PF lost by a small margin of 30 000 votes (2%) to the MMD. Rupiah Banda of the MMD received 40.09%, Michael Sata of the PF received 38.12% and Hakainde Hichilema of the UPND received 19.70%<sup>4</sup>.

President Mwanawasa's death whilst in office was the first test of the Constitutional requirement for a presidential by-election. The transition period was characterised by legal and political unease with regard to the institutional capacity of the Electoral Commission of Zambia (ECZ) to conduct the elections within the stipulated timeframe. The Constitution was upheld and the first presidential by-election was held on October 30th, 2008. It was a narrow win for Banda, as he had recently moved to the MMD from the United National Independence Party (UNIP) and "lacked popular nation-wide appeal<sup>5</sup>" at the

time. On the other hand, Michael Sata had been gaining support and "performed remarkably well in the 2006 election finishing second to Mwanawasa."<sup>6</sup>

The 2011 tripartite elections saw a keener contest among old rivals - Michael Sata of the PF, Rupiah Banda of the MMD and Hakainde Hichilema of the United Party for National Development (UPND). Michael Sata of the PF won the elections, thus becoming the 5th President of Zambia and the first President elected on the platform of an opposition party after 21 years of MMD rule. Sata had previously contested the 2001, 2006 and 2008 elections and his support base had increased during these elections. The 2008 by-election results gave a clear indication that the PF was fast gaining ground and this gave a boost to Michael Sata to contest for the fourth time the 2011 presidential elections. The PF had improved its performance over the period of four elections. It first contested elections in 2001 when it received only 3.35% of the votes cast, In 2006, it garnered 29.37% of the votes and in 2008, it closed the margin even further when it contested the presidential by-election with 38.13% of the votes, a pointer to its performance in 2011 when it won the presidential elections with 42.24% of the votes cast<sup>7</sup>. See the Table 1 below for results of previous elections. It is important to mention that the incumbent President Banda gracefully accepted the outcome of the 2011 elections as the will of the people and dissuaded his supporters from violence<sup>8</sup>. Banda became one of the few

**Table 1: Results of previous elections in Zambia (2001)**

2001		2006		2008		2011	
Levy Mwanawasa (MMD)	28.96%	Levy Mwanawasa (MMD)	42.98%	Rupiah Banda (MMD)	40.09%	Michael Sata (PF)	42.24%
Anderson Mazoka (UPND)	26.76%	Michael Sata (PF)	29.37%	Michael Sata (PF)	38.13%	Rupiah Banda (MMD)	35.63%
Tembo Christian (FDD)	12.96%	Hakainde Hichilema (UPND)	25.32%	Hakainde Hichilema (UPND)	19.70%	Hakainde Hichilema (UPND)	18.25%
Michael Sata (PF)	3.35%	Godfrey Miyanda (HP)	1.57%	Godfrey Miyanda (HP)	0.76%	Milupi Charles (ADD)	0.95%

Source: information compiled from [www.elections.org.zm](http://www.elections.org.zm)

<sup>3</sup> [www.CSmonitor.com](http://www.CSmonitor.com) accessed on 29/12/2014 CSmonitor.com

<sup>4</sup> Electoral Commission of Zambia website- [www.elections.org.zm](http://www.elections.org.zm) accessed on 29/12/2014

<sup>5</sup> Neo Simutanyi, 2010 April 8-11, The 2008 presidential elections in Zambia: incumbency, political contestation and failure of political opposition, Paper presented at CMI/IESE Conference on 'Election Processes, Liberation Movements and Democratic Change in Africa, Lusaka, Zambia.

<sup>6</sup> Ibid

<sup>7</sup> [www.elections.org.zm](http://www.elections.org.zm) accessed on 29/12/2014

<sup>8</sup> See Zambian President Banda's concession speech following the 2011 elections <http://www.reuters.com/article/2011/09/23/zambia-election-banda-idAFL5E7KN1PN20110923> accessed on 29/12/2014

incumbent African Presidents that conceded defeat at elections, thus securing political stability in Zambia.

President Sata's government embarked on implementing reforms that were promised during the election campaign, including fighting corruption. This included setting up commissions of inquiry to investigate allegations of corruption in former President Banda's government. President Sata's style of leadership which was considered as high-handed and lacking consultation with major stakeholders, soon became the focus of critics. When criticised, the PF leadership resorted to threats and heavy-handed responses, such as resorting to the controversial Public Order Act, which allows a ban of public rallies<sup>9</sup>.

