



**European Union  
Election Observation Mission**

**United Republic of Tanzania**

**Final Report  
General Elections  
2015**





# **United Republic of Tanzania**

## **FINAL REPORT**

**GENERAL ELECTIONS  
25 OCTOBER 2015**

## **EUROPEAN UNION ELECTION OBSERVATION MISSION**

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## I. Executive Summary

- On 25 October 2015, the United Republic of Tanzania held its fifth general elections since the reintroduction of multi-party democracy in 1992. Following an invitation from the Government of the United Republic of Tanzania, the National Electoral Commission and the Zanzibar Electoral Commission, the European Union deployed an Election Observation Mission (EU EOM) that was present in Tanzania from 11 September to 8 December 2015. The Mission was led by Chief Observer, Judith Sargentini, Member of the European Parliament (MEP). In total, the EU EOM deployed across the country 141 observers from the 28 EU Member States, as well as from Norway, Switzerland and Canada. A delegation from the European Parliament, headed by Inés Ayala Sender MEP, also joined the mission to observe election day. The mandate of the EU EOM was to conduct a comprehensive assessment of the electoral process, based on its own observations, in accordance with international and regional commitments for democratic elections and with the laws of Tanzania.
- The 2015 elections were vigorously contested in both the Union and in Zanzibar. The incomplete constitutional reform process, led to the main opposition parties, Chama Cha Demokrasia ya Maendeleo (CHADEMA) and the Civic United Front (CUF), forming an electoral coalition, known as Umoja wa Katiba ya Wananchi (Ukawa), (the Coalition of Defenders of the Peoples' Constitution). In the course of choosing its presidential candidate, the Chama Cha Mapinduzi (CCM) embarked on a divisive internal nomination process, from which respected minister of works John P. Magufuli was chosen. The exclusion at an early stage of leading candidate and former CCM prime minister Edward N. Lowassa led to the defection of Lowassa to Ukawa and his prompt nomination as Ukawa's candidate for president, officially running as the candidate of CHADEMA. In addition to CCM and CHADEMA, a further six political parties put forward candidates for president of the republic. In Zanzibar, 14 political parties nominated presidential candidates, among which the incumbents President Ali Mohammed Shein of CCM and First Vice-President Seif Sharif Hamad (Maalim Seif) of CUF. There were 1,218 candidates competing for the 264 directly elected seats in the National Assembly, with 10,879 candidates competing for Local Council seats. In Zanzibar, there were 180 candidates for the 54 House of Representatives' constituencies, and 353 candidates for the 111 Local Councils.
- Tanzania is a party to all major international and regional human rights instruments related to democratic elections. The legal framework in both the Union and Zanzibar provides a reasonable basis for the conduct of democratic elections generally in line with the international and regional commitments subscribed to by the United Republic of Tanzania. Nevertheless, there are a number of constitutional limitations on political rights and freedom of association, and, in Zanzibar, on the right to register as a voter, that have remained unaddressed since the previous elections and which are not in accordance with international principles for democratic elections. These include the constitutional ban on independent candidates at all levels of elections in violation of the right to participate freely in the government of the country, freedom of association, including the right not to associate (to a political party), the inability to challenge presidential election results, the lack of a remedy for unlawfully rejected presidential nominations, the absence of legal provisions to form and register coalitions of political parties, and, in the case of Zanzibar, the strict residence requirement for voter registration.
- There are no unreasonable requirements to register as a voter for the Union elections. However, for the Zanzibar elections, the pre-requisite of holding a Zanzibar identification card, attached to the 36-month residency requirement, and the related controversial discretionary powers given to the *shehas* in the proof of the residency in a particular constituency, is considered unreasonable. The NEC conducted a new voter registration using biometric technology for the 2015 Union elections. A total of 22,751,292 voters were registered. For the Zanzibar elections, the ZEC conducted an update of the permanent voter register that included 503,860 registered voters. Both voter registers were released 10 days before

election day, in advance of the legal deadline. An earlier release of the voter registers allowing for proper verification could have increased confidence in their reliability and better enable political parties to be aware of their electorate for campaign purposes, especially given the recent alterations to constituency boundaries.

- Both the National Electoral Commission (NEC) and the Zanzibar Electoral Commission (ZEC) showed sufficient levels of preparedness for the administration of the electoral process and competence in conducting key operations such as the printing of ballot papers and the distribution of electoral material. Despite the absence of a permanent structure of the NEC at lower levels, the EU EOM assessed its performance as organised and well prepared. In the undertaking of the different stages of the electoral process, the NEC and ZEC did not provide for full transparency regarding their decision-making processes, and stakeholders' access to scrutinise the commissions' activities was not always granted. Although the NEC provided updates on electoral preparations through regular press conferences, these measures were insufficient to build confidence amongst political parties about the NEC's transparency. In Zanzibar, the lack of information provided to political parties regarding the voter register and constituency boundaries also affected the confidence of political parties in the ZEC and in the electoral process.
- The NEC and ZEC conducted a delimitation of constituency boundaries shortly before the 2015 elections. The new boundaries do not take into account the principle of equal distribution of the electorate amongst the constituencies, falling short of ensuring the equality of the vote. Some highly populated areas are under-represented in terms of seats compared to less populated constituencies. In Zanzibar the late process, coupled with the unavailability of the exact new boundaries, impacted negatively on the political parties' knowledge of their electorate for electoral campaign purposes as well as on voters in determining to which constituency they belonged.
- The NEC was mandated to coordinate and supervise events conducted by civil society organisations and community-based groups that were granted permission to carry out voter education activities. In addition to its cooperation with 49 local radio stations that broadcast voter education messages, the NEC also made use of social media and published guidebooks for voters, political parties and a booklet on frequently asked questions. However, EU observers reported a general lack of voter education activities in most regions, particularly in rural areas and among pastoralist communities such as the Maasai. In the absence of non-partisan voter education, voters relied on political parties for basic voter information, thus limiting the opportunity for voters to make a more informed choice. In Zanzibar, voter education was mainly conducted through regular ZEC announcements broadcast by the Zanzibar Broadcasting Corporation (ZBC) TV and radio and by community radios. While the ZEC commissioned civil society organisations to conduct voter education activities, such activities were not visible.
- The EU EOM observed 139 campaign events. In those events, candidates and parties campaigned vigorously, and mostly respected the campaign regulations, including the avoidance of inflammatory language and adherence to the hours prescribed for campaigning. The election campaign was largely calm and peaceful. Despite the generally positive nature of electoral competition on the mainland, a number of localised disputes between supporters of rival parties resulted in violence. While such incidents had a limited and localised impact on the electoral environment, they did detract from the quality of the campaign. Political parties and candidates were able to campaign freely in all parts of the mainland. CCM continued to benefit from its historic legacy as the ruling party. The party's use of or benefit from what were formerly state resources and assets, such as public stadiums and sports grounds, which the EU EOM observed in Arusha, Dodoma, Katavi and Kigoma regions, provided an advantage over other parties, and contributed to an imbalance in the electoral playing field. The inauguration of a number of major projects in the closing weeks of the campaign further blurred the distinction between the state and the ruling party, reinforcing CCM's campaign advantage.

- In Zanzibar, existing tensions between CCM and CUF led to a more heated and divisive campaign than that seen on the mainland. The aggressive rhetoric employed by some party leaders contributed to the campaign's occasionally intolerant tone, and increased communal tensions. Confidence in the policing of the campaign was lacking among some political parties, and isolated incidents of voter intimidation instigated by the security agencies were documented by the EU EOM. However, despite these events, and the intensity of competition, the campaign in Zanzibar was generally peaceful.
- While freedom of expression is guaranteed by the Constitution, a number of laws, of which the two most recent are the Statistics Act and the Cybercrimes Act, include provisions that can be used to arbitrarily restrict freedom of expression, access to information and limit media functioning. While freedom of expression was generally respected during the weeks preceding the elections and journalists were able to operate in an atmosphere of relative freedom, the Cybercrimes Act was perceived by interlocutors from the media community as strongly generating self-censorship on the internet. Soon after the elections, it was also used against the Legal and Human Rights Centre (LHRC), where the domestic observer group, Tanzania Civil Society Consortium on Election Observation (TACCEO), was compiling and analysing the reports received from their election observers, as well as against CHADEMA, in connection with their activities relating to compiling and analysing the observation findings and election result forms. Further, on 11 November, the Zanzibar Broadcasting Commission suspended for two months the broadcasting licence of Zanzibar-based radio Swahiba FM for its live broadcast of the 26 October press conference of CUF's presidential candidate.
- The state media failed to provide equitable and fair coverage of the campaigns. The Tanzania Broadcasting Corporation (TBC) TV and radio and Zanzibar Broadcasting Corporation (ZBC) TV and radio allocated significantly more airtime to CCM than to all other political parties combined. The state-owned *Zanzibar Leo* and the *Daily News* also demonstrated bias towards CCM. Positively, some private media showed relatively balanced coverage of the campaigns, in particular TV Azam 2, Radio One and ITV, and the daily newspapers, *Mwananchi* and *Nipashe*.
- For the first time, CCM nominated a woman for the position of the vice-president who was later elected together with the CCM presidential candidate. There was one woman, nominated by ACT, among the eight Union presidential candidates. Although both Constitutions provide for reserved seats for women in the National Assembly and the House of Representatives, women were under-represented in the contest for directly elected seats in both parliaments. For the National Assembly, 26 out of the 233 female candidates were elected: 18 from CCM, seven from CHADEMA and one from CUF. EU observers reported a high presence of women at campaign rallies, especially the ones of CCM, however, with a low presence of women as candidates and as speakers in those meetings. In the polling stations observed, 40 per cent of presiding officers and 51 per cent of polling assistants were women. CCM appointed the largest percentage of women as party agents at 31 per cent of the total number, followed by CHADEMA with 16 per cent, ACT with 12 per cent and CUF with nine per cent.
- In most constituencies, Ethics Committees were established and perceived by the political parties as an effective mechanism to resolve minor disputes. Nevertheless, their effectiveness as an *ad hoc* dispute resolution mechanism was often questioned and, in some parts of the country, campaign-related disputes were either settled between the involved parties and electoral officials without the need for these committees to be established, or through the mediation of other authorities such as district commissioners. At the time of writing, 51 parliamentary election petitions have been submitted to the Union High Court.
- For the Union elections, the conduct of voting was assessed by EU observers as positive. Political party representatives were present in almost all of the polling stations observed. Voting procedures were consistently followed in the polling stations visited, providing adequate safeguards to ensure the

integrity of the vote and transparency of the process. Counting started immediately after closing and was conducted in the presence of political party agents who received copies of the results forms. There was, however, deterioration in the levels of transparency and credibility of the tallying process as compared to the voting process. The NEC was not able to ensure a consistent implementation of tallying procedures throughout the regions, with clear guidelines on how to conduct the tallying and how to deal with arithmetical discrepancies not always being transmitted to constituency returning officers. EU observers rated the overall conduct of the tallying process as very good or good in only 64 per cent of the centres observed. National observers were present only in 41 per cent of the centres visited. Political party agents of CCM and CHADEMA were present at 80 per cent of the centres observed and were often able to check the data before the forms were processed electronically.

