

**SECRETARIAT
INTERNATIONAL CONFERENCE
ON THE GREAT LAKES REGION**



**SECRETARIAT
CONFÉRENCE INTERNATIONALE
SUR LA RÉGION DES GRANDS LACS**

ICGLR ELECTION OBSERVATION MISSION (EOM) TO THE REPUBLIC OF ZAMBIA, 12TH AUGUST, 2021, PRESIDENTIAL, PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS

PRELIMINARY STATEMENT

14th August 2021

Section 1. Introduction

Pursuant to the Pact on Security, Stability and Development in the Great Lakes Region and the Protocol on Democracy and Good Governance and in response to the invitation by the Government of the Republic of Zambia, the International Conference on the Great Lakes Region (ICGLR) deployed a Short-term Election Observation Mission to the General Elections held on the 12th of August 2021.

The International Conference on the Great Lakes Region (ICGLR) comprises twelve (12) countries namely the Republic Angola, the Republic of Burundi, the Central African Republic, the Republic of Congo, the Democratic Republic of Congo, the Republic of Kenya, the Republic Rwanda, the Republic of South Sudan, the Republic of the Sudan, the United Republic of Tanzania, the Republic of Uganda, and the Republic of Zambia.

The Republic of Angola is the current chair of the ICGLR.

The Observer Mission of the general elections to the Republic of Zambia was formally launched by the relevant ICGLR structures. On the same occasion His Excellency Agostinho Tavares Da Silva Neto, Ambassador Extraordinary and Plenipotentiary of the Republic of Angola in the Republic of Zimbabwe, was presented as Head of the ICGLR Observer Mission. The Mission was composed of Observers from ICGLR Members States, the ICGLR Forum of Parliaments of the ICGLR and members of the ICGLR Secretariat.

Section 2. Objectives of the Mission

The ICGLR Short-Term Election Observation Mission aimed to make an impartial and objective assessment of the integrity of the 2021 General Elections in the Republic of Zambia in line with the national legal framework and the international and African normative framework for democratic elections.

Section 3. Methodology of the Mission

The ICGLR Short-Term Election Observation Mission (EOM) arrived in the Republic of Zambia on 29th July 2021 and will remain in the country until 15th August 2021. Ahead of the elections, the Mission leadership and observers were briefed by the following stakeholders: Christian Churches Monitoring Group (CCMG), Transparency International Zambia, Southern African Centre for the Constructive Resolution of Disputes (SACCORD), Non-governmental Gender Organisations' Coordinating Council (NGOCC), Human Rights Commission, Centre for Young Leaders in Africa (CYLA), Caritas Zambia.

ICGLR observers underwent an internal briefing and orientation session for a day and a half on 8 and 9 August 2021. The ICGLR officially launched its EOM on 10th August 2021 at a press conference. Seventeen observer teams observed the Election Day process on 12th August 2021 in seven (07) constituencies in the Lusaka province.

The Mission is presenting in this statement its preliminary findings up to the counting process in the select polling stations visited by its teams comprised respectively of three observers. A final report will be released upon the conclusion of the electoral process and will be shared with the government of the Republic of Zambia.

Section 4. Mission Findings

4.1. The political context

The 12 August 2021 general elections were the second elections conducted on the basis of the amended legal architecture adopted in 2016. The 2021 general elections took place within a context characterised by polarised political competition emanating from the disputes over the 2016 elections by the two main political parties, the Patriotic Front (PF) and the United Party for National Development (UPND). The ICGLR EOM notes that, as in during the 2016 general elections, political polarisation disturbingly manifested itself in reported sporadic and localised incidents of political and physical violence and destruction of campaign materials. The Mission was informed of reported fatalities, including the unfortunate death of two (02) supporters of the PF in the Kanyama constituency and of the PF chairman in the North Western province. The ICGLR

EOM strongly condemns these deplorable acts, including the physical attack on a UPND party member who was left critically injured in Chilanga. The Mission also noted heightened security presence and the deployment of the military in Lusaka, a government measure that has yielded mixed reactions from stakeholders consulted.

