



**European Union  
Election Observation Mission  
Zambia 2006**



**Final Report**

**Lusaka, November 2006**



**ZAMBIA**

**TRIPARTITE ELECTIONS**

**28 September 2006**

**EUROPEAN UNION  
ELECTION OBSERVATION MISSION**

**FINAL REPORT**

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## I. EXECUTIVE SUMMARY

- The 28 September 2006 presidential, parliamentary and local government elections were generally well-administered, largely peaceful and offered voters a wide range of candidates to choose from in a genuinely competitive process. The conduct of the tripartite elections demonstrated improvement in comparison to the elections of 2001. The high turnout on election day suggests a strong commitment of the people of Zambia to further the democratic development of their country.
- Overall, the elections were marked by increased transparency and confidence in the Electoral Commission of Zambia (ECZ) throughout most of the electoral process, a generally successful voter education campaign, a pluralistic campaign environment in which freedom of assembly was respected, as well as active participation in the electoral process from numerous civil society groups. However, the counting, tabulation and transmission of results processes encountered numerous problems. Complex documentation, inadequate guidelines and insufficient training meant that the processes were slow and that procedures were not always followed. The subsequent abandonment of the system for the electronic transmission of results, as well as the delay in the announcement of the presidential election results, contributed to a decline in confidence among some stakeholders during the final stages of the elections.
- The 2006 tripartite elections took place against a background of proposed reforms to the electoral system. After the disputed 2001 elections and a subsequent loss of confidence in the political and electoral processes, President Mwanawasa appointed an Electoral Reform Technical Committee (ERTC) and a Constitution Review Commission (CRC) to review the legal and electoral frameworks. Numerous proposals for reform were recommended by the ERTC, but few were incorporated in the new Electoral Act of May 2006. The elections took place under the existing “first past the post” system, with a presidential candidate needing a simple majority to be elected.
- The new Electoral Act of 2006, together with other election-specific legislation and more general legislative provisions, provided an adequate framework for the conduct of democratic elections. The new and comprehensive Electoral (Code of Conduct) Regulations of 2006 further strengthened the electoral process. The Electoral Act provided for the establishment of structures at national and district levels to resolve election-related disputes prior to election day. For the first time, it also became a legal requirement for the ECZ to organise voter education. However, many of the reforms recommended by the ERTC were not introduced. Key areas such as campaign financing were left untouched and the tripartite elections took place without legislation to regulate campaign funding and spending by parties and candidates. Together with the advantages of incumbency, the absence of regulations governing campaign finance resulted in an uneven playing field for contestants.

- The introduction of conflict management committees to resolve election-related complaints was a welcome development. At a district level, some committees played an important role in the mediation and resolution of disputes. However their performance was hindered by the late establishment of the national committee, a lack of clarity over their role and a limited operational capacity.
- The Electoral Commission of Zambia performed its duties in an independent and largely professional manner, and managed to establish constructive relations with all electoral stakeholders. For most of the time, public confidence in the ECZ remained high, in marked contrast to previous elections. It successfully deployed election material to most polling stations in advance of election day, and conducted a generally successful voter education campaign, although its activities did not always reach the most rural and/or remote areas of the country.
- However, despite an increase in transparency, there were several areas of concern. The ECZ did not have an established, clear framework to guarantee its commitment of transparency to all stakeholders. Its decisions and internal procedures were not systematically published, and there were significant delays in the issuing of guidelines and administrative procedures to facilitate the organisation of the elections. There was no electoral calendar or detailed timeline for all the stages of the electoral process. This led to some delays and inefficiencies, for example over the accreditation of domestic monitors. The current structure of the ECZ does not include permanent election officials at provincial and district levels.
- A total of 3,940,053 people registered to vote in the 2006 elections. Although it is a significant increase of 33.9% on the 2,604,761 voters registered in 2001, it falls short of the target figure of 5,517,443. To qualify for registration, a citizen had to first be registered in the national civil register and be a holder of a national registration card (NRC). Although there was criticism of the coordination between the Ministry of Home Affairs and the ECZ in ensuring that citizens were issued national registration cards prior to the start of registration, and of the two-week verification period, EU observers did not record any major concerns related to the accuracy of the voter register in advance of election day. On election day, however, observers gathered reports of hundreds of registered voters being turned away from polling stations, even though they were in possession of a valid NRC and voter card. The absence of their names on the lists raises questions over the accuracy of the verification process.
- The process of candidate nomination was open and transparent. However, a number of candidates and parties were critical of the one-day nomination period for the National Assembly and local elections. This unnecessarily short time placed restraints on potential candidates, particularly those without easy access to the district capitals. President Levy Mwanawasa of the Movement for Multiparty Democracy (MMD) campaigned for a second and final term in office. He stood against four other presidential contestants: Michael Sata of the Patriotic Front (PF), Hakainde Hichilema of the United Democratic Alliance (UDA), Brigadier-General Godfrey Miyanda of the Heritage Party (HP) and Ken Ngondo of the All People's

Congress Party (APC). In the National Assembly elections, 13 parties participated and a total of 709 candidates contested the 150 parliamentary constituencies. A total of 4,095 candidates registered to compete in the local elections.

- Women were seriously under-represented as candidates. No women stood for the presidency, only 15% of the parliamentary candidates were women and less than 10% of the candidates running for local government were women. Such percentages of female candidates are significantly below the commitments and targets included in various international protocols and agreements to which Zambia is party.
- The campaign period was generally calm, with only a few minor election-related incidents. However, the peaceful campaign environment before election day was overshadowed by some violent protests in Lusaka and the Copperbelt after the elections, during the period of the announcement of the results. During the campaign, freedom of assembly was respected and civil society groups played a positive role in decentralising political debate by arranging public discussions among candidates at a local level. There were also incidents where parties openly encouraged distrust in the electoral system by promoting suspicion of election preparations, particularly the system for the electronic transmission of results.
- During the deployment of the EU EOM, freedom of expression and the right to publish were respected across the country. Coverage of the elections by the media was an improvement on previous elections. Due to the sponsorship of a series of programmes by the ECZ and local NGOs, the main candidates and parties gained access to the state-owned television channel, ZNBC TV. However, both in its television and radio services, ZNBC failed to provide balance between candidates in key areas such as news bulletins, and there was strong bias in favour of the Movement for Multiparty Democracy (MMD). The private media provided wider coverage and greater access to candidates and parties from across the political spectrum. The absence of an adequate legal and regulatory framework for the media continues to hinder the reform and development of the audiovisual sector.
- Election day generally proceeded well, despite some delays to the start of voting due to the late arrival of essential election material. The environment was largely peaceful, although there were a few incidents of minor disorder linked to the late opening of polling stations.

## **II. INTRODUCTION AND ACKNOWLEDGEMENTS**

Presidential, National Assembly and local government elections took place on 28 September 2006. Following an invitation from the government of Zambia and the Electoral Commission of Zambia (ECZ), the European Union deployed an Election Observation Mission (EU EOM) for the duration of the electoral process. The Chief Observer was Annemie Neyts (Belgium), Member of the European Parliament (MEP).

The EU EOM was deployed on 5 September 2006, and undertook observation in all nine provinces. The Mission comprised a core team of eight election experts, 36 long-term observers (LTOs), 48 short-term observers (STOs) and 52 locally-recruited short-term observers (LSTOs) from the diplomatic staff of all EU member state embassies in Zambia. The EU EOM issued its statement of preliminary findings and conclusions on 30 September 2006<sup>1</sup>. Upon the conclusion of the electoral process, the EU EOM closed its operations on 29 October 2006.

The mandate of the EU EOM was to assess comprehensively whether the electoral process was in accordance with international principles for genuine democratic elections.<sup>2</sup>

The EU EOM wishes to thank the government of Zambia, the Electoral Commission of Zambia (ECZ), political parties, candidates and civil society organisations in Zambia, as well as representatives of EU Embassies in Lusaka, the European Commission Delegation to Zambia and the UNDP for their support and assistance throughout the course of the observation. The EU EOM also extends its gratitude to other international observer groups and domestic monitoring organisations.

This final report presents the findings of the EU EOM covering the process prior to and following the 28 September tripartite elections and contains a number of recommendations for future elections. The report and its conclusions remain the sole responsibility of the EU EOM.

### **III. POLITICAL BACKGROUND**

The September 2006 presidential, parliamentary and local elections were the fourth consecutive and sixth multi-party elections in Zambia.

Zambia gained its independence in 1964, with Kenneth Kaunda becoming the country's first President and his United National Independence Party (UNIP) emerging as the dominant political party. The First Republic (1964-1972) saw two multi-party elections, 1964 and 1968. However in 1973, the Kaunda government introduced a one-party system, arguing that cooperation between the African National Congress (ANC) and the United Progressive Party (UPP) would threaten the ethnic, regional and social coherence of the country. Under the one-party system, presidential and National Assembly elections were held every five years (1973, 1978, 1983 and 1988). The National Assembly elections allowed only limited competition, with candidates passing through party primaries and a final vetting process by the central committee of UNIP. Kenneth Kaunda was re-elected unopposed each time. While the government described the system as a "one-party participatory democracy", domestic critics and international analysts labelled it a "mild dictatorship". The President, rather than the party, was the dominating political institution, enjoying a vast range of powers.

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<sup>1</sup> See EU EOM website [www.eueomzambia.org](http://www.eueomzambia.org)

<sup>2</sup> See 'International Declaration of Principles for Election Observation' adopted by the EU, the United Nations and others on 27 October 2005:  
[http://ec.europa.eu/comm/external\\_relations/human\\_rights/eu\\_election\\_ass\\_observ/docs/code\\_conduct\\_en.pdf](http://ec.europa.eu/comm/external_relations/human_rights/eu_election_ass_observ/docs/code_conduct_en.pdf)



Discontent at UNIP rule grew throughout the 1980s. Fuelled by Zambia's economic decline and by the government's repressive measures, public and civil society dissatisfaction towards UNIP increased, and the country returned to a multi-party-system in 1990. The first multi-party elections since 1968 took place in October 1991. In a landslide victory, the new opposition alliance, the Movement for Multiparty Democracy (MMD) won the elections and the former union leader, Frederick Chiluba, became the second President of the Republic with 75.8% of the vote.

The 1991 elections constituted a significant landmark in the country's transition to democracy, and were proclaimed by Zambians to be "setting a standard for Africa." However, the elections in 1996 and 2001 failed to consolidate this progress. The Constitution was changed for the 1996 presidential elections so that only candidates with Zambian parents could stand for office, effectively barring former President Kaunda from participation. One year later, amid national and international controversy over an alleged coup, leading UNIP politicians, including Kaunda, were detained until 1998. Between 1996 and 2001, political freedom decreased and the Chiluba government was repeatedly criticised by international human rights bodies. President Chiluba's attempt to run for a third-term resulted in disagreements within the MMD and senior members opposed to a third-term left the party. Former Vice-President, Christon Tembo, left the MMD to establish the Forum for Democracy and Development (FDD). The choice of Levy Mwanawasa as the MMD presidential candidate in 2001 resulted in Michael Sata leaving the party to form the Patriotic Front (PF).