The forthcoming presidential by-election of 20 January 2015 is the second to be held within a six year period as a result of the death of President Michael Sata on 28 October 2014. Following the death of the President, the Vice President, Guy Scott was sworn-in as the Acting President as stipulated in article 38 (2) of the Zambian constitution<sup>10</sup>. The 2015 by-election presents a different picture to that of the 2008 by-election, as the Acting President is ineligible to contest the elections on the basis of article 34(2) of the Zambian Constitution that requires both parents of a presidential candidate to be Zambians by birth or descent<sup>11</sup>. In Guy Scott's case, his father is Scottish and his mother, British, hence his ineligibility to contest the presidential by-elections. Another interesting factor in the pre-election context is the interest of members of the late President's family to contest the elections to carry on his legacy.

Unlike the 2008 presidential by-elections that was contested by four main political parties, the 2015 presidential by-election will be contested by the three main political parties - PF, MMD and UPND – and eight other parties. After much internal bickering in the Patriotic Front, the Minister of Defence and Justice, Mr.

Edgar Lungu was chosen as its presidential candidate for this by-election. The MMD also faced its share of intra-party disputes over the nomination of a candidate for the by-election. The party was factionalised along the lines of support for two candidates, namely former President Rupiah Banda and Dr. Nevers Mumba, who served as Vice President from 2003 to 2004 under President Mwanawasa, and is the current party leader. The intra-party dispute was settled by the courts in favour of Dr. Nevers Mumba who was confirmed as the qualifying candidate. The third party at the forefront, is the UPND with its leader, Hakainde Hichilema, who has contested the three previous presidential elections.

UPND, like the PF, is a "splinter" group which broke away from the MMD, was founded in 1998. Its presidential candidate, Mr. Hichilema, contested on the platform of the United Democratic Alliance (UDA) in 2006. The UDA was an electoral coalition composed of the United National Independence Party (UNIP), the Forum for Democracy and Development (FDD) and the United Party for National Development (UPND). In the 2006 elections Levy Mwanawasa of the MMD secured his re-election for a second and final term as the president of Zambia with 42.98 percent of the valid votes. Michael Sata of the PF and Hakainde Hichilema of the UPND scored 29.37 percent and 25.32 percent of the popular vote respectively<sup>12</sup>.

As a result of the internal turmoil within the two main parties, their campaigns for the forthcoming by-election started late. The rainy season also poses a threat to accessibility, not only to the political parties but also to the ECZ during the elections. This may also be a challenge for national and international observers and monitors who intend to reach certain rural areas. While the ECZ has been in discussion with the Zambian Air Force for support, political parties as well as national non-governmental organisations (NGOs) wishing to observe and monitor the elections (who are already

<sup>9</sup> See Transformation Index BTI - 2014 Zambia Country Report: [http://www.bti-project.de/uploads/tx\\_itao\\_download/BTI\\_2014\\_Zambia.pdf](http://www.bti-project.de/uploads/tx_itao_download/BTI_2014_Zambia.pdf)

<sup>10</sup> Article 38(2) Whenever the office of the President becomes vacant, the Vice-President or, in the absence of the Vice-President or if the Vice-President is unable, by reason of physical or mental infirmity, to discharge the functions of his office, a member of the Cabinet elected by the Cabinet shall perform the functions of the office of the President until a person elected as President in accordance with Article 34 assumes office.

<sup>11</sup> Article 34(3): A person shall be qualified to be a candidate for election as President if- (a) he is a Zambian citizen; (b) both his parents are Zambians by birth or descent; (c) he has attained the age of thirty-five years;

<sup>12</sup> EISA 2011 election observation mission report <http://www.content.eisa.org.za/pdf/zameom2006.pdf> accessed on 29/12/2014

working on a small budget as this election is not taking place within the electoral cycle, as it is a snap election) face the challenge of accessibility to the difficult terrains during the rainy season.

### 3. ELECTORAL FRAMEWORK

#### 3.1. The constitutional and legal framework

The 2015 presidential by-election is governed by The Constitution of Zambia of 1996, the Electoral Act no. 12 of 2006, the Electoral Commission Act 24 of 1996, the Local Government Elections Act Chapter 282 of the Laws of Zambia, and the Electoral (Code of Conduct) Regulations of 2011 form the basis of the constitutional, legal and regulatory framework for elections in Zambia.