The context was also marked by the construction, deconstruction, and reconstruction of political alliances in the lead-up to the 2021 elections; the socio-political polarisation over contentious issues notably Bill 10 whose aim was to address the gaps in the amended Constitution of 2016; and the disputes over Presidential Terms of Office.

Political contention was further compounded by the COVID-19 pandemic and ensuing reported prevention, interruption and suspension of campaign rallies and public meetings regulated under the Public Order Act.

4.2. The legal and institutional framework

The ICGLR EOM notes that the 2021 general elections in the Republic of Zambia held against the legal framework comprising of the:

- Bill of Rights contained in the 1991 Constitution of Zambia.
- Constitution of Zambia (Amendment) Act No. 2 of 2016.
- Electoral Commission Act (ECA) No. 25 of 2016.
- Electoral Process Act (EPA) No. 35 of 2016.
- Public Order Act (POA).
- Electoral Code of Conduct.

The Mission was informed of an amendment made to the Electoral Code of Conduct contained in the EPA No. 35 of 2016. The amendment allows for incarcerated persons to exercise the right to vote.

The Electoral Commission of Zambia (ECZ) is established and governed by relevant clauses of Constitution Amendment Act No. 2 of 2016 and the ECA No. 25 of 2016. The Mission notes that certain relevant legal provisions related to the establishment of permanent provincial and district-level structures are yet to be operationalised in line with article 229 (1) of the 2016. The ICGLR EOM is of the opinion that full operationalisation of the decentralisation of the ECZ will contribute to strengthening the ECZ in the execution of its mandate in line with the African Charter on Democracy, Elections and Governance.

The Public Order Act regulates the holding of public meetings and/or processions among others, public political gatherings, with the enforcing bodies being the Law Enforcement Agencies, including the police. Some stakeholders, met by the ICGLR EOM, have expressed concerns over the enforcement of relevant clauses of the Act and implications for the election campaign environment.

The Mission was informed of a series of consultations about the candidate nomination fee for the 2021 presidential, parliamentary, and mayoral elections which was considered high by candidates. The Mission is also aware that some election observer groups had raised this matter amongst their findings during the 2016 elections. The ICGLR EOM notes that the candidate nomination fee for these elections was reduced. The Mission is of the opinion that the reduction is a supplementary positive step towards further promotion of the right to participate in public affairs and the right to be elected as enshrined in international and African instruments for inclusive elections.

Notwithstanding the positive contribution of the 2016 legal reforms to the level of compliance of the Republic of Zambia's constitutional and legal framework with international and African benchmarks the ICGLR EOM notes the following existing gaps in the law:

- The 20-year residency requirement for presidential candidates.
- Non recognition of the political right to stand as presidential candidate for Zambians wishing to run as independent candidates.
- The deadline for the determination of presidential election petitions by the Constitutional Court.
- Commencement of the 37-day period for the holding of the second round of the presidential election.
- The Constitutional provision that requires the incumbent to continue to perform executive functions until the assumption of office by the president-elect. This provision may compromise the principle of even political competition and may not promote a levelled playing field if the incumbent runs as a political contestant.

4.3. Preparedness of the Electoral Commission of Zambia

To meet the constitutional requirement of article 56, which requires that a general election shall hold every five years on the second Thursday of the month of August, the ECZ prepared for the conduct of the 2021 general elections in 10 provinces, 116 districts, 156 constituencies and 1858 wards amid the COVID-pandemic. The Mission was informed that the ECZ established 12,152 polling stations for these elections. The Mission notes with satisfaction that the ECZ took the decision to convert polling streams to polling stations based on

recommendations by election observer groups and following consultations with the relevant stakeholders.

4.4. Voter registration

The Mission was informed that the final certified register contains a total of 7, 023, 499 voters, with 3, 751, 040 female voters and 3, 272, 459 male voters. The ICGLR EOM notes a narrow increase of 325,127 registered voters from the total of 6,698,72 registered voters on the 2016 voters' roll.