The December 2001 elections were controversial, with allegations of vote-rigging. Serious irregularities were reported by domestic and international observer groups after the elections, and there was a subsequent erosion of public confidence in the Zambian electoral process and institutions. President Mwanawasa won the 2001 elections with 29% of the vote, receiving approximately only 30,000 more votes than his closest challenger, Anderson Mazoka of the United Party for National Development (UPND). For the first time since 1991, the MMD lost its parliamentary majority, winning 69 of the 150 contested seats. However, with the eight additional MPs appointed by the President, informal coalitions and by-election victories, the MMD managed to achieve a majority in Parliament.

Following the 2001 elections, there was strong pressure on the government from civil society groups and the opposition for constitutional and electoral reform. In favour, in particular, was the introduction of the requirement that presidents be elected with an absolute majority of the popular vote. President Mwanawasa appointed an Electoral Reform Technical Committee (ERTC) and a Constitution Review Commission (CRC). In 2005, the CRC recommended that its proposed new constitution be adopted by a constituent assembly. However, the government was of the view that the proposed constitutional amendments should be followed up by the National Assembly, rather than a constituent assembly, and that consideration of the proposals could not take place before the 2006 elections.

After his election victory of 2001, President Mwanawasa placed the fight against corruption at the centre of his presidency. He argued for the lifting of former President Chiluba's immunity from prosecution. Zambian courts are now hearing cases involving

corruption charges against Chiluba and other officials from the former government. Economic reforms over the last few years have resulted in growth levels of more than 5% and international lenders have reduced Zambia's foreign debt as a reward for good economic management. However, critics say the benefits of economic growth and of the removal of a large foreign debt burden have not reached the majority of ordinary Zambians.

President Mwanawasa dissolved Parliament and his cabinet on 26 July 2006 in preparation for the tripartite elections. He campaigned for a second and final term in office in a simple majority system against four other presidential contestants: Michael Sata of the Patriotic Front (PF), Hakainde Hichilema of the United Democratic Alliance (UDA), Brigadier-General Godfrey Miyanda of the Heritage Party (HP) and Ken Ngondo of the All People's Congress Party (APC).

The president of the Patriotic Front (PF), Michael Sata, emerged as a key contender for the presidency. Sata, a minister in the government of Frederick Chiluba, left the MMD to form the Patriotic Front when Mwanawasa became the MMD's presidential candidate in 2001. The Patriotic Front gained only one National Assembly seat in the 2001 elections. It campaigned for 109 seats in 2006. Its strongholds are Lusaka, Luapula, Northern and Copperbelt provinces. A number of MPs from the MMD switched their allegiance to the PF after failing to secure renomination by the MMD. A few weeks prior to election day, Frederick Chiluba declared his support for Michael Sata.

In March 2006, three main opposition parties, the United National Independence Party (UNIP), the Forum for Development and Democracy (FDD) and the United Party for National Development (UPND) formed the United Democratic Alliance (UDA) to avoid the division of opposition votes in the elections. The three parties were expected to rally behind the then main opposition candidate, the president of the UPND, Anderson Mazoka. However, after the sudden death of Mazoka in May 2006, Hakainde Hichilema emerged as the party's new leader and became the UDA presidential candidate. A few weeks before the tripartite elections, Hichilema was backed publicly by former President Kenneth Kaunda.

In the National Assembly elections, 13 parties participated and a total of 709 candidates contested the 150 parliamentary constituencies. A total of 4,095 candidates registered to compete in the elections for local government councils. Fifteen per cent of the parliamentary candidates were women and less than 10% of the candidates running for local government were women.

#### **IV. LEGAL FRAMEWORK**

##### **A. Legal Framework for the Elections**

A large number of laws and regulations composed the framework for the 2006 tripartite elections: the Constitution of Zambia, adopted in 1991 and amended in 1996; the Electoral Commission Act n°24 of 1996; the new Electoral Act n°12 of May 2006; the accompanying Electoral (Code of Conduct) Regulations of 2006; the Local Government

Elections Act of 1994; as well as regulations, administrative instructions and election manuals issued by the Electoral Commission of Zambia (ECZ).

Zambia is party to the following international instruments, which include special provision on political participation and the conduct of genuine democratic elections: the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of Racial Discrimination (ICERD), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), and the Convention on the Political Rights of Women (CPRW). Zambia is also a member of the Southern African Development Community (SADC) and is committed to SADC principles for conducting democratic elections<sup>3</sup>.

The new Electoral Act of May 2006 introduced several changes to the legal framework for the elections, but it did not include many of the reforms that regional international organisations, civil society and observer groups had recommended after the previous elections. After the closely-fought 2001 elections, international and domestic observer reports highlighted a number of flaws in the legal framework, including the power of the President to choose the date of an election. The electoral system itself was also questioned after the President secured his election victory with only 29% of the popular vote.

In the aftermath of the 2001 elections, and the subsequent loss of confidence in the political system, President Mwanawasa appointed an Electoral Reform Technical Committee (ERTC) to review the legal and electoral framework and propose electoral reforms. A Constitution Review Commission (CRC) was also established to address the problems of the political system.

The ERTC comprised 25 representatives<sup>4</sup> from various organisations associated with the management of the electoral process. The Committee undertook widespread consultations with key electoral stakeholders across the country, and managed to gain the confidence of civil society groups and political parties. Its final report, released in July 2005, made numerous recommendations on a range of issues, including reform of the electoral system, the public funding of political parties, gender equality and the creation of tribunals to resolve election disputes. The final report of the ERTC also proposed the harmonisation of all election-related legislation, the introduction of a formal election timetable and the transfer of the duties of the returning officer for presidential elections from the Chief Justice to the ECZ.

However, few of the proposals from the ERTC were incorporated in the new Electoral Act of May 2006. Key recommendations, such as a new electoral system, implied constitutional change and were left for the Constitution Review and for a new Parliament and government. Areas such as campaign financing and affirmative action for the representation of women were also left untouched. Notwithstanding this, the Act, to which the President gave his assent on 12 May, introduced some important changes. For the first

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<sup>3</sup> [http://www.sadc.int/english/documents/political\\_affairs/index.php](http://www.sadc.int/english/documents/political_affairs/index.php)

<sup>4</sup> The Law Association of Zambia (4), the University of Zambia (2), representatives of the Zambian media (2), the Church (1), NGOs (2), the ECZ (3), the Office of the Vice-President (1), the Zambia Police Service (2), the National Economic Advisory Council (1), the Local Government Association of Zambia (3), the Office of the President (1), the Cabinet Office (1), the Ministry of Finance (1) and the Ministry of Justice (1).

time, it became a legal requirement for the ECZ to organise voter education. The Act also provided for the establishment of structures at national and district levels to resolve election-related disputes prior to election day.

The new and comprehensive Electoral (Code of Conduct) Regulations of 2006 further strengthened the electoral process for the tripartite elections. The Code of Conduct outlines the rights and duties of candidates, parties, the ECZ, the police, the media and observers during the electoral process. It also details a list of electoral offences related largely to the election campaign, including the disruption of political rallies and the tearing of campaign posters.

As a result of the new Electoral Act and its accompanying Code of Conduct, the legal framework for the 2006 elections was an improvement on that of 2001. The framework provided an adequate basis for the conduct of democratic elections. However, further reforms to the legal framework are necessary.

## **B. Electoral System**

The President of Zambia is elected for a five-year period in a single national constituency under the “first past the post” electoral system. Candidates for the presidency must be Zambian citizens, and so must both their parents. Presidential candidates must be over 35 years-old and they must be sponsored by a political party. In the absence of a law on political parties, party registration is regulated by the Societies Act in accordance with the Constitution. Presidential candidates cannot also run for the National Assembly.

Legislative power is vested in Parliament, comprised of the National Assembly and the President. The National Assembly consists of 150 elected members, eight members nominated by the President, as well as the Speaker. The Constitution establishes the House of Chiefs as an advisory body on traditional issues. Disqualified from standing as a candidate for the National Assembly are: public servants, including teachers, anybody holding a position in a defence or law enforcement agency, as well as anybody employed in a company or institution in which the government has an interest. These ineligibility criteria run contrary to international agreements to which Zambia is party<sup>5</sup> and they deprive significant numbers of Zambians from exercising their political rights.

The “first past the post” system was questioned when President Mwanawasa won the 2001 election with only 29% of the popular vote. The Constitution Review Commission (CRC), established by the President, considered wide-ranging reform of the Constitution. The report of the Electoral Reform Technical Committee (ERTC) recommended that the President be elected with an absolute majority of 50% plus one vote of the votes cast, and the National Assembly be elected under a mixed-member proportional system, with 160 MPs elected by the existing single mandate plurality and 40 MPs elected under proportional representation with party lists. Of these 40 MPs, 35 seats would be for women, three for people with disabilities and two for youth (between the ages of 21-30 years). However, the government left electoral reform for future consideration by a new

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<sup>5</sup> International Covenant on Civil and Political Rights (ICCPR), International Convention on the Elimination of Racial Discrimination (ICERD), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Convention on the Political Rights of Women (CPRW).

Parliament and government. The Electoral Act of 2006 thus retained the “first past the post” system, as well as 150 single member constituencies.

Article 77 of the Constitution requires that there are at least ten constituencies in each administrative province<sup>6</sup> and that the boundaries of each constituency are such that the number of inhabitants in each constituency is, as close as possible, the same. Currently, however, the number of registered voters in each constituency ranges from 8,718 to 82,601<sup>7</sup>.

Local government in Zambia is comprised of 72 district councils across the nine provinces. There are 1, 422 ward councils in the district councils. In preparation for the 2006 elections, the ECZ reviewed the delimitation of wards and polling districts. The number of polling districts was increased from 5,510 to 6,456, facilitating the access of voters to polling.

### **C. Election Complaints and Petitions**

Under the Electoral Act 2006, the ECZ was mandated to establish structures at both national and district levels to resolve election-related disputes prior to election day. A National Conflict Management Committee (NCMC) was set up, comprising various election stakeholders including representatives of registered political parties, NGOs, the police, the Ministry of Justice and the Anti-Corruption Commission. Committees were also established at a district level.

At a national level, the NCMC proposed the establishment of four sub-committees, one dealing with media-related complaints, one with general complaints related to the electoral process and the others dealing with internal disciplinary matters and training. However, the late establishment of the NCMC, and its lack of both operational capacity and of public understanding of its procedures, reduced the positive role that it could have played in the elections. Distinctions between the roles of the Conflict Management Committee and the Anti-Corruption Commission and the police remained unclear throughout the electoral process. Committees at district level suffered to some extent due to the delay at national level, and the resulting number of complaints lodged with district committees was low. In some areas, the committees actively resolved disputes and provided a valuable conflict resolution function<sup>8</sup>; in others, their performance was less successful. While the legal provision for a conflict management structure is a welcome development, there remains a need for greater clarity over its role, as well as a stronger operational capacity.

There is also a need for the establishment of an independent election tribunal to hear and adjudicate election-related complaints within the judicial system. Such a tribunal should be separate from the ECZ and consist of legal experts who are appointed after a transparent selection process.

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<sup>6</sup> There are nine provinces: Central, Copperbelt, Eastern, Luapula, Lusaka, Northern, North-Western, Southern and Western.