- Immediately after election day, the raiding of CHADEMA offices and the national observers group TACCEO/ Legal and Human Rights Centre (LHRC) by the police, where analysis of electoral data including results was being conducted, and the consequent arrests and confiscation of equipment and documents under section 16 of the Cybercrimes Act, raised concerns over the use and implementation of the act. The Cybercrimes Act of 2015 received considerable criticism from political parties and civil society for non-compliance with international principles on freedom of expression, with serious concerns raised over its implementation, especially with regards to the disproportionate sanctions and excessive powers given to the police to conduct search and seizure operations. The Heads of Mission of the European Union, Switzerland, Canada, Norway and the United States issued a Joint Local Statement, on 9 November, expressing concerns over the use of the Cybercrimes Act in a way that infringes fundamental freedoms, and limits the scope of action for civil society organisations and domestic observers.
- In Zanzibar, almost all polling stations observed opened on time and opening procedures were generally followed. The conduct of voting was positively assessed in the polling stations observed. Voting was conducted in a generally calm atmosphere, with a few cases of campaign activities in the vicinity of polling stations. Political party representatives were present in almost all of the polling stations observed. Counting started immediately after closing in all polling stations visited. In the tallying centres observed by the EU EOM, political party agents of CCM, CUF, CHADEMA and Alliance for Democratic Change (ADC) were present during the aggregation of results. National observers were absent. Returning officers tabulated the election results and provided a certificate of election to all elected candidates for the House of Representatives. During the central tallying of presidential results in Zanzibar, members of the ZEC and a representative of each contesting political party were present. The tabulation process at ZEC central level was, in general, transparent in the first two days, after which observers had no longer access until the ZEC chairman's decision of 28 October to nullify the elections.
- Following the announcement by the ZEC chairman that Zanzibar election results were nullified, the EU EOM and the international observer missions of the African Union, the Southern African Development Community and the Commonwealth issued a joint statement, which expressed great concern at the decision to nullify the results of the Zanzibar elections. The missions requested the ZEC specify in which polling stations there had been irregularities and appealed to the ZEC to act with full transparency in its decision to nullify the elections.
- Immediately after the announcement to nullify the elections, discussions erupted within civil society and the legal community regarding the legality of this decision and respect for the ZEC decision-making procedures. However, on 1 November, the ZEC held a meeting with all commissioners and decided retrospectively to approve the nullification of the elections that was subsequently published in the official Gazette on 11 November. Whether the decision had become procedurally valid, the power to nullify an entire election or the entire electoral process remained disputed, as there is no explicit provision for this in the law.

- On 9 November, CCM and CUF initiated talks in what was the first of a series of nine meetings between the two leading presidential candidates, Ali Mohammed Shein of CCM (President of Zanzibar) and Seif Sharif Hamad of CUF (First Vice-President of Zanzibar). Talks focused on the legality of the ZEC decision. A request from CUF to bring the ZEC chairman to the meetings was rejected by CCM on the grounds that they had no authority to summon the chairman. After several meetings, both political parties maintained their initial positions: CCM reiterated its support for ZEC's call for new elections, while CUF considered the nullification of election results illegal and rejected any suggestion that new polls should be held, and called for the resumption of the tallying and consequent announcement of presidential results. The EU EOM noted that the outcomes of the discussions between CCM and CUF were not made available to the public and that there was a clear attempt to limit public access to this information. This lack of information to the public, together with the highly visible military presence on the isles, brought about a situation in which some sectors of the population believed the military had taken over government affairs until a political solution was found.
- The EU EOM remained in Tanzania until 8 December, maintaining a regular presence in Zanzibar and holding regular meetings with key stakeholders on the isles. Despite several requests, the EU EOM was unable to hold a meeting with the ZEC chairman or vice-chairman. Since the nullification decision, the ZEC chairman was unreachable and the ZEC, as the institution responsible for the administration and supervision of the electoral process, became invisible. No further public statements were issued by the ZEC to inform voters about the electoral process or to clarify or present evidence of the claimed irregularities that led to the nullification of elections. The EU EOM noted the ZEC demonstrated a clear lack of accountability. This was further revealed by the fact that despite being the body responsible for the electoral process, the ZEC was excluded from the meetings between the two main political parties, in which solutions to the impasse were discussed.
- The EU EOM concluded that up until the time of its departure on 8 December, the ZEC had not acted with transparency in its decision to nullify the elections and had not provided the mission or any electoral stakeholder with evidence of the irregularities that justified the nullification of elections. On 8 December, before its temporary relocation to Europe, the EU EOM issued a press release stating that the EU remained committed to the electoral process in Zanzibar and that the mission would be redeployed once an agreement for the resumption of the electoral process was reached in line with inclusive, transparent, periodic and credible elections.
- Despite the fact that meetings continued between the Zanzibar CCM and CUF leadership into January 2016, no agreement was reached regarding the electoral impasse in Zanzibar. On 22 January, before any decision to officially halt bilateral meetings, the ZEC chairman announced 20 March 2016 as the date for a re-run of the Zanzibar general elections. On 28 January, CUF officially declared that the party would not participate in the re-run. Following these events, on 29 January, the heads of diplomatic missions of the European Union and of European Union member states, Norway, Switzerland, Canada and the United States issued a joint local statement, which reaffirmed their belief that the political impasse in Zanzibar would be best addressed through a mutually acceptable and negotiated solution, and urged President Magufuli to exercise leadership, so as to ensure a peaceful outcome and the integrity of the electoral process.
- The re-run of the Zanzibar elections took place on 20 March. The elections were boycotted by nine of the 14 political parties that participated in the previous October elections, including CUF. Despite parties writing to the ZEC to inform of their refusal to participate, the ZEC did not remove the boycotting candidates' names or political party affiliations from the ballot papers, basing their decision on procedural arguments. Political parties participating in the re-run were not allowed to conduct any campaign prior to the elections. The EU EOM did not observe the 20 March elections as it considered

the conditions, and context in which the re-run was taking place, were not conducive to inclusive, genuine and credible elections.

Enhancement of many aspects of the electoral process, including a review of the Union and Zanzibar legal frameworks, is required for the full realisation of fundamental rights of individuals and groups, as provided for in international and regional principles for democratic elections. In this regard, the following priority recommendations are offered for consideration and action to the Government of the United Republic of Tanzania, the Government of Zanzibar, the National Electoral Commission, the Zanzibar Electoral Commission, political parties, civil society and the international community. Many of these recommendations were included in the 2010 EU EOM Final Report and remain valid. Discussions on implementation of the following priority recommendations should be considered as early as possible in order to address in a timely manner the shortcomings identified in the 2015 electoral process. A detailed table of recommendations can be found in Annex I to this report.

1. The right to stand for election should not be limited to party-nominated candidates. In this regard, the ruling of the African Court on Human and Peoples' Rights should be implemented. Independent candidates should have the right to stand for any Union or Zanzibar election as established by the International Covenant on Civil and Political Rights and the African Charter of Human and Peoples' Rights. The implementation of the right of independent candidates to stand for elections does not have implications on the First-Past-the-Post (FPTP) electoral system used in the Union and in Zanzibar.
2. The right of political parties to form and register electoral coalitions and to field joint candidates should be explicitly provided in law, specifically in the case of the Union presidential elections where two candidates are nominated on the same ticket for president and vice-president.
3. Both the Constitutions of the Union and of Zanzibar currently deny the right to challenge the presidential election results. The right to petition presidential elections results should be established by law in accordance with international principles for the conduct of democratic elections.
4. The application of certain provisions of the Cybercrimes Act has the potential to limit freedom of expression and lead to arbitrary arrests. Implementation rules should be adopted to provide for a proportionate and predictable application of the Act. Persons charged with offences under this Act should not be deprived of the right to defend themselves before court as section 38 of the Act stipulates that proceedings for hearing of an application shall be *ex parte* and in camera.
5. Serious efforts should be made to limit the involvement of governmental administrative structures in the organisation and implementation of the electoral process. The development of a permanent independent structure of the NEC at regional level should be envisaged as well as a temporary independent structure at constituency levels during the period of elections, abandoning its dependence on local administrative structures. The appointment of NEC commissioners should be revised in order to increase confidence in the NEC's independence among all stakeholders.
6. In regard to the Zanzibar voter registration process, the pre-requisite of holding a Zanzibar identification card, attached to the 36-month residency requirement, should be reviewed in light of the difference of treatment between Tanzanian citizens registered on the mainland and Zanzibar. The discretionary powers attributed to local authorities (the *shehas*) in the proof of residency should also be reviewed to increase confidence in the process. The voter register should be inclusive and residency requirements should be shortened.
7. In order to timely and effectively inform citizens on the voting process and their electoral choices, the electoral commissions should consider taking measures for improved planning, budgeting and

- implementation of voter education activities. Activities should aim at inclusiveness, with targeted information addressing specific groups such as the youth and first time voters, women, and people with disabilities.
8. Clear instructions regarding the aggregation, transmission and announcement of results procedures should be issued, thus avoiding the discretionary interpretation of returning officers. Training of all electoral officers on procedures for counting and tallying, namely the filling of the various forms and particularly the result forms, could be strengthened. Instructions and procedural manuals should be made largely available to election staff and stakeholders in advance of election day.
  9. The judiciary should have a clear oversight role on the performance and decisions of the electoral commissions. Decisions of the NEC and the ZEC should be explicitly subject to challenge in court by way of judicial review immediately after the period for the nomination of candidates, and throughout the entire process. Aggrieved parties should not have to wait until the announcement of results to seek recourse to justice.
  10. National broadcast media, the Tanzania Broadcast Corporation (TBC) and the Zanzibar Broadcast Corporation (ZBC) should be transformed into public service broadcasters enjoying full editorial and financial independence from government.
  11. Free airtime granted for contestants' political broadcasts should be provided in a fair manner, on the basis of transparent and objective criteria. Provisions pertaining to free airtime could be precisely defined.
  12. Media regulatory bodies should consider amending the Broadcasting Services (Content) (The Political Party Elections Broadcasts) Code to stipulate less strict obligations, in particular for the private media. The Tanzania Communications Regulatory Authority (TCRA) should review the code in an inclusive manner considering the views of media stakeholders who tested its provisions for the first time during these elections.

## II. Introduction

Following an invitation from the Government of the United Republic of Tanzania, the National Electoral Commission and the Zanzibar Electoral Commission, the European Union Election Observation Mission (EU EOM) was present in Tanzania from 11 September to 8 December 2015. The Mission was led by Chief Observer Judith Sargentini, Member of the European Parliament (MEP). In total, the EU EOM deployed across the country 141 observers from the 28 EU Member States, as well as from Norway, Switzerland and Canada to assess the entire electoral process in accordance with international and regional commitments for democratic elections and with the laws of Tanzania. A delegation from the European Parliament, headed by Inés Ayala Sender MEP, also joined the mission to observe election day.

The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation commemorated at the United Nations in October 2005. This report presents a detailed assessment of the findings of the Mission on the various stages of the electoral process, and includes a series of recommendations for the improvement of the process in future elections based on these findings.

The EU EOM wishes to express its appreciation to the Government of the United Republic of Tanzania, the National Electoral Commission, the Zanzibar Electoral Commission, political parties, civil society, media, as well as the people of Tanzania for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Union to Tanzania and the European Union Member States' diplomatic missions in Tanzania for their support throughout.

### III. Political Background

On 25 October 2015, the United Republic of Tanzania held its fifth multi-party general elections since the abolition of the one-party system in 1992. Tanzania is a state that comprises two governments: the Union government, which rules mainland Tanzania and administers Union affairs, as determined by the Constitution, and the Revolutionary Government of Zanzibar. Elections for president, National Assembly and Local Councils were held simultaneously for the Union and for Zanzibar, which has its own president, parliament (House of Representatives) and Local Councils. The Union president, Jakaya Kikwete, completed his second and final term in office.

The 2015 elections were vigorously contested in both the Union and in Zanzibar. The incomplete constitutional reform process, which opposition parties perceived as being influenced by the ruling party, the *Chama Cha Mapinduzi* (CCM, Party of the Revolution), led to the main opposition parties, *Chama Cha Demokrasia ya Maendeleo* (CHADEMA, Party for Democracy and Progress) and the Civic United Front (CUF), to form for the first time an electoral coalition, known as *Umoja wa Katiba ya Wananchi* (Ukawa), (the Coalition of Defenders of the Peoples' Constitution). The National Convention for Construction and Reform (NCCR-Mageuzi) and the National League for Democracy (NLD) also participated in the Ukawa coalition.

In the course of choosing its presidential candidate, CCM embarked on a divisive internal nomination process, from which respected minister of works John P. Magufuli was chosen. The exclusion at an early stage of leading candidate and former CCM prime minister Edward N. Lowassa led to the defection of Lowassa to Ukawa and his prompt nomination as Ukawa's candidate for president, officially running as the candidate of CHADEMA. Lowassa's decision also led to the defection of other CCM figures to Ukawa, including another former prime minister and other senior politicians. In addition to CCM and CHADEMA, a further six political parties put forward candidates for president of the republic.