Certain stakeholders consulted by the ICGLR EOM expressed concerns about the comprehensiveness and accuracy of the voter register.

4.5. Candidate nomination

Based on information shared by the ECZ during its 10 August 2021 general briefing with observer groups and the diplomatic community, the Mission was informed that candidate nominations for presidential, parliamentary, and local government elections were submitted from 17 to 20 May 2021.

The Mission was also informed that possession of the Grade 12 certificate by candidates and the nomination fee amount were issues of concern raised by stakeholders consulted by the Mission.

4.6. Election campaign

The Mission observed the end of the campaign period in Lusaka and noted the absence of mass gatherings or rallies due to the impact of Covid-19. The Mission noted that the campaign was limited to the use of posters and other digital mediums. The Mission also noted that the campaign environment in Lusaka was dominated by campaign materials, including billboards and posters, of the ruling party. Regrettably, some campaign materials from the opposition were seen torn in different locations in Lusaka. While the silent day was largely observed in Lusaka, campaign materials remained visible on election day. The Mission also learned about the Civil Servants Debt Swap Initiative which was introduced at the peak of the campaign period

The Mission was informed that the UPND presidential candidate could not access certain provinces, including the central and Copperbelt provinces, during the election campaign. The ICGLR EOM is of the view that these restrictions did not contribute to the exercise of the UPND presidential candidate's right to freedom of movement and freedom to assemble as foundational democratic principles

safeguarded by the Bill of Rights in Zambia's constitution and international and African benchmarks.

4.7. Women and Youth participation

Despite the low participation of women as candidates, high levels of women and youth participation as voters was reported throughout the election day across the polling stations visited.

A strong presence of women, as polling officials, including presiding officers, was also observed in most polling stations visited. In some polling stations observed by ICGLR observer teams, the security personnel were mostly women.

4.8. Civil society participation

The ICGLR Mission commends the strong participation of Civil Society Organisations in the 2021 electoral process and their presence in all the polling stations visited on election day. The deployment of long-term election observation mission by civil society networks is an indicator of their commitment to a more transparent electoral process.

4.9. Media

The ICGLR welcomes the initiative by the ECZ to sponsor both the public and private media. The involvement of the media regulator remains paramount in order to ensure the lawful and good use of the resources by the ECZ.

Stakeholders met by the Mission expressed concerns about biased and inequitable coverage and reporting of campaign activities of contesting political parties by the public media.

4.10. Civic and voter education

The Mission records that civic and voter education was conducted by stakeholders including the ECZ, political parties, and the civil society organisations across the country.

The conversion of polling streams to polling stations coupled with the number of ballots on the 12 August required comprehensive and more effective civic and voter education programs.

Section 5. Election Day Observation

The ICGLR short-term EOM observed the Election Day procedures, including opening, voting, closing, and counting in a select sample of polling stations in seven (07) constituencies of the Lusaka province. The Mission's findings cover the period up to the close of vote counting in the polling stations visited by ICGLR observer teams.

5.1. Opening the poll

Long queues ahead of the opening of the polls were reported by all the ICGLR short-term observer teams. A peaceful environment inside and around the polling centres visited at the time of opening was reported by all the observer teams. Certain teams reported the removal of certain campaign materials by the ECZ as the polls were opening.

Opening procedures were largely applied and complied with by the polling officials in polling stations visited by the Mission. In all the stations observed ballot boxes were correctly sealed with four serial-numbered seals.

Most polling stations visited by the ICGLR EOM opened at the legally stipulated time. Certain polling stations visited opened late due to late arrival of certain election materials.

5.2. Polling stations

ICGLR observer teams observed long queues of voters as polling unfolded in the areas covered by the Mission. Most polling stations visited were accessible for special voters, including persons with disabilities and the elderly. Some stations visited were accessible to persons with disabilities owing to the use of ramps. Observer teams noted that the layout of most polling stations visited by the Mission was conducive for easy flow of voting and secrecy of the ballot being protected. The layout in these stations allowed easy observation by party agents and observer groups and this in spite of the high number of party agents in certain cases observed. Some teams reported narrow and crowded space in certain stations visited.