The Constitution of Zambia enshrines multiparty democracy. In line with international benchmarks, the legal framework provides for the conduct of regular periodic elections by direct universal adult suffrage<sup>13</sup>. It also provides clear limits for presidential term of office<sup>14</sup> and the establishment of an independent election management body responsible for the supervision and organisation of electoral processes<sup>15</sup>. The legal framework also provides mechanisms for management of election-related conflict. Part Three of the Constitution provides for the protection of an array of fundamental human rights and freedoms of expression, movement, assembly, association and democratic participation in elections and many others.

**The Electoral Commission Act:** This Act makes provision for the composition of the Electoral Commission Zambia (ECZ); its term of office, the establishment of a Secretariat for the Commission; and for matters incidental to the electoral process.

**The Elections Act:** This Act serves as the principal law on elections, making provisions for the conduct of election of Members of the National Assembly and the President. The Act regulates the entire electoral process including procedures for delimiting

constituency, qualifications and requirements for candidates, and guidelines on all matters relating to the process of elections.

**The Electoral Code of Conduct:** It contains important rules relating to the campaign and dispute resolution mechanism. The code guarantees rights and freedoms of both the electorate and the contestants. It includes a list of electoral offences largely to the election campaign, including the disruption of political rallies and the tearing of campaign posters.

The legal framework for elections in Zambia meets the minimum standards for the conduct of democratic elections. However, the EISA PAM noted the following weaknesses:

- There is currently no legal provision for independent candidature in presidential elections. The absence of such a provision in the law impinges on the principle of equal opportunity to vote and to be voted for as provided in article 2.1.6. Of the SADC Guidelines and Principles.
- The provision in Art 34 (3) of the Constitution that requires aspirants to have been domiciled for 20 years in the country could also be considered as a restrictive provision of the law that may bar Zambians in diaspora from participating in political life.
- The provision in Art 34 (9) of the Constitution which provides for the person elected as president to be sworn-in within 24 hours also presents a challenge as it does not leave room for complaints and appeals to be adequately addressed before the winner takes office.
- Furthermore, the electoral system requires a simple majority which means the president is not elected by the popular vote. For instance, late President Mwanawa won the 2001 elections with less than 30% of the votes and so far no president has been elected with up to 50% of the votes cast since the return to multi-party politics.

Zambia has attempted to amend its Constitution without success. A draft amendment to the Constitution

<sup>13</sup> Article 34(1)

<sup>14</sup> Article 35(2)

<sup>15</sup> Article 76(1)



has been pending before the parliament since 2003<sup>16</sup>. The EISA PAM gathered through its consultations, that one of the issues for reform included in the proposed amendment of the Constitution is the issue of public funding for political parties and campaigns. Civil society groups like the Foundation for Democratic Process (FODEP) and other NGOs, have led the advocacy for electoral reforms. As part of their initiatives, these groups produced a document that was signed by presidential candidates prior to the 2015 presidential by-election, committing the winner of the elections to pass the amended Constitution by 2016.

The PAM, as with the EISA 2011 EOM, concluded that overall, the electoral framework is in line with regional, continental and international legal benchmarks for the conduct of credible elections<sup>17</sup>.

### 3.2. The electoral system

The 2015 presidential by-election takes place against the backdrop of the death of President Michael Sata on 28 October 2014. President Sata still had two years to serve under the mandate he was given in the 2011 elections. As provided for by Article 38 of the Constitution of Zambia, an election should be held within ninety (90) days from the date of the office of the president becoming vacant by reason of his death, resignation or impeachment.

In line with Article 35 of the Constitution, the president of Zambia is elected for a five-year term. Candidates for the office of presidency must be Zambian citizens as must both their parents. Presidential candidates must be over 35 years old and must be sponsored by a political party.

Zambia uses the simple majority First-Past-the-Post (FPTP) electoral system. Under this system, the President is elected by a single national constituency, through secret ballot by direct universal adult suffrage. The 150 member National Assembly is also elected by the first-past-the-post system. Eight members of the

Assembly are nominated by the President and a Speaker is elected by the Assembly from amongst persons who are qualified to be members of the Assembly but are not Members<sup>18</sup>. The President is elected by simple majority as stipulated in article 34(8) of the constitution<sup>19</sup>.