For the National Assembly, CCM was the only party to contest all seats. Ukawa coalition parties agreed to nominate a single candidate for each parliamentary constituency, but differences between coalition members resulted in competing candidates in a number of seats.

In Zanzibar, the two principal figures in the Government of National Unity (GNU), President Ali Mohammed Shein of CCM and First Vice-President Seif Sharif Hamad (Maalim Seif) of CUF, and 12 other candidates contested the presidential race.

On 29 October, the NEC announced Union presidential results, with Magufuli winning 58.46 per cent of the vote to Lowassa's 39.97 per cent. Lowassa and Ukawa rejected the official results, alleging massive irregularities and electoral rigging, and interference with NEC's technical systems by government-aligned operators. However, with no legal recourse to blocking the results, and with the NEC rejecting Ukawa's complaints, Magufuli was certified as the winner of the presidential race on 30 October and sworn in on 5 November. As of the time of writing this report, the electoral crisis triggered by the nullification of the Zanzibar election by the Zanzibar Electoral Commission, on 28 October, had yet to be resolved and President Shein remained in office. However, his legitimacy to remain in office was being regularly disputed by CUF and some members of the legal community.

### IV. Legal Framework

#### A. Universal and Regional Principles and Commitments

Tanzania is a party to all major international and regional human rights instruments related to democratic elections. These include the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1979

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol, the 1966 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the 2006 Convention on the Rights of Persons with Disabilities (CRPD) and the 1952 Convention of the Political Rights of Women (CPRW). As a member of the United Nations (UN), African Union (AU), the Commonwealth, the Southern African Development Community (SADC) and the East African Community (EAC), Tanzania has obligations to adhere to the 1948 UN Universal Declaration of Human Rights, the 1981 African Charter of Human and Peoples' Rights (ACHPR), the 2002 AU Declaration of Principles Governing Democratic Elections in Africa, the SADC Principles and Guidelines Governing Democratic Elections adopted in 2015 and the EAC Protocol on Good Governance.

### *B. National Electoral Legislation*

The legal framework governing the 2015 general elections in the United Republic and in Zanzibar remains largely unchanged since the previous general elections. The Union presidential and parliamentary elections are governed by a number of legal documents including the Constitution of the United Republic of Tanzania of 1977, the National Elections Act of 1985, the Local Authorities (Elections) Act of 1979, the Political Parties Act of 1992 and the Election Expenses Act of 2010. Relevant provisions regarding electoral offences are also to be found in the Penal Code. The National Electoral Commission (NEC) issued a number of regulations for the 2015 electoral process that include the National Elections (Presidential and Parliamentary Elections) Regulations, the Local Authorities (Councillors' Elections) Regulations, the Code of Conduct for Presidential, Parliamentary and Councillors' Elections, and the Guidelines for Local and International Observers.

The legal framework in Zanzibar includes the Constitution of Zanzibar of 1984, the Election Act No.11 of 1984, the Political Parties Act No.5 of 1992, the Zanzibar Electoral Commission Act No.7 of 2005, the Registration of Zanzibaris Resident Act No.7 of 2005 and the Zanzibari Act No.5 of 1985. ZEC regulations include the ZEC Regulations of 2015, the ZEC Regulations of Inspection of the Voter Register of 2010, the Guidelines for Political Parties Code of Ethics for the 2015 Election, and the Guidelines and Code of Conduct for Local and International Observers of 2015.

The legal framework in both the Union and Zanzibar provides a reasonable basis for the conduct of democratic elections generally in line with the international and regional commitments subscribed to by the United Republic of Tanzania. Both constitutions and election-related legislation guarantee political rights and fundamental freedoms as well as the right to access justice and legal remedies in line with international and regional commitments. Nevertheless, there are a number of constitutional limitations on political rights and freedom of association, and, in Zanzibar, on the right to register as a voter, that have remained unaddressed since the previous elections and which are not in accordance with international principles for democratic elections. These include the constitutional ban on independent candidates at all levels of elections in violation of the right to participate freely in the government of the country, freedom of association, including the right not to associate (to a political party),<sup>1</sup> the inability to challenge presidential election results, the lack of remedy for unlawfully rejected presidential nominations, the absence of legal provisions to form and register coalitions of political parties, and, in the case of Zanzibar, the strict residence requirement for voter registration. Also, the right to timely appeal a decision of the NEC or ZEC refusing the nomination of a parliamentary candidate is not ensured as appeals on nomination

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<sup>1</sup> African Court of Human and Peoples' Rights, *Judgment Application 009-011-2011, Rev Christopher Mtikila v Tanzania*. The right to freedom of association, the right to participate in public affairs by prohibiting independent candidates to contest presidential, parliamentary and Local Council elections was successfully challenged at the African Court on Human and Peoples' Rights. In 2013, the court found the ban imposed on independent candidates violated four articles of the African Charter on Human and Peoples' Rights (ACHPR).

<sup>2</sup> Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 20: "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in

refusals can only be submitted after the declaration of results. The inconsistencies between Tanzania's legal framework and its international commitments can only be addressed through amendments to both the Constitution of the United Republic and the Constitution of Zanzibar.

### *C. The Electoral System*

For the Union presidential elections, political parties have to submit two candidates simultaneously, one for president and another for vice-president. By convention, if a presidential candidate is from the mainland of the United Republic, the running mate should be from Zanzibar, and vice versa. A Government of National Unity (GNU), in line with the August 2010 amendment to the Constitution of Zanzibar, was formed after the October 2010 general elections, with the party in second place appointing the first vice-president to serve alongside the elected president. The GNU mechanism, enshrined in the Constitution of Zanzibar, is to remain in place after the 2015 elections.

Both the president of the United Republic of Tanzania and the president of Zanzibar are elected for a five-year term in a single-round election by securing the highest number of votes cast. The president is limited by the Constitution to two terms in office. A first-past-the-post system is also applicable for the election of members of both the National Assembly of the Union and the House of Representatives of Zanzibar.

The National Assembly comprises 264 directly elected seats (214 for the Mainland and 50 for Zanzibar), an increase of 26 constituencies from the 2010 elections. The Union president also appoints up to 10 members and two *ex officio* members. Five other seats are allocated to members of the Zanzibar House of Representatives. Finally, the National Assembly also comprises indirectly elected seats reserved for women amounting, since 2010, to 40 per cent of the total number of directly elected and appointed parliamentary seats. These reserved seats are allocated through the proportional representation system according to the percentage of votes each party obtained in the parliamentary elections. The lists of female candidates for the reserved seats in the National Assembly and House of Representatives were not made public by NEC and ZEC before elections.

In addition to the Union presidential and parliamentary elections, the Zanzibar electorate voted for the president of Zanzibar, for the 54 directly elected seats of the House of Representatives, and for 111 local councillors. A total of 22 seats, also 40 per cent, are reserved for women through proportional representation to the House of Representatives. The president of Zanzibar appoints 10 members to the House of Representatives, of whom two are appointed by the president in consultation with the opposition leader.

## **V. Election Administration**

### *A. Structure and Composition*

#### ***National Electoral Commission (NEC)***

The Constitution establishes the National Electoral Commission (NEC), composed of seven commissioners appointed by the Union president for a five-year mandate. Both the chairperson and vice-chairperson must be judges either from the Court of Appeal or from the High Court. If the chairperson is from the mainland, the vice-chairperson is from Zanzibar, or vice versa. The current chairman was appointed in 2011 and is a retired judge of the Court of Appeal. As for the remaining five commissioners, one is selected from the Tanganyika Law Society, and four commissioners should have experience in the conduct and supervision of elections or other qualifications the president considers necessary to perform the respective tasks. The president may remove a member for failing to discharge her/his functions due to illness, misconduct or the loss of necessary qualifications. The NEC issues regulations, directions and notices and its decisions are taken by majority vote with a quorum of four members including the chairperson.

Appointed by the president from among senior civil servants and recommended by the Commission, the NEC's chief executive is the director of elections who also serves as the secretary to the commission. A secretariat, comprising a number of specialised departments, is established only at the national level and operates at lower levels during elections through the appointment of governmental officers.

The Constitution provides for the independence of the NEC as an institution.<sup>2</sup> However, the NEC remains dependent at lower levels on the Prime Minister's Office for Regional Administration and Local Government, for its infrastructure and personnel as well as for budget allocation. The commission appoints a number of regional election officers from among the regional or district administration and local government executive officials who are under the Prime Minister's Office. The NEC further depends on city and town directors, and district executive directors to act as returning officers and assistant returning officers. This dependency, already noted by the EU EOM 2010, impacts negatively on stakeholders' perceptions regarding the impartiality and neutrality of the commission. The NEC employed 30 regional election coordinators, 972 returning officers and 7914 presiding officers during the election period.

### **Zanzibar Electoral Commission**

The Constitution provides for ZEC to be an independent commission free from government and political party interference. ZEC's mandate includes the overall supervision of presidential, House of Representatives and Local Council elections in Zanzibar. The seven members of the ZEC are appointed by the president of Zanzibar. The ZEC chairperson is appointed by the president, two members are appointed on the recommendation of the leader of government, while two other members are appointed on the recommendation of the opposition leader in the House of Representatives. One presidential appointee has to be a judge of the High Court, and one appointment is at the discretion of the president. The president can only remove a member of the ZEC for failure to perform his functions. The president appoints the ZEC director of elections upon recommendation of the ZEC. These appointment provisions are perceived by stakeholders as unable to guarantee the independence of the ZEC in line with constitutional provisions and international principles.<sup>3</sup>

The current seven-member commission was appointed by the Zanzibar president in 2013 and did not include any women. All commissioners, including the chairperson, were newly appointed except for the two members recommended by the opposition. Zanzibar increased the number of administrative districts from ten to eleven, hence for the 2015 elections, ZEC had eleven permanent district offices - seven on Unguja and four on Pemba.

### **B. The Administration of Elections**

The conduct of Union elections for the Presidency, National Assembly and Local Councils in the mainland is solely the responsibility of the NEC. On Zanzibar, the NEC and ZEC administer separately the Union and the Zanzibar elections. The ZEC is responsible for the conduct of the three Zanzibar elections – presidential, House of Representatives and Local Councils – while NEC is responsible for the two Union elections on the isles – presidential and National Assembly. While on election day both commissions operated within the same polling venues, all logistical and human resources were separate.

Both the National Electoral Commission (NEC) and the Zanzibar Electoral Commission (ZEC) showed sufficient levels of preparedness for the administration of the electoral process and competence in

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<sup>2</sup> Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 20: "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."

<sup>3</sup> Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 20: "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."

conducting key operations such as the printing of ballot papers and the distribution of electoral material. Despite the absence of a permanent structure of the NEC at lower levels, the EU EOM assessed its performance as organised and well prepared. EU observers reported that, in most regions on the mainland, meetings between electoral officials and political parties were conducted regularly. Within the ZEC, there was insufficient communication between the ZEC and the district officials, namely in Pemba, who often lacked information on the status of electoral preparations. On mainland Tanzania, communication between the NEC and its lower levels appeared to be more efficient. In Zanzibar, coordination among ZEC and NEC staff seemed to be limited, but with both complying with their respective timetables.

Political parties held different views on the independence and transparency of the NEC and ZEC. While CCM representatives trusted the functioning and effectiveness of the electoral management bodies, opposition parties were more sceptical about the impartiality of electoral officials because of their appointment process.<sup>4</sup> Concerns were expressed over the alleged lack of impartiality of returning officers in some districts on the mainland, in particular where complaints remained unresolved. Some senior NEC staff were replaced close to election day, including the previous director for elections and the directors of the legal department, the voter education department, information and administration.<sup>5</sup> These late changes as well as the appointment of two commissioners a month before election day raised concern among interlocutors. In the run-up to election day, the NEC repeatedly refuted allegations that the Tanzania Intelligence and Security Services (TISS) had placed members at NEC's data centre. Despite frequent requests, a visit to the central data centre was not granted. In Zanzibar, CCM representatives appreciated the professional conduct of ZEC until shortly after election day, while CUF representatives considered that ZEC lacked independence and favoured CCM.