ICGLR observer teams reported weak queue management in all the polling stations visited on Election Day.

One ICGLR observer team observed prison voting and reported a smooth voting process during its visit.

5.3. Voting procedures

ICGLR observer teams reported that voting procedures were largely applied and complied with in all the polling stations visited.

In all the polling stations visited by the Mission voters were requested to present their National Registration Card (NRC) and voter's card to relevant polling officials, their voter details were verified manually and checked against the voter's list by the polling officials. The ICGLR EOM was informed of the deployment of Biometric Voter Verification Devices in select polling stations. The Mission did not observe biometric verification in any of the polling stations visited. Observer teams also reported that some party agents in all the polling stations visited also cross-checked voter credentials against their copy of the voter's list. The ICGLR EOM is of the view that possession of the voter's lists by party agents served as a confidence-building measure during the voting process.

Systematic application of indelible ink was reported by ICGLR observer teams in all the polling stations visited. The Mission observed that the four ballot papers were stamped at the back by the two-ballot paper issuing officials. Certain observer teams reported that the stamps were faint in some polling stations visited. In all polling stations visited observer teams noted that the first ballot paper issuing official was responsible for the presidential ballots only while the second paper issuing official handled the three other ballot papers. Based on observations of all its teams, voting was the slowest at the level of the ballot paper issuing in all the polling stations visited.

The ICGLR observer teams reported in most polling stations visited the enforcement of priority mechanisms for persons living with disabilities, the elderly, expectant and nursing mothers. Assistance with ballot casting was given to voters requiring it.

No forms of irregularities were observed by observer teams in the polling stations visited.

5.4. The Ballots and election materials

All essential election materials were reported in sufficient quantity at all the polling stations visited at the time of opening and voting. Observer teams did not observe the presence of the biometric voter verification device in all the polling stations visited.

The ICGLR Mission was informed of the deployment of tactile ballot jackets for visually impaired voters who are braille literate. None of the ICGLR observer teams observed the use of ballot jackets in the polling stations visited.

5.5. The Polling personnel

The presence of polling officials easily identified was noted in all the polling stations observed. The ICGLR Mission noted the professionalism of the polling personnel across all the polling stations visited. Observer teams noted that the voting process was very slow with one voter being processed in six (06) minutes on average. The Mission also noted that the issuance of the four (04) ballots contributed to the slowness of the voting process.

Despite the presence of queue management officials at the entrance of polling stations, sufficient guidance was not provided to voters in the queues in most polling stations visited by ICGLR observer teams. Voters in some polling stations visited remained in the wrong queue until their credentials were verified inside the polling station.

5.6. Party/candidate agents

Systematic political party representation contributed to the transparency of Election Day operations at the polling stations visited by the ICGLR observer teams. The PF and UPND were the most represented parties in the polling stations visited by the Mission.

5.7. Independent observers

The presence of citizen and international observer was noted in polling stations visited by the ICGLR Mission. ICGLR observer teams reported the presence of citizen observers in most polling stations visited. These observers represented an array of civil society organisations and networks.

5.8. Closing the poll

To allow all the voters already in the queue before closing, most polling stations, visited by ICGLR observer teams, closed after the scheduled time of 18:00 hours. The ICGLR EOM was informed that voting proceeded in certain parts of the country until 05:00 AM on 13 August 2021. The Mission was also informed of the ECZ official announcement of the closing of all the polling stations nationwide at one of its media briefings on 13 August 2021.

5.9. Counting and tabulation

Vote counting was conducted in line with the procedures in some polling stations observed by ICGLR observer teams. Procedures were not strictly followed in

certain polling stations visited by the Mission owing to the lengthy day and the fatigue that had set in amongst the polling officials.