With regards to inclusivity and equality, the PAM noted that the absence of independent candidates in the process could compromise these two important principles.

### 3.3. Party and campaign finance

Currently, there is no regulatory framework for party and campaign finance in Zambia. This therefore opens the electoral process to an unregulated influence of money and also impacts on the principle of equitable access to resources among contesting parties, which is critical to the fairness of an electoral process.

There is also no provision for public funding of political parties or campaigns. The absence of public funding for campaigns could also pose a challenge to some potential candidates and smaller political parties to contest the elections as they may not have the required means to successfully contest the elections.

### 3.4. Election management

Article 76 of the Constitution of Zambia establishes the Electoral Commission of Zambia as an autonomous body. Its functions and powers are provided in further details in the Electoral Commission Act.

The Electoral Commission consists of a Chair and not more than four other members appointed by the President, subject to ratification by the National Assembly (Electoral Commission Act 1996, 4(2)(3)). The term of office for Commissioners is for a period not exceeding seven years. Their terms may be renewed, but renewals require the ratification of the National Assembly. Commissioners may be removed by the President on the basis of mental incapacity or bankruptcy (Electoral Commission Act 1996, 5).

<sup>16</sup> See constitution of Zambia Bill: [http://www.elections.org.zm/media/the\\_constitution\\_of\\_zambia\\_bill\\_2013.pdf](http://www.elections.org.zm/media/the_constitution_of_zambia_bill_2013.pdf)

<sup>17</sup> EISA Election Observation Mission to the Zambia Tripartite Elections of 20 September 2011-Interim Statement

<sup>18</sup> Article 69. (1) of the Constitution: There shall be a Speaker of the National Assembly who shall be elected by the members of the Assembly from among persons who are qualified to be elected as members of the Assembly but are not members of the Assembly.

<sup>19</sup> (8) The Returning Officer shall declare the candidate who receives the highest number of the total votes cast to have been duly elected as President.



The Commission's executive functions are overseen by the Director of Elections who is appointed by the ECZ and acts as its Chief Executive Officer (CEO). It is funded by parliamentary appropriations and donations (Electoral Commission Act 1996, 12 - 13(1))

The Electoral Commission of Zambia's main functions are to bring about an electoral process that is credible through achieving the following:

- The delimitation of constituencies;
- Voter registration;
- The conduct presidential, parliamentary and local elections;
- Perform voter education activities for the general public;
- Create conflict management bodies and mechanisms for the electoral process; and
- Review and update laws<sup>20</sup>.

## 4. KEY FINDINGS ON THE PRE-ELECTION PHASE

### 4.1. Voter registration

Voter registration in Zambia is guided by the Electoral Act of 2006. To be eligible to vote in an election, a person must be a Zambian citizen, at least 18 years old, in possession of both a national registration card and a voter card, and have his/her details included in the voter register. Article 4(2) of the Electoral Act mandates the ECZ to update the voters register on a continuous basis. The Pre-Election Assessment Mission was informed that although the ECZ has indicated its desire to provide for continuous registration of voters, such provisions are yet to be put in place. The Commission's inability to undertake continuous registration is partly due to the timing of this election and the financial implications of such an undertaking.

The ECZ last conducted an update of the voter register in 2012 with a particular emphasis on increasing the number of new registrants, updating the information of those already registered and cleansing the database of any anomalies including entries of deceased persons.

For the forthcoming presidential by-election, the ECZ has opted to replace cards misplaced by voters since the 2012 update was done. This exercise will be undertaken countrywide from 28 December 2014 to 3 January 2015. The Commission made it clear through a public notice that the operation should not be regarded as a new registration exercise. It is therefore expected that the updated 2012 register will be used.

The final register was certified on 30 November 2014 as 5,166,088 registrants (49.8 per cent women and 50.1 per cent men)<sup>21</sup>.

### 4.2. Political Parties and Candidate nomination

The Zambian Constitution guarantees freedom of association which allows the formation and registration of political parties. Article 2 of the Electoral Act defines a political party as "an organisation registered under the Societies Act". The Minister may cancel the registration of a party at any time, if he believes that the party concerned is being used for illegal activities or activities prejudicial to law and order (Societies Act, 13(1)).