<sup>7</sup> Feira with 8,718 registered voters and Mandevu with 82,601 voters are both in Lusaka Province.

<sup>8</sup> EU election observers reported the complaints covered issues such as allegations of vote-buying, intimidation of voters, interruption of public meetings, tearing of campaign posters and allegations of biased recruitment of polling staff.

The current timeframe for the filing and hearing of petitions over election results does not complement the timeframe for the swearing in of the President and members of the National Assembly. Any filed petitions are likely to be heard after the elected candidates have taken office. The President is sworn in within 24 hours of the announcement of the results by the Chief Justice, yet any petitions over the results are filed with the Supreme Court within 14 days of the swearing in of the President. Petitions concerning the election of a member of the National Assembly must be filed with the High Court within 30 days of the disputed results being declared. The High Court then has 180 days to respond to the petition. In the case of presidential results, the period of time between the announcement of the results and the swearing in of the President should be increased so that petitions can be heard and resolved before the President takes office. In the case of the National Assembly results, the High Court should respond to any petition within a shorter time period, preferably before the first session of the newly-elected Parliament.

#### **D. Electoral Offences**

The Electoral Act, the Code of Conduct and the Local Government Elections Act detail a comprehensive list of prohibited activities, all of which are met with criminal charges. There are two categories of criminal offence, illegal practices and election offences. Illegal practices, such as the provision of gifts with the intention to influence a person's vote, can receive punishment of a fine up to the equivalent of €7,200, a maximum of five years' imprisonment, or both. In addition, anyone convicted of an illegal practice is prohibited from voting or standing as candidate in any election that might take place over the next five years. Election offences, such as the display of an unofficial sign within 100 metres of a polling station, can result in a smaller fine, a shorter prison sentence, or both. While some of the prescribed offences deserve a heavy fine or prison sentence, in both categories there are other offences which should not result in such punitive measures. For example, the offence of pretending to be an election observer (an illegal practice), or loitering within 400 metres of a polling station (an election offence) can currently result in a punishment that is disproportional to the alleged offence. Apart from penalties and fines, there are currently no alternative sanctions for alleged electoral misconduct.

The electoral law is clear on the offences of bribery and treating<sup>9</sup>. However, in order to bring charges, it is necessary to prove that the gifts were provided with the intent to influence a person to vote in a certain way. The requirement to prove such intent has made it difficult to implement the legal provisions. In addition, the law currently fails to make a distinction between the legitimate distribution of campaign materials to people who attend a campaign event and items such as food which are distributed evenly throughout an entire community.

#### **E. Campaign Finance**

There is no law governing campaign funding and spending by parties and candidates which, together with the advantage of incumbency, resulted in an uneven playing field for contestants. The ERTC had proposed the introduction of measures to regulate campaign financing, but the recommendation was not included in the new Electoral Act. Campaign

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<sup>9</sup> Any person who pays or provides food, entertainment, provisions for the purpose of influencing that person shall be guilty of the offence of treating.

spending in the 2006 elections differed considerably between parties and candidates, and there was an absence of transparency and public accountability.

## **V. ELECTION ADMINISTRATION**

### **A. Overview**

The Electoral Commission of Zambia (ECZ) is established by Article 76 (1) and (2) of the Constitution of Zambia and the Electoral Commission Act 1996. Together with other relevant statutory instruments, these laws set out the ECZ's mandate to provide for the conditions and organise all the necessary arrangements for the conduct of presidential, parliamentary and local elections. In this respect, the 2006 elections were administered by the ECZ and its Directorate in an independent and largely professional manner in compliance with its remit. Since August 2005, it has also managed to command a relatively high degree of confidence among a variety of stakeholders and the public. Moreover, its leadership has displayed a strong commitment to the electoral process and further established its role as an independent statutory body capable of conducting elections in an efficient manner.

### **B. Structure of Election Administration**

According to the Electoral Commission Act 1996, the Electoral Commission should consist of five members, all of whom should be nominated by the President subject to ratification by Parliament pursuant to Article 4 (3). Due to a lack of consensus between the President and Parliament over the selection of the final commissioner, a fifth member of the Commission has not yet been appointed and one of the seats has remained vacant since August 2005. Commissioners serve a term of seven years, which can be renewed subject to approval by the National Assembly. A Director to act as Chief Executive of the Directorate of the ECZ is appointed by the Commission, as well as three Deputy Directors. The Directorate's role is to support the ECZ in its work and implement its policies and decisions.

The Electoral Commission sits at the pinnacle of a tiered management structure. Below the Commission are the District Electoral Officers, who in turn appoint the Returning Officers on behalf of the ECZ. Returning Officers are responsible for the election arrangements in each constituency. Presiding Officers, who manage at polling station level, are the final tier of this management structure. They are responsible for four polling and counting assistants in each polling stream. The Chief Justice acts as the Returning Officer for the presidential elections.

### **C. Financing of Election Administration**

Funding of the ECZ may be generated from a number of sources of revenue. Pursuant to Section 13 (1) et seq. of the Electoral Commission Act, monies may be derived from the state budget, donations, investments or grants. In contrast to previous elections, the ECZ enjoyed generous financial and logistical support from the government, consisting of an

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actual funding of K152 billion<sup>10</sup> for 2005, and an allocation of K279 billion<sup>11</sup> for 2006. It also received technical and financial support provided by a basket fund of the international community, administered by a UNDP Election Trust Fund totalling \$US 7.3 million (approximately €5.8 million).

#### **D. The Electoral Commission of Zambia**

The ECZ acted in a neutral and largely professional manner throughout the elections and managed to establish constructive relations with all electoral stakeholders. It demonstrated significant commitment in deploying resources in the preparatory stage of the elections and election material was successfully deployed to all but a handful of the 6,456 polling stations in advance of election day. The introduction of semi-transparent ballot boxes contributed to the enhancement of public confidence in the electoral process, as did the colour printing of the final voter register.

The ECZ's willingness to engage publicly with key issues and provide solutions to problems furthered public confidence in its activities. Despite a clear increase in commitment to transparency there are, however, a number of areas where it could have been improved. For example, the Commission's meetings were held *in camera* and there was no established framework for sharing formal outcomes of their sessions with stakeholders. Furthermore, decisions of the ECZ were not systematically published in a regular or uniform manner. There were also significant delays in issuing guidelines and regulations both for general policy and specific issues, such as special provisions for voting for army personnel and members of the police force, changes to the method for the transmission of results, as well as individual election-related complaints. Although transparency measures of the ECZ have been improved, significant additional measures to increase the transparency of its operations are required to further strengthen the confidence of all electoral actors in its activities.

A detailed electoral calendar and a more refined and shared operational plan, with clear delivery timelines for key components of the administration of the elections, would have increased the transparency and streamlining of the ECZ's operations. This would have prevented the isolated problems with the delivery of materials, and would have prevented recourse to more radical measures such as postponement and delays in polling. The decision to print ballot papers in South Africa also created some extra logistical problems in the process. Due to the late reprint of some ballots and their delay in arriving to the correct constituency, local government elections in some wards took place instead on 26 October<sup>12</sup>.

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<sup>10</sup> With an average exchange rate in 2005 of 5,660 K/€ this is equivalent to about €27 million

<sup>11</sup> With an average exchange rate in 2006 of 4,340 K/€ this is equivalent to about €64 million. The website of the Ministry of Finance and National Planning indicates quarterly how much is actually released to other institutions and departments. As at the end of September 2006, K149 million had been released to ECZ. The figures will be updated on [http://www.mofnp.gov.zm/economic\\_affairs2.htm](http://www.mofnp.gov.zm/economic_affairs2.htm)

<sup>12</sup> Chinyama, Chibulula, Mosi-O-Tunya Chisanga, Mulimya, Sinadabwe, Nakato, Lui, Kamwala and Lubombo wards



### *Returning Officers and Polling Station Officials*

Temporary election offices were established in all of the 72 districts. Town clerks or council secretaries, depending on the size of the district, acted as election officers during the electoral process. Returning officers and their assistants were appointed for each constituency. They were responsible for both receiving and returning election material, and declaring the results of the parliamentary and local elections in their respective constituency. They were also responsible for announcing the tabulated results of the constituency for the presidential elections and the transmission of these results to the ECZ. At each polling station there was a presiding officer who was in overall charge of the activities of individual polling stations. In larger polling stations, where there was more than one stream<sup>13</sup> of voters, the presiding officer was allocated one assistant for each stream. Additional polling station staff included four polling and counting assistants at each polling stream. Polling station officials were recruited from a pool of civil servants and public workers, and the election officials mainly consisted of members of the teaching profession.

The ECZ Directorate estimates that nearly 50,000 staff were involved in organising and supervising the conduct of voting and counting in a total of 9,314 polling streams located in 6,456 polling stations.<sup>14</sup> The staff were appointed by the district election officers on behalf of the ECZ. The procedures for the nomination and selection of election officials at district and polling station levels were not fully transparent. There was a lack of clear criteria and guidelines in appointments, and the considerable allowances paid to staff led to suggestions of malpractices in the recruitment process.<sup>15</sup> There was also an absence of clear internal regulations setting out the mandates and responsibilities of election officials, timely information flows and adequate quality control.

Currently, permanent election officials are limited to the head office of the ECZ. The lack of permanent staff in the regions appears to have contributed to some of the shortcomings prior to polling day, on election day itself and during tabulation that could have been avoided with a greater deployment of permanent staff at constituency, district and provincial levels. This would have enhanced the consistency of the election administration across the country and efficiency in the delivery of tasks undertaken at district level.

### **E. Training of Election Officials**

EU observers reported a high level of competency among the trainers responsible for the training of presiding officers and the rest of the polling staff. However, the trainers' capability and good performance were hindered by small and poorly-equipped training venues, where large groups, sometimes up to 250 polling staff at a time, struggled to follow the explanations and instructions provided. A key component missing from the

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<sup>13</sup> The larger polling stations were divided into streams composed of separate voting facilities arranged on the basis of the alphabetical order of the voters' surnames. The lack of clear signposting indicating to voters how the system worked was a clear source of confusion at the opening of polling stations.

<sup>14</sup> Each polling stream had a minimum of five polling staff. Larger polling stations with multiple streams used additional staff. The number of assisting Election Officers and assisting Returning Officers varied amongst districts and constituencies.

<sup>15</sup> The main criteria for selection purposes were to be either a civil servant or public worker as well as literate and fluent in English. Subsequently, the majority of polling staff were teachers.

training programme was the opportunity for election staff to practise sufficiently their tasks in advance of election day. While the conduct of voting procedures was assessed positively by EU observers, election officials encountered numerous problems after the close of polls, during the counting, tabulation and transmission processes. The lack of sufficient training prior to election day became clear during the count, when election officials appeared inadequately prepared for the complex procedures and complicated counting and results forms. Election officials did not also appear to be fully conversant in using the technology and ancillary material, such as forms, for the transmission of results.