Throughout the various stages of the electoral process, the NEC and ZEC did not provide for full transparency regarding their decision-making process, and stakeholders' access to scrutinise the commissions' activities was not always granted. For the Union elections, ballot papers, printed in South Africa, arrived on 12 October. Distribution started the following day to the farthest regions of the country. According to political parties, they were not invited by NEC to attend the arrival of the sensitive materials. The NEC was reluctant to share this information for security reasons. In contrast, all stakeholders, including the EU EOM, were invited to observe the arrival of the ballot papers for the Zanzibar elections.

Problems encountered with the finalisation of the voter registers and with the delimitation of boundaries in the Union and in Zanzibar, as well as details on the results management system (RMS), for the Union elections, were not fully disclosed on time to parties and to the public. Even though the NEC briefed political parties on the results management system, it was not able to dispel concerns expressed by some political parties on the technical aspects and software used for the transmission of results. The Ukawa parties were not satisfied with the presentation they received on the results management system, and requested a technical audit of the RMS software as well as information on previous use of the software in other elections. The NEC refused to have a technical audit. The NEC provided updates on electoral preparations through regular press conferences. However, these measures were insufficient to build confidence among political parties about the NEC's transparency.

The lack of information provided to political parties regarding the voter register and constituency boundaries also affected confidence in the ZEC and in the electoral process in the run-up to election day. The ZEC held an all-stakeholder meeting on 11 October to brief about electoral preparations. Several issues

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<sup>4</sup> Section 2, Article 4 (e) of the African Union Declaration on the Principles Governing Democratic Elections in Africa, 2002: "Democratic elections should be conducted [...] by impartial, all inclusive competent and accountable electoral institutions staffed by well trained personnel and equipped with adequate logistics." SADC Principles and Guidelines Governing Democratic Elections of 2015, Section 5.1.3: "Establish impartial, professional, independent, all inclusive, competent and accountable EMBs staffed by eminent, non-partisan and capable commissioners, and efficient and professional personnel".

<sup>5</sup> The reasons for these replacements were not provided to the EU EOM.

were raised by political parties, including the late and unclear delimitation of constituency boundaries for the House of Representatives, the collection of voter registration cards, the security of sensitive election materials, the verification of voters' identity at polling stations, the voting of security personnel and the timing of the announcement of the presidential results. The ZEC made available maps of constituency boundaries very late in the process which hampered the capacity of political parties to be aware of their electorate for campaign purposes, especially given the recent alterations to constituency and local administrative (*shhia*) boundaries.

### C. Delimitation of Constituencies

The delimitation of constituencies conducted by NEC and ZEC shortly before the 2015 elections do not take into account the principle of equal distribution of the electorate amongst the constituencies, falling short of ensuring the equality of the vote.<sup>6</sup>

The NEC announced the start of the delimitation of constituencies on 28 April 2015, six months ahead of election day.<sup>7</sup> In demarcating constituencies, the NEC should ensure that constituencies contain approximately equal numbers of eligible voters by taking into account the population criteria, means of communication, the economic status of a constituency and its geographic size. In total, 37 local councils applied for constituency status and 41 requests for new constituencies were received. After NEC's assessment, 36 requests met the criteria, of which 21 corresponded to administrative boundary requirements and 15 fulfilled the population quota.<sup>8</sup> Alterations made in the delimitation, in the number of constituencies and/or of members of parliament representing those constituencies, took full effect for the 2015 general elections.

Some highly populated areas are under-represented in terms of seats in the National Assembly compared to less populated constituencies. There are constituencies where the weight of vote is 15 times more than that of another constituency. This is the case in Madaba, Ruvuma region, with 27,502 registered voters compared with 417,612 registered voters in Temeke, Dar es Salaam. There are at least ten constituencies with less than 50,000 registered voters and seven constituencies with more than 200,000 registered voters. The national average of voters per constituency in the general election was 85,853. The Tanzania Election Monitoring Committee (TEMCO), in its interim statement on the 2015 elections, stated that the electoral boundary delimitation was "properly undertaken, using transparent, justifiable and consistent procedure, established by law". TEMCO's findings did not reveal evidence of 'gerrymandering', which could lead to manipulation of electoral results.

On 7 August 2015, the ZEC announced an increase from 50 to 54 constituencies in Zanzibar for the House of Representatives. The constituency delimitation process was concluded just a few weeks before election day. The ZEC's boundary delimitation report was not made public before the elections. Furthermore, the minister responsible for local government had previously increased the number of *shhias* (smallest

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<sup>6</sup> Article 25 of the International Covenant on Civil and Political Rights (ICCPR), United Nations Human Rights Commission, General Comment No. 25, paragraph 21: "...within the framework of each State's electoral system the vote of one elector should be equal to another. The drawing of electoral boundaries and method of allocating votes should not distort the distribution of voters or discriminate against any group."

<sup>7</sup> A final report published in July 2015 listed the newly created constituencies. However, it did not provide a geographical description of boundaries or population figures for these constituencies. For the 2010 general elections, the NEC had already increased the number of constituencies from 232 to 239.

<sup>8</sup> A report published by NEC refers to 26 new established constituencies, raising the number to 265. The commission later referred to a total of 264 constituencies. Regions with new constituencies are: Morogoro, Dodoma, Tanga, Geita and Arusha with one new constituency each; Dar es Salaam, Shinyanga, Ruvuma, Njombe, Mbeya, and Katavi with two new constituencies each; and Mara, Mtwara and Tabora with three constituencies each.

administrative unit) and reduced the number of wards in May 2015.<sup>9</sup> The non-transparent and late process, paired with the unavailability of the exact new boundaries, impacted negatively on the political parties' knowledge of their electorate for electoral campaign purposes as well as on voters in determining to which constituency they belonged.

The updated final voter register for Zanzibar contained 358,773 voters on Unguja and 145,087 voters on Pemba. The 18 constituencies on Pemba had an average voter population of 8,060. On Unguja, each of the 36 seats represented an average of 9,966 voters. Although the constituency delimitation exercise of 2015 resulted in four more constituencies on Unguja, the electorate of Pemba remained over-represented by two seats in the House of Representatives. Further discrepancies were noted in the equality of the vote on Unguja. The constituency with the largest number of voters was Uzini with 15,069, while the smallest number was in Fuoni with only 1,923 voters. This meant that a vote in Fuoni had 7.8 times more weight than one in Uzini.<sup>10</sup>

The NEC's solution to the increased number of constituencies for the Zanzibar House of Representatives from 50 to 54 was to split four National Assembly constituencies between eight House of Representatives constituencies. Apart from these eight constituencies, the remaining 46 Zanzibar House of Representatives constituencies are identical to the ones for the National Assembly. This results in inequality of the vote for the National Assembly seats. In the constituency of Fuoni 1,923 registered voters elected one National Assembly representative, while in Bububu, 22,947 registered voters also elected one representative.

At the Union level, Zanzibar has been historically over-represented in the National Assembly. While Zanzibar voters represent only two per cent of the United Republic electorate, Zanzibar voters directly elected 50 members of the National Assembly. The other five members of the National Assembly coming from Zanzibar are elected by the House of Representatives.

#### D. Voter Education

The NEC was mandated to coordinate and supervise activities implemented by 447 civil society organisations and community-based groups granted permission to conduct voter education. In addition to its cooperation with 49 local radio stations that broadcast voter education messages, the NEC also made use of social media and published guidebooks for voters, political parties and a booklet on frequently asked questions. However, these activities, as well as the activities conducted by civil society organisations, were far from sufficient as voters had very limited access to information with regards to the procedures for casting their ballot, the secrecy of the vote, the importance of elections and democratic institutions, and also lacked basic understanding of the party manifestos. Radio programmes were the main source of voter information.

EU observers reported a general lack of voter education activities in most regions, particularly in rural areas and among pastoralist communities such as the Maasai. Some non-governmental organisations conducted limited projects at local level directed at women, youth and persons with disabilities. Furthermore, the NEC relied on support from the UNDP-managed Democratic Empowerment Project (DEP) to conduct voter education activities. A multimedia-based voter education campaign focusing on inclusive and peaceful elections, and specifically targeting rural populations, women, youth, first-time voters and people with disabilities, was planned to be launched ten days ahead of election day. These activities were however not visible. In the absence of non-partisan voter education, voters relied on political parties for basic voter information.

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<sup>9</sup> Each constituency is comprised of several *shehias*, small administrative units. The number of *shehias* increased from 345 to 388 and the number of wards decreased from 141 to 111. The 43 *shehas* (local authorities) for the newly-created *shehias* were not appointed prior to the elections.

<sup>10</sup> There were other examples of significant discrepancies such as Tunguu with 14,326 and Mwera with 5,419 voters.

In Zanzibar, the ZEC commissioned 14 civil society organisations to conduct voter education, but activities started very late and were constrained by funding shortages. Voter education was therefore mainly conducted through regular ZEC announcements broadcast by the Zanzibar Broadcasting Corporation (ZBC) TV and radio and by community radios. ZEC voter education posters and flyers were distributed to civil society organisations commissioned to conduct voter education, and to bus drivers for display on public transport and at bus stops. In addition, the commission planned to organise plays, concerts and sports events focusing on voter sensitisation. While the ZEC commissioned civil society organisations, such as the Zanzibar Legal Services Centre, to conduct voter education activities, such activities were not visible. The Zanzibar International Film Festival and civil society organisations working within the Project in Support of a Peaceful and Inclusive Electoral Process (PROPEL) toured a Film Caravan on Peaceful Elections with ten screenings.

## VI. Voter Register

### A. *The Right to Vote*

There are no unreasonable requirements to register as a voter for the Union elections. The legal framework is in line with international principles of universal suffrage and inclusiveness.<sup>11</sup> Eligibility criteria include holding Tanzanian citizenship and being at least 18 years old on the date of elections. The NEC registers voters for the Union elections, including any person in Zanzibar who is entitled to be registered only for the Union presidential elections.

A separate voter register is used for the Zanzibar elections. Zanzibaris of 18 years old are entitled to register. A person must have permanent residence and have lived in a given constituency for a continuous period of 36 months before election day. An identification card is also required in order to obtain or renew the voter card. The residency requirement to register as a voter, and the related controversial discretionary powers given to the *shehas* (appointed local authorities) to certify a voter's 36 months continuous residence in a particular constituency, is considered unreasonable and leads to the potential disenfranchisement of eligible Zanzibari voters.<sup>12</sup>

Mechanisms are not in place for the participation of the Tanzanian diaspora, detainees or prisoners serving sentences of less than six months who are entitled to vote.

### B. *Voter Registration*

#### **United Republic**

Weaknesses in the optical mark recognition (OMR) technology used in previous elections resulted in the introduction of a new biometric voter registration (BVR) for the 2015 Union elections. The government approved the final budgetary allocation in January 2015, following a pilot phase of the register that ran in December 2014 in three constituencies in Dar es Salaam, Katavi and Morogoro regions. Between February and August 2015, the NEC was able to register 23,782,558 voters, amounting to 99.6 per cent of the eligible voter population projected by the NEC and the National Bureau of Statistics. The European Union deployed an Election Expert Mission (EEM) to Tanzania, between 8 May and 24 July 2015, to assess the BVR process. The EEM observed that principles of universal suffrage and free access to the BVR were granted with a high participation of citizens. The NEC voter register for Zanzibar that includes non-Zanzibar residents entitled to

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<sup>11</sup> Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 4: "States must take effective measures to ensure that all persons entitled to vote are able to exercise that right."

<sup>12</sup> Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 4: "States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable..."

vote only for the Union presidency contained 48,182 voters, of whom 28,132 were on Unguja and 20,050 on Pemba.