Eleven (11) political parties will be presenting candidates for the 2015 by-elections. Registration of nominated candidates for the presidential by-elections took place between 09:00 and 17:00 from 17 to 19 December 2014. Criteria to register as a presidential candidate for the by-election as provided in Article 34(3) of the Constitution are: A candidate must:

- be a Zambian citizen;
- have parents who are Zambians by birth or descent;
- be 35 years old;
- be a member or be sponsored by a political party (produce a sponsorship letter from the party);
- be qualified for election as a member of the National Assembly;
- be domiciled in Zambia for a period of at least 20 years;
- submit a declaration of assets and liabilities;
- have his or her nomination supported by a minimum of 200 registered voters; and

<sup>20</sup> [www.elections.org.zm](http://www.elections.org.zm) (ECZ website)

<sup>21</sup> See ECZ website for voter registration statistics [www.elections.org.zm](http://www.elections.org.zm)

- pay a nomination fee of K10,000 (ten million Kwacha), which is non-refundable

#### 4.3. Intraparty democracy

As was the case with MMD prior to the 2008 presidential by-elections, the death of President Sata raised fears within the ruling PF about the nomination of his successor as it was not clear before President Sata's death that he had chosen a successor.

Political parties in Zambia have demonstrated minimal commitment to internal party democracy. This lack of intraparty democracy has been most visible in the choice of office bearers and the selection of party candidates. This has affected the institutionalisation of parties, leading to an unstable party system characterised by frequent fragmentation.

During the visit of the EISA PAM to Lusaka, both the PF and MMD approached the courts over intra-party differences around the issue of candidate nomination for the by-elections. On Wednesday, 3 December 2014, the Court ruled that Minister of Defence and Justice, Edgar Lungu was the duly elected PF party leader and not the Deputy Minister of Commerce, Trade and Industry, Honourable Miles Sampa.

The PF court case followed claims by the two presidential aspirants that they were duly elected in two separate elective conferences. The first conference was held on November 30 where Mr. Lungu was elected the party leader. The following day another conference was held in which Hon. Miles Sampa was elected the party leader. The Court ruled out the outcome of the December 1 conference in which Mr. Sampa emerged as the winner. Mr. Sampa has vowed to take this back to the courts.

In the MMD party, the party leader, Mr. Nevers Mumba approached the courts to challenge both the decision of the party National Executive Council (NEC) to suspend him from the party and the party's adoption of former President Rupiah Banda as its presidential

candidate for the 20 January 2015 presidential by-election. There was also a Court case in which the MMD Provincial Treasurer, Tobby Maliti challenged the adoption of Mr. Banda as presidential candidate by the NEC. In a Supreme Court ruling on 18 December, 2014, the NEC's decision and an appeal brought by Mr. Muhabu Lungu, the Party's National Secretary were overturned and Dr. Mumba's candidature upheld<sup>22</sup>. The intra-party conflicts continued thereafter when Dr. Mumba fired Mr. Lungu as the party National Secretary for insubordination and gross indiscipline<sup>23</sup>.

#### 4.4. The media

Articles 11 and 20 of the Constitution guarantee the media freedom of expression, freedom of coverage and freedom of reporting. Section 27 (2) of the Electoral Act establishes that all candidates and parties have the right to have their campaigns and manifestos reported by all the public media in a balanced manner.

Media reporting and coverage of the election campaign in Zambia has been perceived as lacking balance and fairness. Public media was perceived to be pro-government giving preference to campaign activities of the ruling party. Private media was perceived to be in favour of the opposition. It is reported that ahead of the upcoming elections, there will be presidential debates both by public and private media.

The 2011 Electoral Code of Conduct outlines a set of principles to which all electoral stakeholders, including candidates, political parties, Conflict Management Committees, the media, election monitors and observers, must adhere. Article 13 (1) of the Electoral Code of Conduct mandates media houses to provide fair and balanced reporting of campaigns, meetings, rallies and press conferences of all registered political parties and candidates during the campaign period. It is noted that radio is the most accessible source of information in Zambia, especially in rural areas.

<sup>22</sup> <http://mmdzambia.org/news/2014/12/18/nevers-mumba-is-mmd-candidate-for-2015/> (accessed on 29/12/2014)

<sup>23</sup> <http://lusakavoice.com/2014/12/21/nevers-fires-muhabu-lungu/> (accessed on 29/12/2014)



## PUBLIC NOTICE

### NOTICE OF VALIDLY NOMINATED CANDIDATES TO THE OFFICE OF THE PRESIDENT OF THE REPUBLIC OF ZAMBIA

Following the lodging in of nominations for the 2015 Presidential Election from 17th December, 2014 to 23rd December, 2014, NOTICE is hereby given to the general public that the following candidates were validly nominated and that the polls shall take place on Tuesday 20th January, 2015 between 06.00 hours and 18.00 hours.