## **F. Voter Registration**

A new registration exercise was started by the ECZ in August 2005, pursuant to Section 4 (1) of the Electoral Act 2006. The period of registration began on 31 October and lasted for two months after two extensions were granted at the request of political parties and civil society groups. It resulted initially in 4,015,639 entries. The subsequent inspection period that started on 5 June 2006 lasted for two weeks. As of 1 August 2006, the cleaning up of the register and the removal of duplicate and sub-standard entries had resulted in a final number of registered voters of 3,940,053. This represents a significant increase of 33.9% on the 2,604,761 individuals registered for the 2001 elections, but falls short of the target figure of an estimated 5,517,443 eligible voters. Of the 3,940,053 eligible voters recorded on the register, a majority of 52.02% were female. The proportions of registered voters against eligible voters varied from 65.94% in Eastern Province to 85.59% in Central Province.

In order to qualify for inclusion in the voter register, an individual must be a citizen of Zambia, 18 years of age at the time of registration and in possession of a National Registration Card (NRC), which is issued by the Ministry of Home Affairs. There was criticism about the coordination between the Ministry and ECZ in this respect. The period of time in which individuals could register for an NRC did not coincide with the extended period of time for voter registration; to have done so would have required greater coordination and more flexibility on behalf of the Ministry to extend its timeframe in conjunction with the ECZ. There was also criticism of the limited time period of two weeks for the verification process. An extended verification period would have allowed for more corrections to the register and a higher degree of public inspection of the register.

The overall process of voter registration was effective and provided a mechanism for identifying anomalies in the system. The fingerprints of individuals wishing to register were recorded at registration offices opened throughout the country and entered into a database, together with a colour photograph and details of the individual included in official registration forms. This allowed an efficient process of cross-referencing to exclude any cases of multiple registrations. The ECZ must continue to ensure the confidentiality and integrity of the personal data collected. In an improvement on 2001, after completing the registration process, the individual voter received his/her voter card straight away, rather than having to return at a later stage.

The registration process was, however, not without some problems. In a number of cases of multiple registrations, the required deletions were not made in the final register. In the event that an individual intentionally submitted different details on registering more than

once, all relevant entries were deleted. In cases where people re-registered in a new location, the most recent entry was retained and previous one(s) deleted. According to the ECZ's Directorate, the reduction in the final register of the number of voters who initially registered is explained by 17,924 cases of multiple registration, 4,076 entries related to persons who had not reached the required minimum age of 18 years by 31 July 2006, and 117,625 registration forms that were excluded due to errors. In total, 0.98% of entries were removed from the initial voter register after the cleaning up exercise. In minor cases, such as the misspelling of names on the register and voter cards, the ECZ made exceptions and allowed individuals to vote on condition that they could be clearly identified by the photographs on their card.

The EU EOM did not record any major concerns related to the accuracy of the voter register in advance of election day. On election day, however, observers gathered reports of registered voters being turned away from polling stations, even though they were in possession of a valid NRC and voter card.

### **G. Voter Education**

The Electoral Act 2006 introduced voter education as part of the ECZ's mandate. To this end, the ECZ embarked on a wide voter education programme communicated through the media and local stakeholders (facilitators) across most of the country. These initiatives were supported by round tables with candidates, parties and local NGOs. Voters were encouraged to exercise their right to vote, and innovative formats, such as television drama, were employed to further public understanding of the election process.

The National and 72 District Voter Education Committees (DVECs) exemplified the ECZ's policy of joint ownership of the outreach programme, and a wide range of civil society organisations were involved in its delivery. On a national level, 12 NGOs were involved,<sup>16</sup> together with representatives of various public services such as the Zambia Police Force, the Anti-Corruption Commission, the Drug Enforcement Commission, the Curriculum Development Centre and Zambia News and Information Services (ZANIS). Each DVEC included a minimum of five NGOs, as well as state institutions. The joint efforts made by civil society and public bodies, including the police force, were welcomed by stakeholders. In total, the DVECs managed to coordinate the fieldwork of 657 voter education facilitators, who were employed by the ECZ and financially supported by the Zambian Election Fund. Despite these efforts, their activities did not always reach all the remote and/or rural areas of the country.

### **H. Candidate Nomination**

The process of candidate nomination was conducted in an open manner and it resulted in a wide range of candidates for voters to choose from. Registration of candidates was conducted in the absence of a law on political parties. At present, political parties are

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<sup>16</sup> The Anti-Voter Apathy Project (AVAP), Foundation for Democratic Process (FODEP), Southern African Centre for the Constructive Resolution of Disputes (SACCORD), Zambia National Women's Lobby (ZNWL), Operation Youth Vote, Zambia Reconstruction Organization, Voters' Association of Zambia, Women for Change, Council of Churches in Zambia, Transparency International Zambia, Evangelical Youth Alliance, Independent Churches of Zambia.

registered according to the provisions in the Societies Act, pursuant to Article 21 of the 1996 Constitution. There are a number of criteria to register as a presidential candidate, including: a minimum age of 35; Zambian citizenship with a further criteria that evidence must be provided that both parents of the candidate are Zambian nationals; a candidate must be sponsored by a registered political party, as well as have their nomination supported by a minimum of 200 registered voters. A final requirement is that candidates must also submit a declaration of assets and liabilities and, finally, pay a nomination fee. Parliamentary candidates should be at least 21 years of age, have their nomination supported by a minimum of nine registered voters of the respective constituency and pay an election fee.

The process of candidate nomination was conducted without major obstacles. Provisions relating to nominations in the Electoral Act 2006 provided an open and inclusive process for the nomination and registration of independent and political party candidates. The process of nomination for presidential candidates commenced on 11 August and lasted for four days. The nomination procedures were conducted at the Supreme Court of Zambia. Nominees for parliamentary elections and local government elections were required to submit their nomination documents to the returning officer in their respective constituency on 15 August 2006 between 09:00 and 15:00. They also had to submit a declaration of their eligibility criteria, made earlier before a magistrate, a range of professionals<sup>17</sup> or an election officer.

A number of candidates and parties were critical of the one-day period for nomination. The unnecessarily short period of time placed restraints on potential candidates, particularly those without easy access to the district capitals. Furthermore, another impediment repeatedly raised by candidates was the high and non-refundable nomination fee: K20 million<sup>18</sup> for presidential candidates, K500, 000 for parliamentary candidates and between K50, 000 and K100, 000 for candidates standing for local government. As the legal framework does not include provisions for replacement candidates nominated by political parties, parliamentary elections were postponed until 26 October due to the death of a candidate in two constituencies<sup>19</sup>.

The MMD was the only party to nominate parliamentary candidates in all 150 constituencies (see Table 1), reflecting its national outlook and support. The UDA party put forward candidates in 142 constituencies, thus also indicating its national ambitions. The election results, however, demonstrate a regional strength of the UPND in the south and a limited popularity of the UDA elsewhere in the country. The PF fielded candidates in 110 constituencies, contesting almost all the seats in six provinces but only a few in Southern, Western and North-Western. None of the other parties fielded candidates on a nationwide basis.

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<sup>17</sup> Local Court Justice, Head of a Primary or Secondary School, Principal of a College or Commissioner of Oaths.

<sup>18</sup> Exchange rate: €1 = approximately K5,000

<sup>19</sup> Lupososhi in Northern Province and Kabompo East in North-Western Province.

**Table 1: Number of political parties and candidates standing for election**

Number of candidates standing for election			
Political party	Presidential	Parliamentary	No. of female candidates
Agenda for Change	0	5	1
All People's Congress Party	1	37	4
Direct Democracy Movement	0	1	0
Heritage Party	1	37	8
Movement for Multiparty Democracy	1	150	23
National Democratic Party	0	1	0
New Generation Party	0	3	0
National Democratic Focus	0	32	2
Patriotic Front	1	110	19
United Democratic Alliance	1	142	13
United Liberal Party and the Zambia Conservative Party	0	21	4
Independent	0	158	27
Reform Party	0	5	2
Zambia Conservative Party	0	1	0
Party for Unity, Democracy and Development	0	6	2
<b>Total</b>	<b>5</b>	<b>709</b>	<b>105</b>

Note: In two other constituencies, the ECZ listed candidates from the individual parties of the UDA: in Luampa Constituency/Western Province for UPND and Bwacha Constituency/Central Province for FDD. In the table they are counted as UDA candidates resulting in 142 UDA candidates in 141 constituencies. Two PF candidates contested the same seat in one constituency (Bangweulu/Luapula Province). One hundred and fifty eight independent candidates contested seats in 93 constituencies.

Source: Electoral Commission of Zambia, 2006.

**Table 2: Candidates of main parties per province**

Province/Party	MMD	UDA	PF
Central Province	14	14	12
Copperbelt Province	22	21	22
Eastern Province	19	19	18
Luapula Province	14	11	14
Lusaka Province	12	12	12
Northern Province	21	18	21

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North-Western Province	12	12	1
Southern Province	19	19	8
Western Province	17	16	2
<b>Total</b>	149	142	110

## VI. ELECTION CAMPAIGN ENVIRONMENT

### A. Overview of the Campaign

The campaign period began on 28 July 2006 following the President's call for elections on 26 July. The environment in which the campaign took place was generally calm, with only a few minor election-related incidents. After election day, during the period of the announcement of the results, there were demonstrations and clashes between the police and supporters of the Patriotic Front. The campaign was competitive, and freedom of expression and assembly were respected across the country.

The three major parties, the Movement for Multiparty Democracy (MMD), the Patriotic Front (PF) and the United Democratic Alliance (UDA) campaigned actively for all three elections across the country, with the PF and the UDA focusing on their regional strongholds. The campaigns of the other parties fielding presidential candidates, the Heritage Party (HP) and the All People's Congress Party (APC), were extremely low key.

The campaign centred very much on personalities, with candidates also focusing on national economic development and corruption. Freedom of assembly was respected in compliance with the Public Order Act. The police adopted a flexible approach to the seven-day notice period required for a rally to take place, and often accepted very late notice of a planned event. Most rallies were well-attended, with a high proportion of women and children. While the parties adopted a wide range of campaign strategies, such as posters, rallies and media advertisements, door-to-door canvassing also acted as an important form of campaigning. A variety of institutions and NGOs also played a positive role in decentralising political debate by facilitating public discussions among candidates at a local level.

Despite the calm environment, there was some negative campaigning between the MMD and the PF. Both parties engaged the media to the same extent, particularly in their paid for political advertisements. At times, the language of Sata was particularly inflammatory, claiming that the policies of the MMD discriminated against the Bemba people. Other examples of such campaigning included comments on the sensitive issue of foreign investors, as well as on the corruption case against the former President Frederick Chiluba. This was coupled with incidents where parties openly encouraged distrust of the electoral system by promoting suspicion of election preparations, particularly the system for the electronic transmission of results.

Reflecting the negative tone of the campaigning in the media during his political rallies, MMD was also recorded using the strategy of suggesting to voters who attended the rallies in the south of the country that if they did not vote for MMD then they

would be neglected in the future government's policy initiatives. There were also reports of MMD supporters going from door to door collecting information on people's voter cards. On three occasions, MMD supporters dominated the audience at public meetings arranged by other political parties in Lusaka Province, which was perceived to have intimidated the other individuals in attendance.