The concurrent ward boundary delimitation process of 622 new wards, carried out by the Prime Minister's Office, posed some difficulties for the NEC during the biometric voter registration (BVR) exercise. The NEC had to review registration data<sup>13</sup> while the BVR process was ongoing, thus delaying the registration process and requiring the production of updated maps reflecting changes to ward boundaries. The 2015 BVR likely offers the most current, accurate and inclusive data ever made available in Tanzania. However, the NEC did not efficiently manage registrants' expectations for a smooth process. Long queues, a limited and unequal allocation of resources, a lack of transparency in conducting boundary delimitation, and an absence of public outreach campaigns had a negative impact on the perception of the public with regard to the NEC's capacity to carry out an inclusive and reliable registration.

The final voter register for the Union elections was made available 10 days before elections, two days before the legal deadline. A total of 22,751,292 voters were registered. Of these, 1,031,266 entries were removed from the provisional voter register with 181,452 identified as multiple registrations. In such cases, the NEC retained the last registration entry. The remaining 845,944 incorrect registrations related to entries introduced during the training of biometric registration operators. In addition, 3,870 registrations were found to be of foreigners. The BVR exercise captured 96 per cent of the estimated eligible voters. Concerns regarding the final voter register led the NEC to issue guidelines foreseeing supplementary instances in which voters would be allowed to cast a ballot, in addition to the cumulative condition of the name of the voter being on the voter list and the voter being in possession of a voter card. The other additional conditions seemed reasonable and inclusive.

Political parties received an electronic copy of the register. Although the law does not provide for an earlier publication of the final voter list, an earlier release of the register could have increased the level of confidence of stakeholders in the reliability of the voter register and better enabled political parties to be aware of their electorate for campaign purposes, especially given recent alterations to constituency and ward boundaries.

### **Zanzibar**

The ZEC undertook an update of the permanent voter register for the 2015 elections. The final register included 503,860 registered voters, of whom 269,073 were female and 235,060 were male. In comparison to the 2010 register, this represented an increase of 24 per cent or 96,478 voters. The ZEC published a list of 7,751 voters who were deleted from the register. Most of the names removed were those of deceased persons and double entries. The opportunity for eligible voters to register or update their details was limited, as eligible voters had only two days to register in the centres assigned near their place of residence. The EU EEM assessed the voter registration process of 2015 as overly restrictive because of the requirement of holding a Zanzibar ID for registration, combined with the controversial discretionary role given to the *shehas* (appointed local authorities) for the issuing of ID cards.<sup>14</sup>

The ZEC made the voter register available to the political parties on 7 October. As in the Union, an earlier release of the register could have increased the level of confidence of stakeholders in the electoral process and, in particular, in the reliability of the voter register.

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<sup>13</sup> This was the case for Madaba district council, Ruvuma region, Mtwara town council in Mtwara region, district council Mpwimbwe, Katavi region and town council Kondoa in Dodoma region.

<sup>14</sup> Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 4: "Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable..."

The ZEC had to deliver the voter cards after conducting a verification process, unlike the NEC, which printed and handed over the voter cards in the centres immediately upon registration. The delivery of voter cards at district electoral offices continued until election day. The ZEC also delivered voter cards issued in 2010 and 2013. There was, however, confusion among voters as to where they could collect their voter cards. Voter cards that were not collected at district offices were to be returned to the ZEC's main office by 19 October. Before then, however, a number of voters were unable to collect their cards on presentation of a voter card receipt at district offices. The ZEC broadcast a radio announcement stating that voters could collect their cards until 24 October at the ZEC office. According to the ZEC, around 8,000 voters did not collect their card before election day.

The EU EOM directly observed that the requirement to present a Zanzibar ID card or a voter registration receipt in order to collect the voter card was not always adhered to by ZEC officials. On 9 October, at ZEC Magharibi B district electoral office on Unguja, EU observers witnessed five buses, organised by a *sheha* committee, transporting youths to the office to collect their voter cards. None of those present showed a Zanzibar ID or voter registration receipt, the official requirements to collect a card. The EU EOM observed that cards were issued when individuals simply stated their names, contrary to the procedure observed during earlier visits to the same ZEC office. People who received their cards gave their telephone numbers to administrators and their names were ticked off a list.

## VII. Registration of Political Parties and Candidates

### A. Registration of Political Parties

The requirements for the registration of political parties are reasonable and in line with international and regional commitments related to freedom of association.<sup>15</sup> However, the right of political parties to form a coalition is not provided by law. In practice, political parties were able to present joint candidates for the elections and referred to the coalition in their campaigns, but the name of the coalition could not be used on the ballot.

The Political Parties Act sets out the conditions and procedures for the registration of political parties. Registration is barred to political parties that promote religious, tribal or regional interests that advocate the separation of the Union or that use violence to pursue political interests. The law further establishes the Registrar of Political Parties, appointed by the president, as responsible for the registration of the political parties. The decision of the registrar regarding the cancellation of the registration of a party may be appealed in court by way of judicial review.

Three political parties applied for registration for the 2015 elections and only one acquired full registration, the Alliance for Change and Transparency (ACT or ACT-WAZALENDO). The other two did not meet the requirements for registration. In both cases, the Registrar of Political Parties provided political parties with directions on the missing requirements. Consequently, on 9 November 2015, the Registrar of Political Parties issued a provisional registration to the Tanzania Patriotic Front (TPF-Mashujaa), which was the first party to apply for registration after the elections.

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<sup>15</sup> Article 22 and 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 26: "The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25." See also Article 10 of the African Charter of Human and Peoples' Rights 1986 and African Union Declaration on the Principles Governing Democratic Elections in Africa, IV. Elections: Rights and Obligations, paragraph 5: "Every citizen shall have the freedom to establish or to be a member of a political party or Organization in accordance with the law."

### *B. Registration of Candidates*

The requirements to stand for presidential, parliamentary and Local Council elections, as provided in the Union and in the Zanzibar constitutions and respective electoral laws, are reasonable, with the exception of the constitutional ban on independent candidates. The requirement that candidates must be members of and proposed by a political party restricts the right and opportunity of individuals to stand for office and limits the voters' choice of candidates.<sup>16</sup> Although the election legislation does not specifically provide for coalitions, political parties may coordinate their nominations and lend support to each other's candidates.

Presidential aspirants for the Union and for Zanzibar submit their nominations to the NEC and ZEC respectively, whereas nominations for the National Assembly of the Union and for the House of Representatives of Zanzibar, and Local Councils are respectively dealt with by returning officers at constituency level and by assistant returning officers at ward level. Candidates may not run concurrently for both presidential and parliamentary elections. There is, however, no provision prohibiting simultaneous candidacies for parliamentary and Local Council elections.

Upon submission of nomination papers, political parties have to pay a deposit to the NEC or the ZEC for each nominee. The amount for the Union presidential and parliamentary candidates is respectively TZSs one million (€400) and TZSs 50,000 (€20). A deposit is also required for Zanzibar presidential and House of Representatives' candidates, which is twice as much as the amount of Union elections' deposit, TZSs two million for presidential candidates (€800) and TZSs 100,000 (€40) for the House of Representatives. After nomination, the Election Expenses Act requires the political party to disclose all funds received for election expenses for the nomination process or election campaigns, whether as a gift, loan, advance, deposit or donation. Any political party or candidate that fails to disclose such information is disqualified from participating in the election.

Eight candidates, with their running mates, were nominated for the Union presidential elections. In addition to candidates from CCM and the Umoja wa Katiba ya Wananchi (Ukawa) coalition, comprising the Chama Cha Demokrasia ya Maendeleo (CHADEMA), the Civic United Front (CUF), the National Convention for Construction and Reform (NCCR-Mageuzi) and the National League for Democracy (NLD), six other parties competed for the Union presidency. The presidential candidate for the Alliance for Change and Transparency (ACT) and the CCM vice-presidential candidate were the only women. Two party candidatures from the Tanzania Democratic Alliance (TADEA) and the Chama Cha Kijamii (CCK) were rejected for not complying with procedural requirements. There were 1,218 candidates competing for 264 directly elected seats in the National Assembly, and 10,879 candidates competing for Local Council seats.

Objections or complaints regarding the nomination of candidates for the National Assembly and House of Representatives are submitted to the respective returning officer, whose decision may be appealed to the NEC and ZEC. Rejected parliamentary nominations may only be appealed by way of election petition after results are officially declared, thus hampering the right to a timely remedy for aggrieved parties. There is, however, a possible channel for challenging this decision earlier by way of judicial review provided by both Constitutions. Nevertheless, the court may eventually dismiss the case on procedural grounds and instruct the case to be presented by way of election petition after the declaration of results. The NEC received 56 appeals against the decisions of returning officers on objections and complaints regarding the nomination of parliamentary candidates, and 223 appeals in relation to Local Council nominations. Most objections and complaints related to procedural issues. Approximately 50 per cent of the decisions were upheld and 50 per cent reversed by the NEC.

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<sup>16</sup> Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 15: "The effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation."

For the presidency of Zanzibar, 14 political parties, including CCM and CUF, nominated candidates. The incumbent President of Zanzibar, Ali Mohamed Shein of the CCM, ran for a second term in office. There were 180 candidates for the 54 House of Representatives' constituencies, and 353 candidates for the 111 Local Councils. The ZEC received six complaints regarding candidate nominations and reversed a decision in one case to endorse a candidacy for Local Council.

## VIII. Election Campaign and Pre-Election Environment

### A. Election Campaign

The electoral campaign began on mainland Tanzania on 22 August and in Zanzibar on 7 September. A vigorous campaign, both on mainland Tanzania and in Zanzibar, was fully evident. On the mainland, both CCM and Ukawa organised nationwide campaign tours, typically featuring multiple rallies every day, and almost always drawing large crowds of several thousand participants. ACT was the only other party to campaign nationally, albeit usually drawing smaller crowds.

The EU EOM observed 139 campaign events throughout the country, of which 53 were for CCM, 67 were for CHADEMA, CUF, NCCR, NLD and/or Ukawa, 14 were for ACT and five were events of other smaller parties. In the observed campaign events, candidates and parties campaigned vigorously, and usually respected the campaign regulations, including the avoidance of inflammatory language and adherence to the hours prescribed for campaigning. The election campaign was largely calm and peaceful, and a schedule of presidential and vice-presidential campaign events was amicably agreed and revised among the parties. In only one case, in Kyengege in Singida region, did the EU EOM directly observe preferential treatment offered to CCM in the scheduling of campaign events.

The few incidents that did occur, including the abduction of a CHADEMA parliamentary candidate in Mtwara on 5 October, the assault of CCM defectors to CHADEMA in Sumbawanga on 8 October and an attack on passing CHADEMA supporters on their way to an opposition rally on 10 October in the same area, as well as fighting in Tabora, on 10 October between supporters of CUF and CCM, had a limited and localised impact on the electoral environment. Political parties and candidates were able to campaign freely in all parts of the mainland, and most political parties generally commended the police for its performance during campaign events, but there were a number of cases of CHADEMA and CUF affiliated candidates and activists being arrested for public order offences, including in Dodoma, Iringa, Morogoro, Katavi and Mara regions.<sup>17</sup> In Bukoba, Kagera region, members and supporters of the CUF were arrested after being accused by the police of involvement in arson targeting churches. CUF alleged that the arrests were politically motivated, but the police denied targeting individuals on the basis of their political affiliation.

Most campaign messaging focused on the need for change, and there was little in terms of policy to differentiate the main parties, except in education, where Ukawa promised free access from primary to tertiary level, whereas CCM confined its commitment to free education to lower secondary level. In many events, CCM distanced itself from its historical legacy as the ruling party, while Ukawa presented itself as the best chance to replace the long serving ruling regime.

While hopes were high for a first presidential debate amongst the leading candidates, both CCM and Ukawa declined to participate in a face-to-face discussion, and the national presidential debate, which occurred on 18 October, only featured candidates from smaller parties.