PHOTO OF CANDIDATE	NAMES OF CANDIDATE	PARTY	SYMBOL DESCRIPTION	SYMBOL
	CHANDA Eric M	4R	Hand holding a cross	
	CHIPIMO Elias CM	NAREP	A heart for the people	
	HICHILEMA Hakainde	UPND	Palm with raised thumb	
	KAUNDA Tilyenji C	UNIP	Hoe	
	LUNGU Edgar C	PF	Boat	
	MIYANDA Godfrey K	HERITAGE	Two hands with fingers and thumbs leaning on and supporting each other.	
	MUMBA Nevers S	MMD	Table clock	
	NAWAKWI Edith Z	FDD	Three leaves on a branch	
	PULE Daniel M	CDP	Bridge	
	SINKAMBA Peter C	GREENS	Baobab Tree with Thumbs up	
	SONDASHI Ludwig S	FDA	Rising Sun	

ISSUED BY: THE DIRECTOR,  
ELECTORAL COMMISSION OF ZAMBIA,  
ELECTIONS HOUSE, HAILE SELASSIE AVENUE,  
P.O. BOX 50274,  
LUSAKA.

#### 4.5. Civil society

Civil society organisations (CSOs) play an important role in enhancing the transparency, credibility and integrity of the process before election day, on election day, during counting and aggregation processes<sup>24</sup>. As provided for by section 76 and 77 of the Electoral Act, CSOs in Zambia are involved in the 2015 electoral process in different activities including civic and voter education, election observation and advocacy for reforms.

In joint efforts to observe the forthcoming presidential by-election, five CSOs formed a coalition under the banner of The Zambia Electoral Alliance. This coalition comprises the Anti-Voter Apathy Project (AVAP), Foundation for Democratic Process (FODEP), Operation Young Vote (OYV), Southern African Centre for the Constructive Resolution of Disputes (SACCORD), and Zambia National Women's Lobby (ZNWL).

The PAM noted that the electoral and political process in Zambia is open to participation of civil society and the political context in the country also allows CSOs to operate freely. Some CSOs consulted informed the PAM that they continue to contribute to delivering voter and civic education prior to the elections to increase public understanding of the electoral process as well as voter turnout.

The PAM was informed that the accreditation process for citizen observers will take place from 15 December 2014 to 16 January 2015, while the accreditation of international observers will take place from 15 December 2014 to 18 January 2015. Accreditation to grant access to the results centre will be done from 14 December 2014 to 18 January 2015. This is expected to be decentralised in the districts for citizen observers and centralised in Lusaka for international observers. Each applicant observer is required to complete an ECC 2 form in compliance with the Electoral Code of Conduct.

#### 4.6. Gender and minority rights

Zambia is signatory to key international and regional instruments on equal representation of women and men in political life<sup>25</sup>, but women remain under-represented in political processes in the country. Currently, only 20 out of 158 members of parliament are women. Regrettably, women are not well represented as candidates in the upcoming 2015 presidential by-election, as only one female candidate – Edith Nawakwi – will be contesting. The EISA EOM in 2011 in its report highlighted the fact that the first-past-the-post, single-member constituency system contributed to the marginalisation of vulnerable groups such as women and the youth. It further noted the difficulties faced by female aspirants in raising funds for election campaigns and pointed societal barriers to women's participation in decision-making as some of the structural impediments to the representation of women in elective politics, despite the fact that women constitute more than 50 percent of the voting population<sup>26</sup>.

The EISA PAM noted that the legal framework provides general guarantees of equal rights and freedoms and prohibits discrimination on grounds of race or religion. The PAM was also informed by the ECZ that the returning officers and assistant returning officers are usually women. The ECZ is also tasked by the Constitution to ensure access to voting for all eligible persons on non-discriminatory basis, including voters with disabilities. The PAM was also informed that braille template ballot paper will be provided for the visually impaired voters in the forth-coming January 20 elections.