Although the Electoral Act and the Electoral (Code of Conduct) Regulations 2006 tightened rules concerning the distribution of gifts by candidates to procure votes, the new provisions do not appear to have curtailed these problems. EU observers received several allegations of vote-buying as well as reports that candidates and parties were distributing gifts to individuals and communities.

The decision by the President to dissolve the cabinet before the start of the election campaign was a positive move in the effort to prevent the potential abuse of public resources for campaigning. However, the MMD used different governmental agricultural support programmes to try to influence, in particular, the vote of the rural population. These included the distribution of subsidised fertilisers, buying maize at high prices and distributing food to the rural poor. These policies were used as campaign tools exclusively by the ruling party, thereby creating an unlevel playing field among parties and candidates in rural areas. In addition, various stakeholders claim that the MMD used public offices, transport and communications facilities for campaign purposes.

The official end of the campaign period at 18:00 on 27 September was widely respected by the majority of candidates and parties. There were some minor exceptions, including a paid for advertisement in *The Post* newspaper by a UDA parliamentary candidate. The MMD also received coverage on ZNBC TV's news bulletins after the close of the official campaign period.

## **B. Role of Civil Society**

Civil society in Zambia is generally vibrant and active. The importance of the role of civil society groups in Zambian society was reflected in their range of activities during the electoral process. Civil society groups were fully engaged in the review of the electoral framework and were active participants in the Electoral Reform Technical Committee. At the end of the review process, they expressed disappointment at the limited range of reform proposals that were incorporated into the legal framework for the 2006 elections. Nevertheless, NGOs, faith-based groups, trade unions, as well as academic institutions, all played an important and positive role during the elections and provided an invaluable service to voters. They were actively engaged in election monitoring, civic and voter education programmes, and facilitated public debates between contestants.

A total of 137 civil society organisations deployed approximately 5, 000 accredited election monitors across the country. Domestic monitors from NGOs were present in 89% of polling stations visited by EU observers, with party agents present in 95% of polling stations visited. Monitors and party agents played a crucial role in enhancing the transparency of the process. The largest domestic NGOs involved in monitoring the elections were the Foundation for Democratic Process (FODEP), the Southern African Centre for the Constructive Resolution of Disputes (SACCORD) and the Anti-Voter

Apathy Project (AVAP). These groups formed a loose alliance and agreed a common nationwide deployment plan and uniform polling day monitoring forms. The Zambian National Women's Lobby (ZNWL) was the largest NGO with specific electoral observation on the role and participation of women. The Zambia Election Fund, supported by EU member states, provided assistance to NGOs in their election-related activities.

### C. Accreditation of Domestic Monitors

The procedures and timetable for the accreditation of domestic monitors and party agents were unsatisfactory. The deadline for registration was 27 September, one day before election day. However, the ECZ was unable to issue in time the required accreditation cards to many of the domestic monitors. In an attempt to rectify this problem, the ECZ amended its procedures one day before election day and decided to decentralise the authorisation process. District election officers were requested to issue the certificate of oath, and were instructed to allow domestic monitors entry to polling stations on condition that they wore distinct visibility material, held a letter confirming they were a member of an accredited NGO and that an oath was taken. The fact that civil society organisations responded quickly and effectively to the amended procedures ensured they had a wide presence in polling stations across the country.

The registration of polling agents representing political parties and independent candidates was however smooth. Registration of party agents was conducted on a constituency level. Each candidate was entitled to submit details of their agents during the nomination process. Subsequently, a copy of the nomination certificate, together with their national registration and voter cards, was sufficient to be registered as polling agents.

## VII. MEDIA ENVIRONMENT

### A. Overview

During the deployment of the EU EOM, freedom of expression and the right to publish were respected across the country. There has been an expansion of the media sector in recent years with the establishment of community radio stations across Zambia that is providing a greater degree of media diversity and choice for viewers and listeners. However, the state remains a key stakeholder in the media sector and is the owner of three radio stations, two daily newspapers and a television channel. The extended reach of these radio and television channels throughout much of the country ensured that state media would be a crucial platform for candidates and parties during the election campaign. Proposed reform of the regulatory framework and the transformation of the state broadcaster, ZNBC, have been slow and failed to materialise due to legal challenges leading to a legal and regulatory framework that lacks adequate independent regulatory institutions and an incomplete reform process for the sector in general.<sup>20</sup>

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<sup>20</sup> The Supreme Court reserved judgement on 11 October in the appeal for annulment of an earlier High Court decision in *Ministry of Information & Attorney General vs. Misa & Others* until an unspecified date. The case involves the procedures of appointment of the board members of ZNBC and IBA, the second of which was to be established as part of the reform of the regulatory framework for the audiovisual sector to act as an independent regulator, but has failed to materialise due to legal and political disagreement about appointment procedures. The case was raised due to the refusal of the Minister of Information to submit the



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## B. Legal Framework

The Electoral Act contains some general provisions regarding media coverage. Section 27 (2) establishes that all candidates and parties have the right to have their campaigns and manifestos reported by all of the state-owned media in a balanced manner. The main provisions relating to the media during the election campaign period are, however, contained in the Electoral (Code of Conduct) Regulations 2006 that includes an extensive list of obligations for the media for their coverage of the election. Regulations 12, 13 and 14 oblige the media to provide fair and balanced coverage of the candidates and parties and refrain from stating a political opinion as well as from airing content inciting violence or *inter alia* racial, religious or political hatred.

A specific obligation is also placed on ZNBC to allocate free airtime to all political parties and there is also a provision for parties to purchase no more than a maximum of 30 minutes airtime in any one language per week on one of the public radio or television outlets for paid for political advertisements (Regulation 13). An internal code of conduct was also issued by ZNBC reflecting the SADC principles and guidelines governing democratic elections that ZNBC is a signatory to. Furthermore, the Zambia National Broadcasting Corporation (Amendment) Act 2002 obliges ZNBC to reflect Zambian society and provide unbiased and comprehensive news coverage (Article 7 (m)).

Newspapers were allowed to publish paid for political advertising on the condition that any advertisements were clearly labelled so as they could be clearly identified by readers (Section 92). Penalties are set down in the Electoral Act and Electoral (Code of Conduct) Regulations 2006 for breaches of their provisions relating to media coverage. These range from a maximum fine of 2500 units (90 Euro), a maximum sentence of two years imprisonment, or both.

## C. Media Monitoring

Media coverage of the elections was perceived to be an improvement on previous elections. The sponsorship by the ECZ and local NGOs of ZNBC TV's debate-style programmes, which included candidates as well as representatives of local NGOs and the 90-minute interviews of the presidential candidates, aired on the channel were positive innovations that added considerably to the diversity of election coverage.

The media monitored by the EU EOM<sup>21</sup> tended to cover the elections in markedly different ways. The state-owned television channel ZNBC TV allocated, overall, 37% of its election related coverage to MMD, 24% to UDA, 13% HP, 11% to PF and 9% to APC. The percentage of coverage of opposition parties however, is heavily reliant on the sponsored programmes and paid for political advertising slots. Therefore, despite these positive steps,

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names recommended by an *Ad Hoc* Committee for appointments to the boards of ZNBC and a proposed independent regulatory body, the IBA, established in the IBA Act 2002 and Zambia National Broadcasting Corporation (Amendment) Act 2002.

<sup>21</sup> The media outlets monitored by the EU EOM were the state-owned ZNBC TV & ZNBC Radio 1, 2 & 4; state-owned daily newspapers the *Daily Mail* and the *Times*; and a sample of private media: The *Post*, Radio Phoenix and MUVI TV. Monitoring of the broadcast media was conducted daily between 18:00-00:00 hours. An additional 2 hour period: 06:00-08:00 was added for Phoenix Radio.

ZNBC TV failed to provide balance in important programmes such as news bulletins. MMD received a high proportion of news coverage (73%) and the only other parties to receive any significant coverage in news bulletins were PF with 11% and UDA 10% with all of the remaining parties receiving below 3% each. Two of the three ZNBC radio stations also demonstrated similar trends. On Radio 1 and 4, MMD received 77% of election related coverage across the two channels. Radio 2, however, broke this trend and provided a far greater degree of balance between the main candidates, allocating MMD 42% of coverage and PF and UDA 20% each, followed by APC, with 12%, though, as is the case of ZNBC TV, sponsored programmes were broadcast on the station.

The private audiovisual media generally provided a greater degree of access to candidates though MMD remained the dominant party in coverage. Radio Phoenix's coverage afforded the MMD 64% of space followed by PF (18%) and UDA (13%). These percentages in the allocation of space, however, include a large proportion of MMD paid for advertisements. Its news coverage demonstrates far more balance than the state broadcasters: MMD (44%), PF (28%), UDA (14%), ULP (6%) and the remaining coverage shared by four other parties. The independent candidate, Patricia Nawa, received the majority of airtime on MUVI TV due to the lengthy paid for political advertising slots she purchased. The only other significant coverage of the elections on the channel was news of which MMD received 59% followed by PF (27%) and UDA (8%).

Coverage of the elections by newspapers also demonstrated varying trends. Excluding paid for political advertising the MMD received 64% of election related coverage in the *Daily Mail* followed by PF (16%) and UDA (13%). In the *Times* a similar amount of space was afforded MMD (62%) with PF receiving 16% and UDA 12%. The *Post*, however, provided far greater balance and PF received 38%, UDA 16% and MMD 38%. Generally the tone of coverage of the elections was neutral or positive across all media. The only media outlets to critically engage in the elections were Radio Phoenix and The *Post*.

#### **D. Regulatory Issues**

The Electoral (Code of Conduct) Regulations 2006 established the ECZ as the responsible body for receiving media-related complaints. The only alternative would have been the Media Council of Zambia, a self-regulatory body for the media. However, the Media Council was largely redundant during the campaign period and, despite recent attempts to increase its capacity, it generally lacks funds and confidence from key stakeholders. Equality or proportionality of coverage of candidates by the media remains a grey area in the legal framework. As a result of the perceived imbalance of ZNBC's coverage, the ECZ requested that ZNBC ensured that its coverage complied with Regulation 12 (1a) and Regulation 13 (1) et seq., of the Code of Conduct. This request appeared to have no impact in correcting the bias, with the EU EOM's media monitoring continuing to record the same pattern in ZNBC's coverage. The degree of imbalance afforded the MMD and its candidates in key areas such as news coverage was to such an extent that ZNBC's coverage fell short of meeting international standards. Its coverage also fell short of meeting the provisions contained in relevant legislation including the Zambia National Broadcasting Corporation (Amendment) Act 2002 (Article 7 (m)). While positive innovations, such as the debate-style programmes, were an important part of the election

coverage of ZNBC, its overall performance needs to be improved considerably to meet international best practice in this field.

Although the punitive measures set down in the Electoral Act and Code of Conduct were not employed during the deployment of the EU EOM, the failure to bind the penalties that can be applied to the media to the principle of proportionality should be seen as a serious weakness in the legal and regulatory framework. The possibility of imprisonment is of particular concern and may have, what the United Nations Special Rapporteur on Freedom of Opinion and Expression has called, a chilling effect on the freedom of the media to investigate and report issues in the public interest. Under the current framework, had ECZ decided to act upon breaches of the Electoral Act or Electoral (Code of Conduct) Regulations 2006, then its only options would have been either to publicly condemn any violation, or request a criminal investigation by the police and public prosecutor. Given the absence of more suitable corrective measures in the Act and Code of Conduct, the option of criminal investigation would however represent a threat to freedom of speech.