In comparison to the mainland, in Zanzibar, the campaign was more heated, with tensions between the parties that comprise the Government of National Unity, CCM and CUF. The aggressive rhetoric employed

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<sup>17</sup> See section XII. Electoral Justice: A. Electoral offences, page 32.

by some party leaders during the campaign was occasionally intolerant in tone, increased communal tensions, and could have been considered as incitement to violence. For example, the Alliance for Democratic Change (ADC) stated in a campaign rally, on 5 October, on Pemba that the CUF could not be trusted and that a vote for that party would bring to Zanzibar conflict comparable to Somalia's. At a CCM rally in Chake-Chake, Pemba, on 11 October, the second vice-president of Zanzibar described CUF leaders as liars and as people who resembled witch doctors. He further accused CUF of stealing constituency development funds.

In Zanzibar, confidence in the policing of the campaign was lacking amongst some political parties, and isolated incidents of voter intimidation instigated by the security agencies were documented by the EU EOM, including what appeared to be a clear attempt to intimidate opposition supporters by the security forces on the evening of 1 October, in Sarayevo, Unguja, when uniformed and plain clothes security officers visited the area of an opposition rally held earlier in the day, and damaged property being used by people perceived as opposition supporters, leading to escalation of tension and the use of tear gas and live ammunition. However, despite these events, and the intensity of competition, the campaign in Zanzibar was generally peaceful.

In the closing days of the campaign, the rhetorical battle between the opposition and the government over the legality and desirability of calling on voters to remain in the vicinity of polling stations to 'defend the vote' after casting their ballots contributed to an uncertain security environment in the run-up to the vote, on both the mainland and in Zanzibar, although there were few direct consequences on election day.

#### *B. Use of State Resources*

While the emergence of an opposition coalition helped the competitiveness of the electoral campaign, CCM continued to benefit from its historic legacy as the ruling party, and remained the best organised and best financed party. The party's use of or benefit from what were formerly state resources and assets, such as public stadiums and sports grounds, which the EU EOM observed in Arusha, Dodoma, Katavi and Kigoma regions, provided an advantage over other parties, and contributed to an imbalance in the electoral playing field. This sometimes meant that other parties were relegated to far less desirable areas, as in Arusha, where CHADEMA events were held on swampy grounds outside town.

Civil servants were also occasionally observed attending political rallies in partisan capacities, including in the region of Mwanza and in Zanzibar, and there were reports of the use of official vehicles for partisan purposes in a number of regions. The inauguration of some major projects, including the launch of a gas pipeline project in Mtwara on 10 October, the opening of a branch of the central bank in Dodoma on 15 October, the laying of a foundation stone for a new port at Bagamoyo on 16 October and the inauguration of a sports park in Dar es Salaam on 17 October, all in the closing weeks of the campaign, further blurred the distinction between the government and the ruling party, reinforcing CCM's campaign advantage. However, the use of state resources was seldom mentioned by political parties and attracted little scrutiny from the media or other observers.

President Kikwete directly intervened in the campaign on the occasion of Nyerere Day on 14 October when he criticised opposition calls to remain in the vicinity of polling stations, only contributing to the ongoing rhetorical battle between the government and the opposition.

#### *C. Campaign Finance*

The 2010 Election Expenses Act, applicable to the Union general elections, regulates election expenses incurred during internal party nomination processes and the campaign. The prime minister by Government Notice 325, issued in August, prescribed limits on election expenses according to the size of the electoral constituencies, the type of election, the population and the communication infrastructure. These limits

have been increased by approximately 10 per cent since previous elections. For the 2015 Union elections, the total limit of presidential election campaign expenses for each political party was TZSs17 billion (€7 million).

Donations to political parties may be received from any individual or organisation in or outside Tanzania, but foreign contributions are not allowed for a period of 90 days preceding election day. All contesting political parties submitted to the Registrar of Political Parties the amounts intended for election expenses. Within 60 days after election day, each candidate must submit to the political party that sponsored him/her a verified report of the funds the candidate used. The political party must then within 180 days transmit to the Registrar of Political Parties the financial statement together with evidence of payment. As the institution responsible for the supervision of the expenses incurred by political parties during the electoral process, the Registrar of Political Parties has powers of inspection and demand of information, and coordinates its tasks with a number of government bodies that include the Controller and Auditor General, the Prevention and Combating of Corruption Bureau (PCCB), among others. At the time of writing this report, the political parties were yet to submit their expenses to the Registrar of Political Parties.

There is no public funding of parties' election campaigns. All parties represented in the National Assembly and in the Zanzibar House of Representatives are allocated funds for operational expenses in proportion to the number of seats they hold. While all parties represented in parliament agreed that their campaigns were financed by some of these financial resources, the scale and intensity of the 2015 elections, and the figures disclosed by some parties, suggest that significant additional financing was obtained from other sources. Most opposition candidates were reliant on their own personal resources. CHADEMA, NCCR-Mageuzi and ACT-WAZALENDO reported that they spent far more than initially anticipated, and held public fundraising events to supplement the costs of the presidential campaign. Parliamentary candidates are expected to be self-supporting. CHADEMA also admitted it received sizeable donations from private individuals, but declined to quantify these figures. CCM did not disclose any details of its campaign budget or sources of campaign funding, although on the basis of the sophistication of its advertising and outreach, it appeared to be the best resourced and highest spending party.

## IX. Domestic and International Election Observation

The main national groups conducting election observation were the Tanzania Election Monitoring Committee (TEMCO) and the Tanzania Civil Society Consortium on Election Observation (TACCEO).<sup>18</sup> The Coalition on Election Monitoring and Observation in Tanzania (CEMOT) brought the TEMCO and TACCEO platforms together. TEMCO and TACCEO jointly deployed 350 long-term observers, and approximately 7,500 and 2,100 short-term observers respectively. TACCEO and TEMCO also deployed long-term observers to Zanzibar, in addition to the Muslim Leadership Organisation (MLO) with long-term observers in the islands. Under the CEMOT umbrella, they had at least one long-term observer in each district. The two organisations conducted training of their observers independently, based their findings on separate methodologies and issued separate statements. CEMOT set up an Election Observation Centre where election data was collected and analysed. The centre included representatives from the NEC, ZEC, the Office of the Registrar of Political Parties, the Prevention and Combating of Corruption Bureau and the Police.

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<sup>18</sup> The Tanzania Civil Society Consortium of Election Observation is a non-governmental, non-partisan and non-profit-making consortium formed by 17 civil society organisations. It was established before the 2010 elections. The Legal Human Rights Centre (LHRC) coordinates the TACCEO observers most of whom have a paralegal background. The Tanzania Election Monitoring Committee, established in 1995, works with over 172 organisations, including faith-based organisations that have grassroots structures in the country. The university-based Research and Education for Democracy in Tanzania project (REDET) is the leading agency for TEMCO observers. TEMCO activities are funded by USAID, Royal Danish Embassy, Canadian High Commission and by the Open Society Initiative for East Africa.

TEMCO's interim statement identified legal shortcomings in the electoral framework, including the appointment of NEC commissioners, questioning their capacity to work impartially. The lack of NEC's structure below the central level, the reliability of *ad hoc* appointed electoral officials to act with neutrality, the lack of legal provisions for independent candidatures, the exclusion of the diaspora to register as voters and to stand as candidates, and inadequacies of the structure and mechanisms for effective enforcement of the Election Expenses Act were also pointed out. TEMCO/CEMOT observed 6,579 polling stations. Instances of voters' names missing from the register in 18 per cent of visited polling station were noted. TEMCO's main recommendations focused on the need for a comprehensive electoral reform to allow for independent candidacies, challenges to presidential election results, provisions for political parties to form alliances and coalitions, and diaspora voting.

CEMOTS's platform assessed that the elections were generally free and that the results reflected the will of the people. In their view, despite isolated shortcomings, the elections largely adhered to the established legislation. Recommendations included the need for more transparency of the NEC, more stakeholder involvement, a strengthened communication strategy and improved timely public sharing of information on the electoral process.

The Legal and Human Rights Centre (LHRC), the leading organisation within TACCEO, stated in a preliminary report that civic and voter education activities were not provided to voters, that there was a need for electoral reform to provide more transparency to the electoral process and a clear timeframe for the announcement of results. The report referred to allegations of corruption during intra-party nominations as well as some cases of misuse of public resources such as state vehicles in presidential campaigns. Furthermore, the LHRC noted that the increased police presence and riot deterrent trucks during the election period created a climate of fear and intimidation that impacted negatively on voters' free participation in the electoral process.

The LHRC issued a report on the post election situation due to a police raid to their Election Observation Centre on 29 October.<sup>19</sup> The centre was accused, under section 16 of the Cybercrimes Act of 2015, of publishing and disseminating false, deceptive, misleading and/or inaccurate information or data. The LHRC requested the NEC to publicly declare the legality and rights of the observation group.

According to the NEC, around 600 international observers were deployed for the general elections, including the bilateral diplomatic missions of the United States of America and the United Kingdom. International observation missions present in the country for the 2015 elections included that of the African Union led by Armando Guebuza, former President of Mozambique; the Southern African Development Community (SADC) headed by Oldemiro Baloi, Minister of Foreign Affairs of Mozambique; the Commonwealth Observer Group (COG) led by Goodluck Jonathan, former President of Nigeria, and the East African Community (EAC), headed by former vice-president of Kenya, Moody Awori.

## **X. Media and Elections**

### *A. Media Environment*

Tanzania has a diverse and lively media environment. Radio remains the key source of information with nationwide coverage, followed by television and newspapers. About one fifth of the population also uses the internet, primarily via mobile phones.

On mainland Tanzania there are 84 radio stations and 26 television channels, operating at national, regional

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<sup>19</sup> TACCEO and LHRC published a statement on the arrest of election observers, seizure of election observation properties at the election observation centre, November 2015.

and district levels, including some community radios, registered by the regulatory body for broadcast and online media, the Tanzania Communications Regulatory Authority (TCRA). The media with the highest audience nationwide are the state-owned TV and radio Tanzania Broadcasting Corporation (TBC) and nine private TV or radio stations. The newspaper distribution system outside the main urban areas is weak. The most popular Kiswahili dailies are the private *Mwananchi* and *Nipashe*, with an estimated daily circulation of up to 40,000 copies each, and the state-owned *Daily News* in English.

In Zanzibar, voters have fewer media options. The state-owned media, in particular the TV and radio Zanzibar Broadcasting Corporation (ZBC) have a dominant position as there is no private Zanzibar TV channel. The state-owned *Zanzibar Leo* is the only daily newspaper printed in Zanzibar. Nevertheless, private TV channels broadcasting from the mainland are available, as well as several Zanzibar private radio stations. However, the amount of coverage they offer on political developments in Zanzibar is limited.

The state-owned broadcast media TBC and ZBC, although foreseen as public institutions by the Tanzania Communication Regulatory Authority Act, 2003, lack editorial independence from their respective governments contrary to international principles on independence and freedom of the media.<sup>20</sup> The president appoints the state broadcaster's director general, and the minister in charge of the information portfolio appoints the board members, except one member appointed by the staff of TBC and ZBC. Both channels are perceived as acting under the government. The diversity of views in the country is, to some extent, further narrowed by ownership being concentrated in a few major media houses controlling multiple key media outlets, made worse by links of powerful media houses to political parties, in particular to the ruling party. Advertising revenue is not sufficient to fully finance the media sector, which makes media more vulnerable to compromise their editorial independence in exchange for financial benefits. Media interlocutors of the EU EOM have admitted a high level of self-censorship being exercised among journalists in Tanzania, especially in the state media as well as in the media affiliated to political parties.<sup>21</sup>

While freedom of expression is guaranteed by the Constitution, a number of laws can restrict this fundamental right and are conducive to self-censorship. The National Security Act of 1970 restricts access to government information classified as confidential or secret, vaguely defining the procedure for such classification. The Newspapers Act of 1976, governing the printed media sector, criminalises defamation. The Public Service Act of 2002 prohibits disclosure of information by public servants to unauthorised persons. Other existing legislation, including the Broadcasting Service Act of 1993, the Public Leadership Code of Ethics of 1995, and the labour and immigration laws, include provisions that can be used to arbitrarily restrict freedom of expression and access to information, and limit media operations.