#### 4.7. Civic and voter education

As provided for by the Electoral Act No.12 of 2006, the ECZ is responsible for providing voter education, and, in line with this, it established the National Voter Education Committee, constituted by representatives of CSOs and public institutions. During the visit of the EISA PAM to Lusaka, training for voter education facilitators was underway in preparation for the roll out of the voter education programme at ward level.

<sup>24</sup> See Article 2 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20: "There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes." Also see Article 7 of the African Charter of Human and Peoples' Rights, of the OAU.

<sup>25</sup> See Article 12 of the SADC Declaration on Gender and Development, 2008. It states that "Parties shall endeavour that, by 2015, at least fifty percent of decision making positions in the public and private sectors are held by women including the use of affirmative action measures as provided for in Article 5."

<sup>26</sup> EISA 2001 EOM Report <http://www.content.eisa.org.za/pdf/zameom2006.pdf> (accessed on 29/12/2014)



The PAM noted that CSOs continue to provide some education and information to voters by increasing public's awareness of their rights, knowledge of voting procedures and to encourage them to vote. This is done mainly through community radio stations.

#### 4.8. Election Disputes and Security

Section 111 of the Electoral Act provides for the composition of the Conflict Management Committees (CMCs) by the ECZ to resolve electoral disputes. The ECZ has since established the National CMC as well as 74 district-level CMCs with membership by registered political parties and selected civil society organisations as an alternative dispute resolution mechanism to deal with election-related conflicts.

Though the PAM did not consult with security agencies, there were concerns about clashes by factions within the two main parties, the PF and MMD. These fears are based on the recent small-scale clashes between supporters of two PF presidential aspirants<sup>27</sup>. Overall, the campaign environment has not been adversely affected these incidents or clashes. The PAM note the police's response to these incident was professional and balanced.

#### 4.9. Campaigns

The campaign process in Zambia is governed by two main instruments: the Public Order Act (1955) and the Electoral Code of Conduct Regulations of 2011. Article 8 of the Electoral Code of Conduct Regulations of 2011 provides that the ECZ determines the duration of the campaign period. For the 2015 presidential by-elections, campaign process began on 19 November 2014 and will end at 18:00 on 19 January 2015.

As at the time of the PAM's visit, campaigns had already started with the UPND as the most visible party, mainly because the party started its campaign the earliest, while other parties were involved in their internal divisions. Campaigning took the form of posters, advertisements on big billboards and other types of media outreach through television, radio stations and newspapers. Other

forms such as political rallies, television appearances by candidates are also expected.

#### 4.10. Preparedness of the EMB

The PAM noted that the ECZ was advanced in the preparations for the 2015 presidential by-election. To avoid delays, the ECZ disregarded the tender process and did direct inquiries of the material required. These materials are expected to arrive before the end of the year. None of the stakeholders consulted had reservations regarding the independence and hence the effectiveness of the ECZ in conducting the elections.

At the time of the PAM's visit, Training of Trainers (ToT) for Conflict Management Committees (CMCs) was underway. Recruitment process for returning officers was completed and training was conducted in the week of 15 – 19 December 2014. The recruitment for field officers took place in December and their training was conducted from 7-9 January 2015. The ECZ informed the PAM that the local delivery of the materials to the station will take place 24 – 36 hours before election day.

The PAM notes the ECZ with stakeholders met are expecting some glitches in the delivery of material because of the rainy climate conditions expected. In an attempt to overcome this, the ECZ has acquired 45 Suburban Utility Vehicles (SUVs) and requested air transport service for high lying areas. Satellite phones have also been acquired with the country's power suppliers contacted to assure there will be no power cuts on election day and three days following the elections to counting and tabulation process to complete uninterrupted.

When meeting with the ECZ, it was revealed that the ECZ does not have enough funding for registration of new voters. New voters will be disenfranchised and only those wishing to replace lost or damaged cards will be assisted by the ECZ. Stakeholders also mentioned the need for the ECZ to be more decentralized, so as to better carry out their functions. Although the institution had the obligation to carry out continuous voter registration between elections, lack of funding has hindered this process.

<sup>27</sup> Lusaka Times - PF factions clash in Lusaka, New PF SG condemns the violence, Zambia" [www] [www.lusakatimes.com/2014/12/02/pf-factions-clash-lusaka-new-pf-sg-condemns-violence/](http://www.lusakatimes.com/2014/12/02/pf-factions-clash-lusaka-new-pf-sg-condemns-violence/) (accessed 03 Dec 2014).