It is also evident that the self regulatory body, the Media Council of Zambia, would not have been in a position to undertake responsibility for the regulation of the media during the campaign due to lack of resources. Other regulatory structures, envisaged in the reform of the regulatory framework for the broadcast media, have not been established. A further complication was that the proposed establishment of a sub-committee of the NCMC to deal with media complaints failed to materialise. In reality the legal framework failed to provide an adequate regulatory framework for media coverage of the elections and the lack of effective regulatory structures meant that even if the legal framework had been more refined there would have been an absence of an independent implementation and corrective framework and institutions to undertake such a role.

The lack of an effective legal and regulatory framework for the media continues to hinder the reform and development of the audiovisual sector. The establishment of independent regulatory bodies, suitably limited measures for remedies for breaches of the legal obligations placed on the media, continued reform of ZNBC and an effective base that provides legal certainty for the regulation of the media sector during the campaign period are all areas that require further development.

## **E. General Issues**

The recent merger of the government's public relations arm and the news agency ZANA to form ZANIS also raises a number of concerns. ZANIS is the largest news collection agency across the country and is the only news provider to have resources in many of the regions of Zambia which leads to it potentially being a crucial vehicle during campaign periods. However, the conflict of interest between its role in publicising the government and a major news provider is an anomaly in that even if it provided impartial news there is a wide perception that it works for the government and is incapable of supplying news that is independent.

## VIII. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS

Women were seriously under-represented as candidates in the tripartite elections, with a smaller number of female contestants than in 2001. While over 52% of eligible voters<sup>22</sup> were women, the number of female candidates who stood for election was extremely low. No women stood for the presidency and only 105 (15%) of the 709 parliamentary candidates were women. Female candidates contested seats in approximately half the constituencies. Of the 552 candidates who ran as a member of political party, only 79 (16.7%) were women. A further 26 women stood as independent candidates. In the local council elections, 404 (less than 10%) of the 4,095 candidates were women. The low proportion of female candidates is significantly below the commitments and targets included in agreements and protocols that promote women's rights. For example, as a member of the Southern African Development Community (SADC), Zambia is formally committed to its Declaration on Gender and Development which aimed to achieve at least a 30% target of women in political and decision-making structures by 2005.

In the 2006 elections, a total of 22 women were elected to the National Assembly, a marginal increase of approximately 2% from 2001 when 19 women were elected as MPs. Nonetheless, the number of women elected constitutes less than 15% of elected National Assembly seats, still considerably short of the SADC target of 30%.

A number of reasons have been put forward for the low number of female candidates, ranging from the above average percentage of women living in extreme poverty, as well as limited access to higher qualifications.<sup>23</sup> Other factors relate to patriarchal attitudes, traditions and customs, as well as insufficient access to resources for campaigning and institutional barriers. In its interim report on the tripartite elections, the Zambia National Women's Lobby (ZNWL)<sup>24</sup> said that political parties in Zambia are still "struggling to find the political will" to introduce policies to enhance the role of women in their parties. It said that in all the political parties, some women who were earlier adopted as candidates were later replaced with male candidates. The result was a decision by some women to stand as independent candidates, with only meagre campaign resources. Women candidates who remained party nominees reported that parties provided unequal access to resources. The one-day nomination process was also seen as a particular disadvantage for women. While a handful of candidates addressed issues of particular concern to the female population, only a small number of political parties and candidates made significant efforts to attract female voters.

There was however a stronger presence of women in both the election administration and the civil society groups involved in the elections. For example, 28% of presiding officers were women in polling stations visited by EU observers.

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<sup>22</sup> Out of 3,940,053 eligible voters 52.02% are female

<sup>23</sup> According to the UN's Human Development Index (HDI) in 2005, Zambia was ranked 166 out of 177 countries. The HDI is a comparative measure of life expectancy, poverty, education, literacy and income. The GDP per capita is \$US 877. The annual income of women is lower at \$US 629. In the overall gender-related development index Zambia is ranked 130. Source: <http://hdr.undp.org>

<sup>24</sup> The ZNWL undertook a gender-based analysis of the electoral process. On election day, it monitored voting and counting in the constituencies contested by women.

## **IX. ELECTION DAY**

### **A. Overview**

On election day, the EU EOM deployed 146 observers to all nine provinces. A total of 790 polling stations (12% of the number countrywide) were observed in 40 of the 72 districts. Seventy-two polling stations were observed for the opening, 655 during voting and 63 during the counting process.

Election day generally proceeded well, despite some delays to the start of voting due to the late arrival of essential election material. The environment was largely calm and peaceful, although there were a few incidents of minor disorder linked to the late opening of polling stations. The increased number of polling stations and the introduction of voting streams facilitated the smooth functioning of the voting process. However, in contrast to the generally positive conduct of polling, the counting, tabulation and transmission processes encountered numerous problems. Complex documentation, inadequate guidelines, insufficient training, as well as fatigue, meant that the processes were slow and that procedures were not always followed. Domestic monitors from NGOs and party agents were present at the majority of polling stations during all phases of election day, enhancing the transparency of the process.

### **B. Opening**

Voters began arriving outside polling stations in the early hours of 28 September, with long queues forming by the time polling stations opened at 06:00. In 30% of observed cases, polling stations opened more than thirty minutes late due to the delayed arrival of essential election materials. At 10% of stations visited, the late opening created tension and led to a few instances of minor disorder. The introduction of voter streams was a positive step. However, the absence of signs to direct voters to the correct stream caused confusion and resulted in some voters queuing in the wrong line.

### **C. Polling**

The voting process was generally well-administered by polling staff, with only minor shortcomings in the implementation of the polling procedures. In some polling stations, the continued delay in the arrival of essential election material resulted in the postponement of some elections<sup>25</sup>. Procedures were assessed positively in 90% of polling stations visited.

Observers noted three issues of concern over a possible breach of the secrecy of the vote. First, polling booths were positioned so that the voter casts a ballot in front of, rather than behind, the booth. Secondly, the Electoral Act states that the ballot issuer must write the voter card number on the counterfoil of each issued ballot, a procedure which, in theory, allows each ballot paper to be matched to each voter. In addition, observers also reported that assistance to illiterate voters was not always given according to procedures.

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<sup>25</sup> The presidential, National Assembly and local government elections took place instead on 29 September in several polling stations in Shangombo and Kalabo districts in Western Province. Local government elections in other wards took place on 26 October.

The voter lists also proved to be a matter of serious concern on election day. EU observers were present for an average of 30-45 minutes in 12% of polling stations nationwide and gathered reports of hundreds of registered voters being turned away, even though they had a valid national registration and voter card. The absence of names on the lists raises questions over the accuracy of the verification process. As an example, approximately 100 voters with valid national registration and voter cards in Kazungula district in Southern Province did not find their names on the register on election day, despite earlier requests during the verification period for their names to be added.

Domestic monitors from NGOs were present in 89% of visited polling stations. Party agents were present in 95%, contributing to the transparency of the process.

#### **D. Counting**

The counting process was very slow in most polling stations visited, sometimes taking up to 12 hours. However, despite the lengthy process and often inadequate lighting, election officials remained committed to the completion of their duties. Fatigue and incomplete presiding officer handbooks caused unnecessary errors during the counting process. In 40-60% of visited polling stations, reconciliation instructions before the opening of the ballot boxes were not always followed. Failure to follow the reconciliation instructions demonstrates both a weakness in the presiding officer handbook and a lack of understanding of the purpose of the procedures. Inadequate reconciliation made it difficult to correct discrepancies in the results forms, numerical errors which created problems further down the line during tabulation and transmission.

Another challenge was the high number of complicated administrative forms that the presiding officer had to fill in upon completion of the count, a process that sometimes took up to four hours. In general, the forms were too many, poorly designed and unnecessarily complicated. The order in which the presiding officer had to record the results differed from form to form, which opened the door to many mistakes. The optical-marked recognition (OMR) results forms contained an unnecessary number of rows and columns in which to fill in the required data. As was often the case, presiding officers did not place a zero in the boxes that were not needed and forms were rejected by the system.

Another issue of concern was that, in almost 57% of the polling stations visited during the count, neither the party agents nor the domestic monitors received a copy of the results forms, nor did they ask to receive a copy. This raises questions over the degree to which domestic monitors understood the processes they were observing. However, very few complaints were lodged about the counting process, showing that despite the difficulties and long hours, the count was conducted in a transparent manner, to the satisfaction of all stakeholders present.

Many observers reported that, due to poor communications, some presiding officers had difficulties on election day in contacting their returning officers with queries. The presiding officer handbook was therefore the only potential source of clarification of procedures. However, the handbook did not contain instructions in a sequenced order and provided insufficient information on key aspects of the process. No less than 12 pages

were dedicated on how to fold the cardboard polling booths, yet no clear instructions were given on the packing of essential election material.

### **E. Tabulation and Electronic Transmission of Results**

The tabulation and the electronic transmission of results proved to be lengthy, complicated, partially unsuccessful and, ultimately, the weakest step in the whole election process. The problems observed at the tabulation centres were first linked to the incorrect packing of election material by the presiding officer, and with poor organisation of the intake of material at the premises of the returning officer. Other difficulties were due to the high number of mistakes in the results forms.

Crucially, an audit of the results forms at constituency level is not foreseen in the electoral regulations. If audits had taken place, while both the presiding officer and returning officer were present, mistakes made at earlier stages could have been corrected before tabulation continued. This lack of audit impacted negatively on the electronic transmission of results. The database located on the server had pre-entered data about each polling station (e.g total number of voters, total number of ballots received), and would not allow the scanning of results forms which contained incorrect figures. There was a lack of clear guidelines regarding correction policy, and returning officers implemented different strategies. In some cases, the presiding officers were called back to correct the mistakes; in others, the returning officer and his/her assistants made the corrections.

In addition, election officers experienced difficulties due to their unfamiliarity with the IT equipment. Despite the problems, observers reported that stakeholders coped gracefully with the delays and that, in the early stages, their confidence in the system remained high. However, as problems with the scanning system continued, some stakeholders asked for the electronic system to be abandoned. Late on 29 September, and with the agreement of all political parties, the ECZ decided to return to the old system of faxing or physically delivering results to Lusaka.