The ICGLR EOM observed the process up to vote counting in polling stations visited. The Mission did not observe tabulation of the results.

5.10. General observations

The ICGLR Mission also made the following general observations:

- A professional and discreet security presence was recorded across all the polling stations visited. Observer teams reported the presence of the police, and the military and the air force in certain polling stations observed.
- High voter turnout of women and youth of all categories was noted across all the polling centers and stations observed throughout the day.
- COVID-19 protocols were not strictly applied and enforced in all the polling stations visited. Whereas polling personnel consistently wore protective masks in all the polling stations observed some voters did not mask up in certain instances. Most polling officials did not have sufficient protective equipment to avail to voters in polling stations visited. An ICGLR observer team reported that voters without a protective mask were denied access to one of the polling stations visited. The enforcement of hand sanitizing at the entrance of all polling stations visited was reported by observer teams. Social distancing outside all the polling stations visited was not adhered to.
- Internet and social media disruptions were noted on voting day.

Section 6. Recommendations

Based on its preliminary findings presented above, the ICGLR EOM makes the following preliminary recommendations:

The Government should consider:

- Providing supplementary means to the ECZ for stronger enforcement of COVID-19 protocols.

The National Assembly should consider:

1. Amending relevant constitutional and legal clauses to address existing gaps highlighted by the ICGLR EOM in this preliminary statement and to further strengthen the electoral framework for elections in Zambia.

The ECZ should consider:

1. Increasing the number of polling stations to facilitate smoother voting process and prevent the formation of long and slow-moving queues.
2. Splitting equally the number of ballot papers between the two-ballot paper issuing officials to speed up the voting process.
3. Reinforcing training of polling personnel to promote further compliance with Election Day procedures.
4. Collaborating more closely with the media to promote equitable and fair access of contesting parties and candidates to public media as well as balanced media coverage during the election period.

The media should consider:

1. Working with all the relevant stakeholders to promote and ensure more equitable and balanced coverage of all the contesting political parties.
2. Ensuring demonstrated compliance with the code of conduct for the media to promote fair and balanced reporting and coverage during election campaigning.

Political parties should consider:

1. Adopting and/or reinforcing positive discrimination measures to enhance women and youth political participation, including in leadership positions, in the parties.
2. Undertaking peace and social cohesion building initiatives as the country awaits the declaration of results
3. Using all available legal means for the resolution of election disputes for the preservation of peace and stability.

Section7. Conclusion

Based on its preliminary findings made up to the conclusion of vote counting at polling stations observed, the ICGLR EOM concludes that high numbers of Zambians used the opportunity they were given to exercise their right to vote in a peaceful atmosphere notwithstanding the COVID-19 pandemic, sporadic and localised incidents of political violence and the unlevelled political playing field.

The ICGLR EOM commends Zambians, especially the women and youth, for high levels of participation, enthusiasm, and demonstrated patience on Election Day and commitment to democratic consolidation.

The ICGLR EOM hails the ECZ and polling officials for having gone beyond the call of duty to ensure that various categories of Zambian electors were accorded the opportunity to cast their vote.

The ICGLR EOM presents these preliminary findings bearing in mind that the tallying process and the announcement of the election results is not yet concluded. The ICGLR EOM calls on all the people of Zambia, political party leaders and supporters to remain calm as the country awaits the announcement of results by the ECZ. The ICGLR EOM appeals to all contesting political parties and candidates to call on all the Zambians to exercise patience as the ECZ works towards meeting the 72-hour timeline set for the declaration of the election outcome. The Mission encourages all the aggrieved parties to use the relevant channels in the event of a dispute of the election results for the sake of peace and social cohesion in the Republic of Zambia.

The ICGLR EOM will continue to monitor other key steps of the electoral process till its completion.

Done in Lusaka on 14th August 2021
His Excellency Agostinho Tavares Da Silva Neto
Ambassador Extraordinary and Plenipotentiary of the Republic of Angola
in the Republic of Zimbabwe