## APPENDIX

### Appendix 1: List of stakeholders consulted

Organisation	Name of representative/s	Designation
Electoral Commission of Zambia (ECZ)	Ms. Priscilla Isaac	Director of Elections
Foundation for Democratic Process (FODEP)	McDonald Chipenzi	Executive Director
Zambia National Women's Lobby – ZNWL	Juliet Kaira Chibuta Emma Mwiinga	Executive Director Head of Programmes
Anti-Voter Apathy (AVAP)	Fischer Siabasimbi	Information and Research Officer
Media Institute of Southern Africa (MISA)	Jane Chirwa	Information and Research Officer
Movement for Multi-party Democracy (MMD)	Mr. Muhabu Lungu	National Secretary
Patriotic Front (PF)	Nsama Yamba	Assistant Secretary General
United Party for National Development (UPND)	Mr Winstone Chibwe	Secretary General
Zambian Center for Inter-Party Dialogue_ ZCID)	Horrance Chilando	Executive Director

## ABOUT EISA

### INSTITUTIONAL BACKGROUND

EISA has since its inception in July 1996 established itself as a leading institution and influential player dealing with elections and democracy related issues in the African continent. It envisions an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment. The Institute's vision is executed by striving for excellence in the promotion of credible elections, citizen participation, and the strengthening of political institutions for sustainable democracy in Africa.

Having supported and/or observed over 70 electoral processes in Africa, EISA has extensive experience in formulating, structuring and implementing democratic and electoral initiatives. It has built an internationally recognised centre for policy, research and information and provides this service to electoral management bodies, political parties and civil society organisations in a variety of areas, such as voter and civic education and electoral assistance and observation. Besides its expanded geographical scope, the Institute has, for the past several years, been increasingly working in new in-between election areas along the electoral and parliamentary cycle, including constitution and law making processes, legislative strengthening, conflict management and transformation, political party development, the African Peer Review Mechanism (APRM) and local governance and decentralisation.

EISA provides assistance to inter-governmental institutions, like the African Union, and the Pan-African Parliament, to reinforce their capacity in the elections and democracy field. The Institute has just signed an MOU with the Economic Community of Central African States (ECCAS); the East African Community (EAC); and the Common Market for East and Southern Africa (COMESA). Within the framework of these recently signed memoranda, the Institute will also provide similar assistance respectively these intergovernmental institutions. Its MoU with the African Union was also renewed in 2014.

With its headquarters in Johannesburg (South Africa), EISA has had field offices across the African continent and currently has offices in Central African Republic, Democratic Republic of Congo, Kenya, Madagascar, Mali, Mozambique and Somalia, and a regional liaison office at the secretariat of the ECCAS in Libreville, Gabon.

### Election observation activities

EISA has deployed continental witness missions for the past ten years including missions to Angola (2008), Botswana (1999, 2004, 2009), Central African Republic (2010, 2011), Democratic Republic of Congo (2005 referendum, 2006 elections), Egypt (2011, 2012, 2014), Ghana (2008, 2012), Guinea Conakry (2010), Lesotho (1998, 2002, 2007, 2012, 2015), Liberia (2011), Madagascar (2005, 2007, 2013), Malawi (1999, 2004, 2009), Mauritius (2000, 2005, 2010, 2014), Mozambique (1999, 2004, 2009, 2013, 2014), Namibia (1999, 2004, 2009), Senegal (2012), Seychelles (2011), South Africa (1999, 2004, 2009, 2014), Tanzania (2005, 2010), Uganda (2011), Zanzibar (2005, 2010), Zambia (2005, 2008, 2011, 2015), and Zimbabwe (2000, 2002, 2008), Reports on these missions can also be found on our website.





**T +27 11 381 60 00 • F +27 11 482 61 63**  
**14 Park Rd • Richmond • Johannesburg**  
**PO Box 740 • Auckland Park 2006 • South Africa**

#### **About EISA**

EISA is a not for profit organisation established in 1996 based in Johannesburg (South Africa) with field offices in Central African Republic, Gabon, Kenya, Madagascar, Mali, Mozambique and Somalia.

#### **Our vision**

An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment.

#### **Mission statement**

EISA strives for excellence in the promotion of credible elections, citizen participation, and the strengthening of political institutions for sustainable democracy in Africa.

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