## **X. RESULTS**

### **A. Overview of the Presidential Results**

The presidential election was less fragmented than in 2001 when ten parties fielded candidates for the presidency. President Levy Mwanawasa was re-elected to his second and final term with 42.98% of the votes, a 14% increase on his share in 2001. In contrast to the 2001 presidential elections, the outcome in 2006 was clear and unambiguous. The runner-up, Michael Sata of the Patriotic Front, received 29.37% of the popular vote, 13.61% less than Mwanawasa. In third place, Hakainde Hichilema of the United Democratic Alliance (UDA)<sup>26</sup> received 25.32%, approximately half the share of the vote received in 2001 by the parties composing the alliance (49.71%). As in 2001, Mwanawasa fell short of an absolute majority, with the majority of the electorate (57.02%) voting for one of the other four candidates. However, Mwanawasa was the only candidate with a

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<sup>26</sup> An alliance of the United National Independence Party (UNIP), the Forum for Development and Democracy (FDD) and the United Party for National Development (UPND)

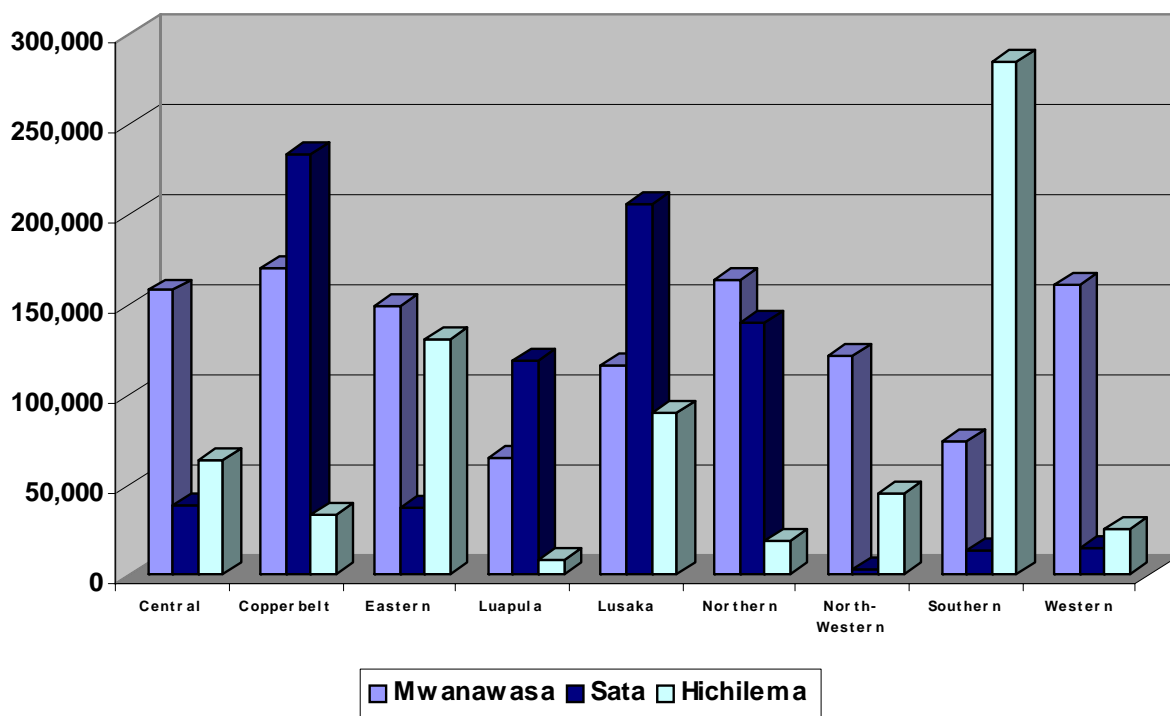
substantial following throughout the country. Sata received his main support in the north and Lusaka, and Hichilema in the south and east.

**Table 1: A Comparison of Presidential Election Results, 2001 and 2006**

Year Provinces	2001	2006	2001				2006	2001	2006	2001	2006
	MMD	UPND	UNIP	FDD	UDA	PATRIOTIC FRONT	TURNOUT				
<b>Central</b>	31.26	58.53	28.31	8.72	9.04	23.48	1.40	14.08	67.07	70.61	
<b>Copperbelt</b>	38.01	38.14	11.95	4.19	8.45	7.4	7.18	52.43	72.60	71.22	
<b>Eastern</b>	16.19	42.65	4.21	35.80	28.27	38.23	0.73	10.60	65.66	69.35	
<b>Luapula</b>	53.37	32.80	4.23	7.83	8.33	4.16	3.61	60.06	66.24	63.33	
<b>Lusaka</b>	15.56	27.55	30.72	6.49	23.57	21.35	3.67	48.86	64.75	71.16	
<b>Northern</b>	42.01	48.92	4.51	13.16	12.58	5.49	8.00	41.93	66.46	71.97	
<b>North- Western</b>	32.25	68.09	48.22	3.87	5.74	25.43	0.24	1.90	70.73	72.74	
<b>Southern</b>	14.85	19.22	70.93	1.89	4.41	74.46	0.33	3.49	71.48	76.16	
<b>Western</b>	34.55	75.24	48.96	3.66	3.49	12.05	0.27	6.97	64.98	73.26	
<b>Total</b>	<b>28.69</b>	<b>42.98</b>	<b>26.76</b>	<b>9.96</b>	<b>12.96</b>	<b>25.32</b>	<b>3.35</b>	<b>29.37</b>	<b>67.81</b>	<b>70.77</b>	



**Chart 1: Number of Votes/Province by main Presidential Candidates 2006**



President Mwanawasa improved his performance in all but one of the nine provinces (Luapula). With a total of 1,177,846 votes, he received over 370,000 (nearly 14%) more votes than Michael Sata. As a comparison with the previous elections, Mwanawasa received only 33,997 votes more than Anderson Mazoka, the second-place candidate in 2001. Mwanawasa won most votes in five of the nine provinces, as opposed to four in 2001. In all but two of the provinces, Lusaka and Southern<sup>27</sup>, Mwanawasa obtained at least 30% of the vote and, of all the contestants, he commanded the widest support nationwide. He made large gains in four provinces, Central, Eastern, North-Western and Western, which together more than outweighed the heavy losses in Luapula.<sup>28</sup>

Michael Sata made large advances on his 2001 performance and gained the largest number of votes in three provinces, Copperbelt, Lusaka and Luapula. He came a relatively close second in Northern Province. His performance is illustrated by a very uneven distribution of votes, with these four provinces alone accounting for around 86% of his 804,748 total votes. In four other provinces, Southern, Central, Eastern and Western, he scored less than 15%.

Hakaide Hichilema gained most of the votes in his home area of Southern Province, performed well in Eastern Province and gained notable support, above 20%, in Lusaka, North-Western and Central provinces. These five provinces account for 88.56% of his nationwide total of 693,772 votes. He received just over 10% of the vote in Western

<sup>27</sup> In Lusaka, Mwanawasa received 27.55%, and in Southern 19.22%

<sup>28</sup> Mwanawasa gained 27.27% in Central; 26.46% in Eastern; 35.84% in North-Western, and 40.69% in Western province. In Luapula, he lost 20.57%.

Province, and less than 10% in Copperbelt, Luapula and Northern. Like Sata, Hichilema has regional strongholds but no nationwide following. In comparison to the combined performance in 2001 of the three parties that now form UDA, the result of Hichilema in 2006 is about half that of 2001, approximately the same as that of Anderson Mazoka as UPND presidential candidate.

## B. Overview of the Parliamentary Results

The parliamentary election results widely reflect those of the presidential election, but with some notable differences. The MMD won most seats (72) but, like Mwanawasa, fell short of an absolute majority. The opposition secured a slight majority of elected MPs, gaining 76 of the 150 elected seats<sup>29</sup>. However, even if the two remaining seats to be contested on 26 October are won by the opposition, the MMD will have a parliamentary majority with the additional eight MPs appointed by the President.

**Table 2: Parliamentary Elections 2001 and 2006, Number of Seats/Party**

Year Provinces	2001	2006	2001			2006	2001	2006	2001	2006
	MMD	UPND	UNIP	FDD	UDA	PATRIOTIC FRONT	INDEPENDENT CANDIDATES			
Central	7	12	5			2			2	
Copperbelt	20	4		1				18	1	
Eastern	1	15		12	5	4			1	
Luapula	13	4			0			9	1	1
Lusaka	1	5	4		6			7	1	
Northern	20	10					1	9		1
North-Western	3	9	9			2				
Southern	1		18			17				2
Western	3	13	13		1	1				3
<b>Total</b>	<b>69</b>	<b>72</b>	<b>49</b>	<b>13</b>	<b>12</b>	<b>26</b>	<b>1</b>	<b>43</b>	<b>6</b>	<b>7</b>

Many MPs were elected to the National Assembly for the first time, with only one-third of MPs (52) from the old Parliament being re-elected. This has contributed to a significant shift in regional power balances. For the first time since the return to a multi-party system in 1991, the MMD lost most of its support in Luapula, Northern and Copperbelt provinces which had been the mainstay of its rule. It lost 31 of the 53 seats it had won in 2001 to the

<sup>29</sup> The elections in two constituencies were postponed as one candidate in each constituency died after the nomination period.

Patriotic Front. However, the losses were more than compensated by strong gains in Eastern, Western and North-Western provinces.

The parliamentary results also indicate that the party landscape is still very much in motion. After the 2001 elections, seven parties and one independent MP were represented in the National Assembly. Now there are five parties and three independent MPs. More significantly, of those who had strong representation in 2001, only the MMD and the UPND (as part of the UDA) have significant numbers in the new Parliament. The FDD and UNIP (as part of UDA) have only two and three seats respectively. A total of 20 MPs from the 2001 Parliament were re-elected on a different party ticket in 2006. Nine MPs from opposition parties were adopted by the MMD. The Patriotic Front provided the platform for 11 MPs, originally with other parties, to become re-elected.

**Table 3: MPs from the 2001 Parliament elected on another party ticket in 2006**

<b>New Party</b>	<b>MMD</b>	<b>PF</b>	<b>ULP</b>
<b>Former Party</b>			
UPND	4	3	
HP	3		
UNIP	1	1	
ZRP	1		
MMD		2	
FDD		4	
Independent		1	
UPND			1
<b>Total</b>	<b>9</b>	<b>10</b>	<b>1</b>

The MMD has the widest national coverage, winning mandates in every province except Southern. As in the presidential election, it is the strongest party in the five provinces of Central, Eastern, Northern, North-Western and Western. In contrast to 2001, when the MMD won 46% of the parliamentary seats but only 28.69% of the presidential vote, its level of support for both elections in 2006 is similar (48% of parliamentary seats and 43% of the presidential vote).

The Patriotic Front is the strongest opposition party with 43 MPs. However, they come from only four provinces, Copperbelt, Luapula, Lusaka and Northern, where the PF is either the major political force or the second largest party. This contrasts with the UDA which won 65% of its seats in only one province, Southern, and is only a minor player in the other four provinces where it won mandates (see Table 2).

None of the opposition presidential candidates is member of the new Parliament because the Constitution stipulates that presidential candidates cannot stand for parliamentary seats. While this may be changed for future elections if the process of electoral reform is revived, current opposition leaders do not have a parliamentary platform from which to challenge the government, and they are not in a good position to contribute to the effective capacity-building of opposition parties in Parliament.