Two recent pieces of legislation pertaining to freedom of expression and the media are the Statistics Act and the Cybercrimes Act, both adopted in May 2015. The Statistics Act could prevent any organisation, including non-governmental organisations, from carrying out statistical research without prior approval by the general director of the National Bureau of Statistics and criminalises the publication of "false statistical

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<sup>20</sup> International Covenant on Civil and Political Rights (ICCPR), United Nations Human Rights Commission, General Comment No. 34, paragraph 16: "States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence"; Declaration of the Principles on Freedom of Expression in Africa: Public Broadcasting, article VI. - "State and government controlled broadcasters should be transformed into public service broadcasters (...) be governed by a board which is protected against interference (...) public broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets... the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods."

<sup>21</sup> Declaration of the Principles on Freedom of Expression in Africa: Public Broadcasting article VII: "Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature (...). The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party."

data". The Cybercrimes Act includes provisions, such as section 16, criminalising publication of false, deceptive, misleading or inaccurate information through an electronic device, for instance a computer, whose violation results in a "*fine of not less than five million shillings or imprisonment for a term of not less than three years or to both*", and grants excessive powers to law enforcement agencies in searching and confiscating data or equipment prior to a judicial order.

Earlier in 2015, the parliament also discussed, but did not enact, the Media Services Bill and the Access to Information Bill, submitted to the parliament along with the Cybercrimes and the Statistics Acts. Both bills are pending. While there is need for a review of media legislation, for which media and civil society have long lobbied, especially for progressive legislation on access to information, the current versions of the bills as submitted to parliament include provisions that would hamper the freedom of the media and of expression, and limit rather than facilitate access to information. The EU EOM's interlocutors raised serious concerns in regard to these two bills.

While freedom of expression was generally respected during the weeks preceding the elections and journalists were able to operate in an atmosphere of relative freedom, the Cybercrimes Act was perceived by interlocutors from the media community as strongly generating self-censorship on the internet. Soon after the elections, it was also used against the Legal and Human Rights Centre (LHRC), as well as against CHADEMA, in connection with their activities related to compiling and analysing observation findings and election results forms (see section *Post-Election Environment in the Union*). Also after the elections, on 11 November, the Zanzibar Broadcasting Commission suspended for a two-month period the broadcasting licence of the Zanzibar-based radio, Swahiba FM, for its live broadcast of the 26 October press conference by CUF's presidential candidate in which he claimed he won the presidency.

#### *B. Legal Framework*

The National Election Act and the Zanzibar Election Act grant contestants the right to use the state-owned broadcast media during the campaign. In addition, the Election Expenses Act requires state media (mainland and Zanzibar) to provide information about the electoral process without bias and that such publications shall not discriminate against any candidate. The Broadcasting Services Act stipulates that during the election campaign every broadcaster shall give reasonable and equal opportunity to all contesting political parties for the broadcast of election campaigns.

In addition to the legal framework governing media coverage of the elections, scattered across various pieces of legislation, the Tanzania Communications Regulatory Authority (TCRA) adopted, in July 2015, the Broadcasting Services (Content) (The Political Party Elections Broadcasts) Code, a set of rules applicable to all broadcast media, including the private media, for fair, equitable and balanced coverage of all contestants and political discussions. The Code includes provisions concerning online media and regulates coverage of elections in different programmes, such as in the news, current affairs or debates. While the code was aimed at preventing unbalanced coverage, parts of it are too prescriptive, and were viewed by many media interlocutors as interfering with editorial independence. Examples include the requirement to postpone a discussion programme if one of two parties fails to attend, and the provision that media should conduct pre-screening of views of people calling in during live shows, in order to secure balanced views. Lack of clarity in the interpretation of the Code's provisions, particularly with regard to live programmes, resulted in some private media's reluctance to engage with interactive programmes and contributed to a rather formalistic coverage of the elections.

The Zanzibar Broadcasting Commission, the regulatory body for broadcast media in Zanzibar, adopted a similar code including an almost identical set of provisions, excluding sections that deal with online content which the ZBC does not regulate. However, the code was not used during the election campaign, and state-owned ZBC, which the EU EOM met, was not aware of its existence.

In September 2015, the Zanzibar Electoral Commission (ZEC) issued the Media Code of Conduct stipulating the responsibilities of the media in Zanzibar during the campaign period, including requirements for objective reporting and the obligation of state media to ensure equal access to all candidates and political parties contesting elections in Zanzibar. The code of conduct provided free airtime and space to contestants in the state media during the campaign period, with a schedule agreed between the political parties and the ZEC before the campaign started. Political parties contesting presidential elections were entitled to 25 minutes of free airtime on both radio and TV each week, while the remaining political parties were entitled to 15 minutes each week. Each contesting political party was given the right to use half a page in the state newspapers every week. The parties did not seem interested in using the free space in the newspapers, and some did not take advantage either of the free airtime available in the state TV and radio. Zanzibar Broadcasting Corporation (ZBC) was, at times, airing the political parties' campaign messages outside the agreed schedule, not fully respecting the time slots agreed at the beginning of the campaign. CUF pointed out that this had a negative impact on its ability to reach audiences.

For the elections in the United Republic, the NEC did not adopt any code of conduct for media coverage, contrary to previous elections, and it was not directly involved in the process of allocating free airtime to contestants. Portions of free airtime were provided by the Tanzania Broadcasting Corporation (TBC), which also presented short biographies of the presidential candidates during the two weeks preceding elections. According to the TBC, political parties with presidential candidates were provided with three hours of free airtime at the start of the campaign. Failing to comply with the law requiring equal and fair coverage of all contestants, the TBC coverage of the final campaign rallies, featuring only CCM and CHADEMA, benefited CCM as this final campaign event was aired extensively and at the most prominent time, compared to limited coverage allocated to the final campaign event of CHADEMA. Overall, the portions of free airtime allocated to parties by the TBC were rather limited, especially the time allocated for the presentation of less prominent parties lacking funds to purchase airtime/space in the media.

### *C. Electoral Coverage and EU EOM Media Monitoring*

The EU EOM began its media monitoring on 21 September. The sample of 16 monitored media outlets included the state-owned TV channels Tanzania Broadcasting Corporation (TBC1) and Television Zanzibar, and the private Independent Television (ITV), Channel 10, Star TV, and TV Azam 2. The state-owned radio stations monitored were the Tanzania Broadcasting Corporation (TBC Taifa) and Radio Zanzibar, and the private Radio Free Africa and Radio One. The newspapers included in the sample were the state-owned *Daily News and Zanzibar Leo*, and the private dailies *Mwananchi* and *Nipashe*, as well as the private weeklies *Mwana Halisi* and *Raia Mwema*.

Elections, in particular the presidential contest, dominated the content of broadcast and print media, with editorial coverage centred on the campaigns of the main candidates. Voters were able to access a variety of views through the media, especially due to the diversity of the media environment on mainland Tanzania. However, there was little critical reporting and discussion of political platforms, with the majority of media simply repeating the parties' campaign messages. A positive tone of coverage was characteristic of the reporting of contestants' campaigns, especially in news programmes. The intensive campaign schedules of the main parties posed a challenge for media outlets. Only few media houses, if any, were able to provide their journalists with the means required to follow parties' campaign trails. Journalists are regularly provided with transportation and *per diems* by political parties, and they are expected to supply favourable coverage. This explains, at least in part, the overall positive and non-confrontational portrayal of parties by the media. At the end of September, a journalist working for *Mwananchi* was removed from the team of reporters embedded in the CCM presidential campaign after he published a story perceived by the CCM as unfavourable.

With regard to paid airtime and space, CCM had a very dominant position as monitored in the broadcast

media. Ukawa parties also used the opportunity to place paid-for materials in the media, but to a considerably lesser extent. Since programmes were not labelled as such, it was difficult for viewers to know whether a programme was produced by a media's editorial team, or whether it was a paid-for programme from a party

The findings of the EU EOM media monitoring revealed the failure of the state media to adhere to the legal provisions on equitable and fair coverage of the campaigns, as they primarily focused on coverage of the ruling party. The Tanzania Broadcasting Corporation (TBC) TV and radio allocated 63 per cent and 53 per cent, respectively, of their prime time news coverage of political parties and other political actors to CCM. Similarly, Zanzibar Broadcasting Corporation (ZBC) TV and radio provided 70 and 72 per cent, respectively, of news coverage to CCM, while the other parties combined received 15 and 11 per cent, respectively. The remaining prime time news coverage on both TBC and ZBC was provided to state officials - presidents, vice-presidents and members of both governments, some of whom were candidates, - and their official activities. TBC TV and radio allocated 18 and 29 per cent, respectively, and ZBC TV and radio 15 and 17 per cent, respectively, of airtime on news programmes to these events. In the other programmes offered by the state-owned TV channels, the share of coverage dedicated to CCM was even larger (See *Annex II: Media Monitoring Results*).

On a positive note, some private media outlets demonstrated relatively balanced coverage of the campaigns. While also centred on key contestants, CCM and CHADEMA, the share of their coverage was more equitable, and several other parties were also given notable shares of airtime. TV Azam 2 allocated 37 per cent of its news coverage to CCM, while CHADEMA received 25 per cent, ACT was given eight per cent, and CHAUMMA four per cent of such coverage. Compared to all other media, TV Azam 2 offered the most extensive coverage in special election programmes to the various contestants, including those running for parliament..Three parties, ACT, CCM and CHADEMA, each received about one quarter of the coverage in these programmes. ITV and Radio One, both part of IPP media, also offered a balanced coverage of political actors. ITV allocated to CCM and CHADEMA 33 and 29 per cent of its news coverage, respectively, while Radio One offered 27 and 20 per cent, respectively, of such coverage in their news to both parties. ITV's other editorial programmes offered a similarly balanced picture, although qualitative analyses showed that some journalists were leaning towards CHADEMA.

Star TV and Radio Free Africa offered similar coverage to the one provided by the state media. Both largely focused on CCM, which received 50 and 63 per cent of news coverage, respectively, while CHADEMA was provided 10 per cent of news coverage in each of the two media outlets controlled by Sahara Media Group. Channel 10 also gave CCM the largest share of its news coverage, with 42 per cent, while CHADEMA received 23 per cent, and most of the remaining news coverage was dedicated to the activities of government officials. Channel 10's other editorial programmes offered more balanced coverage with 38 per cent of the airtime each to CCM and CHADEMA.

The state-owned daily newspaper, *Zanzibar Leo*, devoted the largest share of its coverage, 71 per cent, to CCM, while the other political parties combined received 10 per cent. The state-owned *Daily News* also focused on CCM, though its coverage of other parties combined was more noticeable, 27 per cent. In comparison, the private daily *Nipashe* distributed a roughly even coverage to CCM and the opposition parties, while the private *Mwananchi* provided a more diverse portrayal of contestants. The private weekly *Raia Mwema* also offered relatively diverse coverage of key political actors, while the private weekly *Mwana Halisi* clearly leaned towards CHADEMA being critical of CCM. Both weeklies offered a more analytical reporting style in comparison to other monitored media.

The TCRA received a small number of complaints related to the media's conduct during the elections, but details were not made available to the EU EOM. While the media were obliged to inform the TCRA of their plans regarding the presentation of the elections, as the TCRA was monitoring the media and focusing on

election coverage, the TCRA remained rather inactive during the campaign period and failed to challenge the clear bias in coverage by the state and some private media.

## **XI. Participation of Women, Minorities and Persons with Disabilities**

### *A. Participation of Women*

Women represent 53 per cent of the registered electorate in Tanzania. One of the eight Union presidential candidates was female, nominated by ACT. For the first time, CCM nominated a woman for the position of vice-president who was later elected together with the CCM presidential candidate. Although the Constitution provides for women to be indirectly elected to the reserved seats in the National Assembly, currently a minimum of 40 per cent amounting to 114 seats,<sup>22</sup> women were under-represented in the contest for directly elected seats. There were 233 women out of 1,218 candidates competing for the 264 directly elected seats in the National Assembly and 679 women out of 10,879 candidates contesting for Local Councils. For the National Assembly, 26 out of the 233 female candidates were elected: 18 from CCM, seven from CHADEMA and one from CUF. The percentage of female candidates has increased only very slightly from the last elections, 18.4 per cent to 19.1 per cent.