## **XI. RECOMMENDATIONS**

### **A. Legal Framework**

- Many essential aspects of the electoral process are included in regulations issued by the ECZ. It would be advisable to consolidate and simplify all election-related legal instruments into one uniform and consistent law for all elections. All election stakeholders should be consulted over any proposed changes. Regulations and instructions issued by the ECZ during later stages in the electoral cycle should be recorded and widely published in order to ensure transparency and confidence in the election administration.
- Consideration could be given to reviewing the electoral system with a view to the possible introduction of a new majority requirement for future presidential elections, and a mixed-member system for future National Assembly elections.
- The timeframe between the President's call for elections and the actual date of the elections should be a minimum of three months, and should be determined in consultation with the ECZ. A wider timeframe would provide a more level playing field for parties and candidates, enabling them to plan for nominations, fundraising and campaigning.
- A permanent independent election tribunal, separate from the ECZ, should be established to resolve election disputes.
- The adoption of a law on political parties would encourage the development of stronger party structures, define their rights and responsibilities and ensure their independence from government. It should also introduce a quota on the representation of women in party structures.
- The introduction of legal provisions to limit campaign spending and regulate political party financing would remove the uneven playing field for parties and candidates and encourage greater accountability. The introduction of the public funding of political parties is also a possibility.
- Eligibility criteria for candidates for the National Assembly should be revised so as to allow public servants, teachers and others their political right to stand for elected office. Candidates for the presidency should not be prevented from also running for the National Assembly.
- The list of electoral malpractices and their penalties outlined in the Electoral Act and the Code of Conduct should be revised in order to ensure that sanctions are proportional to the alleged offences. The requirement of intent to influence a voter should be removed from the offence of bribery because the reality of bribery is more important than the intent behind it.

- A review of the delimitation of constituencies is advisable in order to ensure similar population numbers in each constituency, as outlined in the Constitution.
- The ECZ should make provisions for special needs registration and voting to ensure that the homebound, the hospitalized and others are able to participate in the electoral process. In addition, consideration should be given to out-of-country and absentee voting to ensure maximum enfranchisement of eligible voters.
- The duties of the Chief Justice as returning officer for presidential elections should be transferred to the ECZ. This would avoid a potential conflict of interest in case of a petition at the Supreme Court over the validity of a presidential election.
- Provisions should be introduced into the legal framework to ensure a higher representation of women in decision-making processes.

## **B. Election Administration**

### *Increase the independence, capacity and transparency of the ECZ*

- The ECZ must become an independent, autonomous body in terms of the appointment of its members, its funding and performance. Instead of the President proposing members for their ratification by Parliament, at least two-thirds of the National Assembly could put forward candidates for confirmation by the President. The ECZ's funding should be guaranteed by the Ministry of Finance as per budget allocations.
- The ECZ should adopt a clear set of internal procedures to ensure its full transparency to stakeholders. In particular, the ECZ should publish immediately its decisions, minutes and internal procedures, and create an archive of this material which is open to public inspection. It should hold regular, open meetings for all stakeholders, provide details of all formal complaints received and publish all final election results in a comprehensive and timely manner.

### *Ensure efficient and accountable election preparations*

- In order to ensure fast, efficient and accountable election preparations, a detailed election calendar, incorporating all legal and sub-legal timelines, should be produced for future elections. Such a calendar would regulate dates and time periods for all aspects of the voter registration process, candidate nominations, election campaigning, the accreditation of monitors, observers and the media, as well as a timetable for the filing and resolution of petitions.
- A thorough operational plan should precede each future election. It should address the timely purchase, storage and delivery of election material, the training of electoral staff and voter education activities, and determine clearly which section of the ECZ is responsible for their implementation.
- Appropriate departments should be established within the ECZ's Directorate, including one specifically for the training of electoral staff. Each department should

have sufficient decision-making capacities to reduce the burden of the director and his/her deputies, and each electoral officer should work on the basis of clear terms of reference.

*Decentralise the ECZ*

- Full-time provincial and district election officers should be recruited in order to improve coordination between the ECZ, its Directorate and the field. A permanent, decentralised presence in the field would enable the ECZ to conduct continuous voter registration and engage in training and capacity-building on a local level.

*Introduce continuous voter registration*

- While an eventual goal of the government could be the introduction of an effective civil register from which the voter register can be extracted, voter registration in the meantime should be conducted on a continuous basis.
- Coordination between the Ministry of Home Affairs' Department of National Registration and the ECZ should be enhanced so that all eligible citizens are issued with a National Registration Card (NRC) before voter registration. To this end, the Department of National Registration could be supported to computerise its operations.
- Mobile voter registration units should be used to reach voters who are unable to reach stationary locations. Special provision could also be introduced to register the homebound, hospitalised and, possibly, voters living abroad.
- Voter registration and verification should end much closer to polling day in order to give the electorate maximum opportunity to participate. The quality control of the voter register should be strengthened to ensure that corrections made during the verification period are accurately incorporated into the register.

*Improve the training of electoral staff*

- The training of electoral staff is in need of substantial improvement. Although there was a high level of competency among the trainers, observers reported that training facilities, equipment and the amount of training provided were unsatisfactory. Larger rooms, smaller groups, longer training periods, practice exercises, polling day simulations and follow-up training modules should all be introduced. In addition, step-by-step election manuals for presiding and returning officers, covering polling, counting, the packing and intake of materials and the tabulation and aggregation of results, should be provided.

*Adopt effective regulations for candidate nomination*

- The nomination period for aspiring presidential, parliamentary and local government candidates should be at least several days to give sufficient time to potential candidates.

*Continue and enhance effective voter education*

- Greater efforts should be made to extend voter education activities to both rural and remote parts of the country.
- A public awareness campaign should be launched to inform the public about the safeguards that have been implemented to protect the integrity and security of the system for the electronic transmission of results.

*Facilitate further the crucial role of civil society*

- Domestic monitors should be able to receive their ECZ accreditation at a much earlier stage in the electoral process, to cover voter registration and the nomination of candidates. The accreditation of monitors should be decentralised and be conducted at a district or constituency level in order to reduce the workload of the ECZ Directorate.
- Civil society organisations should be supported in their efforts to enhance the procedural knowledge of domestic monitors across all stages of the electoral process, from voter registration to candidate nomination, polling, counting and the aggregation of results. Civil society organisations should be offered technical assistance as soon as possible in order to strengthen their analytical capacities and their participation in the ongoing process of electoral reform.

**C. Media**

- The punitive measures contained in the Electoral Act and Electoral (Code of Conduct) Regulations 2006 should be removed in respect of their application to the media sector and replaced with a limited set of measures such as right of reply and correction. The procedures for criminal investigation should also be withdrawn and replaced with a more suitable set of tools.
- The reform of the regulatory framework for the audiovisual sector that has been suspended should be implemented and completed as a matter of urgency. Independent bodies and appointment procedures should be established as a priority in order to finalise the reform package introduced in 2002. ZNBC also needs to demonstrate real and tangible improvements in its standards and levels of diversity if it is to be transformed into a public service broadcaster, as indicated in the legal reform of the sector.
- More refinement and legal certainty should be developed for the provision of free access slots on ZNBC for candidates and parties. This should clearly establish the

amount of airtime each candidate is entitled to during the campaign period. ZNBC's internal programme guidelines should also be refined to ensure proportional access to candidates in important programmes such as news bulletins.

- In light of the failure to establish the Media Council of Zambia as a credible and operational body, the media community should revisit the role of such self-regulatory bodies and develop measures to ensure that a functional and effective self-regulatory body is established.
- In line with the increasing trend in international law, consideration should be given to decriminalising the offence of defamation. Other offences related to printing or publishing and protection of character should be removed from the register of criminal offences and articles in the penal code. Subsequently the civil courts should be made the appropriate mechanism for redress.
- ZANIS agency's status and mandate should be transformed to separate the news collection and provision, and government's public relations arm. Failing this, the agency's public relations activities should be suspended during campaign periods and its resources should be made available to candidates on a proportional basis.

#### **D. Participation of Women in the Electoral Process**

- All electoral stakeholders should be encouraged and supported in their efforts to promote the role of women in political life. Measures such as the introduction of a political party law should provide quotas on the representation of women.
- Serious consideration should be given to a reform of the electoral system and the introduction of a mixed member system with quotas for women.
- Political parties should be encouraged to address issues of concern to women and make greater efforts in facilitating the role of women in their party structures.

#### **E. Opening and Polling**

- Essential election material should be delivered to presiding officers at least one day before election day in order to ensure everything is available for the opening of polls. A second verification of material, in addition to the one conducted by the returning officer, would help identify any missing material.
- Voters showed great commitment to the democratic process by arriving at polling stations very early in the morning. However the resulting long queues meant that polling stations were often very congested until midday and then empty in the afternoon. In order to avoid long queues and crowded polling stations, public information announcements before election day could try to encourage a steady flow of voters throughout the day.



- The organisation of voter streams could be improved with the introduction of clearly visible signs directing voters to the correct queue. Polling station management guidelines would also help election staff organise the various streams.
- Consideration must be given to further increase the secrecy of ballot, such as a revision of the layout of polling stations, in particular the polling booth. In addition, the recording of voter card numbers on ballot counterfoils should be discontinued.

## **F. Counting and Tabulation**

- The counting process should be made less complex. Results should be counted and recorded separately in different polling streams. It is recommended to replace the multiple forms with one comprehensive, clearly-designed reconciliation form, which includes a section for the results. It is essential that the reconciliation of ballots takes place before ballot boxes are opened.
- The filling in of the forms took place in often inadequate lighting and was conducted by election staff who had already worked an almost 24-hour day. Adequate lighting should be provided in polling stations and consideration could be given to the introduction of a count officer who begins his/her duties at the end of polling, thus relieving the burden of the presiding officer.
- It was mandatory for the optical-marked recognition (OMR) results forms to be filled in with pencil. However, it would be preferable to use an ink pen in order to further enhance confidence in the process. In addition, the filling in of OMR forms must be practised sufficiently prior to polling day in order to avoid problems with their transmission.
- The packing of election materials proved to be a challenging task. Neither the Electoral Act, nor the presiding officer handbook, provide clear and precise guidelines. A practical recommendation would be the inclusion of a packing chart in the presiding officer handbook.
- It also appears necessary to improve the operational plan for the collection of presiding officers and election materials upon the completion of counting. In some areas, observers reported that presiding officers had to wait for 24 hours. The ECZ's operational plan should ensure that the provision of transport meets the specific needs of each constituency.
- Furthermore, the instruction to wait for the arrival of all ballot boxes before starting tabulation meant that, in some cases<sup>30</sup>, the process did not begin until midday on the 29 September. In order to speed up the tabulation process it is recommended to allow the returning officer to start processing the results forms as soon as they arrive.

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<sup>30</sup> Monze and Kafue Central constituencies

- A clearly-defined floor plan at the premises of the returning officer would help improve the intake of election materials. The marking of separate areas for the different stages would facilitate the process.
- As well as checking the physical presence of election material, it is essential that an audit of the results forms is conducted at the intake stage while the presiding officer is still present. Errors can be corrected at this point, thus avoiding problems later on during the tabulation and transmission processes.
- In order to familiarise staff with equipment and procedures, practice exercises of the electronic transmission system should be conducted on a nationwide basis well in advance of election day. The aggregation and electronic transmission of results must always be conducted in full view of election officials, observers and monitors.
- Election results should be published as widely as possible. Copies of results should be published at polling station level after the count is completed. Election results at district level should be publicly displayed at the premises of the district election officer. It is also recommended that the ECZ ensures a prompt publication of all election day data in order to further increase confidence in the electoral process.