There was no female presidential candidate in Zanzibar. Twenty-nine women out of a total of 180 candidates, representing 16 per cent, contested the 54 directly elected seats in the House of Representatives. Women are also indirectly elected to the reserved seats in the House of Representatives. The Alliance for Democratic Change (ADC) nominated nine, the highest number of women, followed by CCM with seven female candidates and CUF with five. ACT nominated three, Tanzania Democratic Alliance - TADEA and Demokrasia Makini nominated two each, and CHAUMMA one.

Special reserved seats are proportionally allocated to the parties that cross the threshold of 5 per cent of votes obtained for the National Assembly and 10 per cent for the House of Representatives. Following the National Assembly election results, CCM obtained 64 reserved seats, CHADEMA 36 and CUF 10 seats, while the remaining three seats were to be allocated after the holding of elections that were postponed in eight constituencies. The results for the Zanzibar elections were still unknown at the time of writing this report.

EU observers reported a high presence of women at campaign rallies, especially in the ones of CCM, however, with a low presence of women as candidates and as speakers in those meetings. In the polling stations observed, 40 per cent of presiding officers and 51 per cent of polling assistants were women. CCM appointed the largest percentage of women as party agents at 31 per cent, followed by CHADEMA with 16 per cent, ACT with 12 per cent and CUF with nine per cent.

### *B. Participation of Minorities*

The rural Maasai community encounters significant challenges with regards to their inclusion in electoral processes and in general access to and representation in decision-making bodies. Their nomadic lifestyle, the remoteness of Maasai settlements and the language barrier, as few speak Kiswahili, effectively excluded the rural Maasai population from receiving adequate information about the elections. Maasai, and particularly women from this group, are poorly represented in national and regional administration. There were 10 Maasai candidates, including one Maasai woman, contesting National Assembly seats.

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<sup>22</sup> SADC Declaration on Gender and Development, 1997, article H (i): SADC member states [are committed to] “Ensuring the equal representation of women and men (...) and the achievement of at least 30 per cent target of women in political and decision making structures by year 2005.”

### *C. Persons with Disabilities*

Tanzania has ratified the Convention on the Rights of Persons with Disabilities (CRPD) and enacted in 2010 the Persons with Disabilities Act (PWD Act), ensuring the right of the disabled to vote and to be elected. The Commission for Human Rights and Good Governance (CHRAGG), actively following the electoral process, received complaints from people with disabilities on the lack of voter education, especially for deaf people. This was also a concern during the registration process as there were no sign language interpreters at registration centres. Tactile ballots were made available for the visually impaired and assisted voting is provided by the law. No special registration or voting facilities were available to persons whose disability hampers their physical access to registration and voting centres.

## **XII. Electoral Justice**

Under Tanzania's two-tier constitutional structure, the Union and Zanzibar have separate judicial systems except for the Court of Appeal that serves both. The legal system is largely based on the English common law system while also accommodating Islamic and customary laws.

The five-member Court of Appeal of the United Republic of Tanzania, chaired by the Chief Justice, deals with appeals from the Union High Court as well as the Zanzibar High Court, except in cases relating to the interpretation of the Constitution of Zanzibar and matters of Islamic law applicable in Zanzibar. The High Courts of the Union and of Zanzibar exercise original jurisdiction on matters of a constitutional nature and also hear election petitions and appeals from subordinate courts related to the Union and Zanzibar elections, respectively.

### *A. Electoral Offences*

Electoral offences are set out in chapter VI of the National Elections Act for the Union elections and in chapter VII of the Elections Act no. 11 related to the elections in Zanzibar. Offences include double registration, false statements regarding qualification for registration or nomination, misconduct of election officials, forging the register of voters or voter cards, illegal possession of ballot papers, violation of the secrecy of the vote, bribery, impersonation, undue influence over voters, among others. Penalties include a fine and/or up to five years imprisonment.

Due to their criminal nature, electoral offences are dealt with through the normal judicial channels, the district courts being the first instance court whose rulings may be appealed to the High Court. More than 40 cases related to electoral offences were filed with the Union district courts before and immediately after the elections. These referred mainly to allegations of abusive language, unlawful procession, double registration, and the destruction of campaign material by CCM and CHADEMA candidates and supporters.

At the time of writing this report, there were also over 40 ongoing police investigations into incidents that occurred before and after the elections, some of which resulted in the arrests of party supporters (mainly CHADEMA-affiliated) and CHADEMA candidates, who were subsequently released on bail. Although during the campaign period most political parties generally commended the police for its performance during campaign events, in some areas, opposition parties voiced concerns in response to the arrest and detention of their candidates and supporters for public order offences.

Before election day, six CHADEMA parliamentary candidates were arrested in Dodoma, Iringa, Morogoro, Katavi and Mara regions. The Dodoma Urban parliamentary candidate, Benson Kigaila, was arrested on 25 September and released on bail for alleged unlawful demonstration and use of abusive and insulting language. Ten supporters were also charged with unlawful procession and assault, with two of them also charged with assault causing actual bodily harm to a police officer. The Iringa Urban parliamentary candidate, Rev. Peter Msigwa, was charged with inciting violence. The Mpanda Urban parliamentary

candidate, Jonas Kalinde, was charged with unlawful demonstration. The candidate later won the parliamentary seat. The Morogoro Urban parliamentary candidate, Marcossy Albanie Mathew, was charged in September with setting up a military wing within his party and for disturbing public order. The hearing of this case, initially set for 9 October, was adjourned. At the time of the writing, all the above cases were awaiting trial. The Kilombero parliamentary candidate, Peter Lijuakali, was given a six-month suspended prison sentence on 9 October for insulting a Local Council officer. The Bunda Urban parliamentary candidate, Esther Bulaya, was arrested on charges of physical assault and some of her supporters were also charged with armed robbery. She was released three days later without charges.

The Criminal Procedure Act leaves the permitted period of detention to the discretion of the police officer in charge, thus creating the possibility of long and arbitrary detentions. Further, the Regional Administration Act empowers district commissioners to order an arrest without a warrant and for a person to be taken into custody for 48 hours. The legal framework gives therefore extensive powers of civilian arrest to both police and politically appointed administrative officials.

### *B. The Ethics Committees*

The Ethics Committees, stipulated in the Code of Conduct for Political Parties and competent to supervise the implementation of and respect for the code provisions, are established at ward, constituency and national level. The Appeal Committee is responsible for hearing appeals from the National Ethics Committee. The committees comprised NEC officials, representatives from government and political parties. A complaint could be filed at any of these levels and, if still dissatisfied with the outcome, the matter could be taken to court. Three complaints were filed with the National Ethics Committee over the destruction of campaign material, violation of the campaign timeframe and pleading votes on the grounds of religion. All three were settled and the decisions were adhered to by the political parties.

EU observers reported that around 25 complaints were submitted to the Ethics Committees throughout the country, mainly on issues such as the destruction of campaign material, exceeding campaign hours and the use of abusive language during campaign events. Most of them were settled and the rest referred to the competent bodies, namely the NEC, the Prevention and Combating of Corruption Bureau (PCCB) and the police.

In most constituencies, the Ethics Committees were established and perceived by the political parties as an effective mechanism to resolve minor disputes. Nevertheless, their effectiveness as an *ad hoc* dispute resolution mechanism was often questioned and, in some parts of the country, campaign related disputes were either settled between the involved parties and electoral officials without the need for these committees to be established, or through the mediation of other authorities such as district commissioners.

### *C. Complaints and Appeals*

The National Electoral Commission (NEC) and the Zanzibar Electoral Commission (ZEC) are responsible for resolving complaints and appeals at all levels of the electoral administration in relation to civil matters. Although both Constitutions and laws provide that the decisions of both electoral commissions are considered final, the two Constitutions also provide for unlimited jurisdiction of the High Courts and the possibility for judicial review over the legality of any decision made by public authorities, including the election management bodies. This procedure has, however, never been used, so the courts have not been able to deliver a legal interpretation that could have enhanced certainty in relation to the possibility of challenging NEC and ZEC's decisions.

According to the law, NEC and ZEC decisions on the nomination of parliamentary candidates may only be appealed to the respective High Court after the declaration of election results. This provision does not allow

for a timely remedy for aggrieved parties. The legal frameworks for the Union and for Zanzibar do not offer a mechanism to appeal a decision of the NEC and ZEC in refusing the nomination of presidential candidates.

For handling complaints related to the elections in Zanzibar, the ZEC lacked standardised procedures. CUF submitted 12 official complaints to the ZEC. These referred to access to a copy of the voter register in February 2015; lack of clarification on the new boundary delimitation of *shehias* and wards; and a complaint against an assistant registration officer in Micheweni district on grounds of partisanship. Other complaints related to one registration centre allegedly located in the camp of the volunteer forces (KVZ) and another inside a military camp; alleged voter registration irregularities by registering unqualified persons; and an alleged disturbance of a CUF meeting by CCM supporters. There were also concerns directed to the ZEC about the collection of voter cards and whether voter cards' details corresponded to new constituency boundaries. On 17 September, CUF submitted an official complaint to the ZEC regarding the alleged distribution of voter cards by the *shehas* prior to the official opening of the distribution centres, accusing the electoral body of favouring CCM. Additionally, upon completion of the three-day distribution of voters' cards, CUF complained that many of its supporters on Pemba did not receive their cards despite presenting their Zanzibar ID and the voter card's receipt. The ZEC responded to some of these complaints in writing; in other cases, issues were dealt with in bilateral meetings or in the only ethics committee meeting that took place.

Around 25 complaints were submitted to the NEC mainly regarding nomination, malpractices during voter registration and an alleged biased attitude of returning officers. On election day, very few complaints were submitted at the polling stations observed by the EU EOM and these were handled according to the regulations. Two complaints were also reported after the elections on tabulation: one complaint was submitted by a CCM candidate on alleged manipulation of results in Bunda Urban, with a request not to announce the results before a recount – an election petition was filed challenging these results; and one by a CHADEMA candidate, TADEA agent and AFP agent alleging irregularities during tabulation in Musoma Urban.

A case was submitted to the High Court, on 16 October, by a CHADEMA candidate challenging the constitutionality of the announcement made by NEC about the public not allowed within a radius of 200 metres of the polling stations. The candidate was seeking interpretation of the provisions of the National Elections Act invoked by the NEC, and claimed the NEC was violating the right to monitor the electoral process and be present when the results are announced. The Court issued a ruling on 23 October, which validated the constitutionality of the announcement by the NEC.

#### *D. Election Petitions*

The legal frameworks of both the Union and Zanzibar do not provide for the possibility to challenge presidential election results, contrary to international principles for democratic elections entrenched in the International Covenant on Civil and Political Rights (ICCPR).<sup>23</sup> Only the validity of the National Assembly and House of Representatives' elections may be challenged by way of petition presented before the Union or Zanzibar High Court, respectively, and in the case of petitions regarding local councillors' elections, before the magistrate courts. Election petitions challenging the results of the National Assembly and the House of Representatives must be presented within 30 and 14 days, respectively, after the official declaration of results. The High Courts have to decide on the matter within 12 months for the Union parliamentary

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<sup>23</sup> Article 2 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 20: "There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes." and African Union Declaration on the Principles governing Democratic Elections in Africa, section IV.7, stating that "Individuals or political parties shall have the right to appeal and to obtain a timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country".

elections and within two years for the Zanzibar House of Representatives elections. The timeframe of two years for the Zanzibar High Court to deliver a judgment on an election petition is lengthy in comparison to the 12-month period in the Union.

The fees for submitting election petitions to the High Court amount to TZS200,000 (€86) and for the Residents' Magistrates Court to TZS100,000 (€43). Further, the petitioner must make an application to determine the amount to be paid as a deposit to secure costs of proceedings within 14 days of filing the petition. The amount determined by the Court must not exceed TZS5 million (€2,100). Reliefs available to a petitioner are a declaration by the court that the election is void, a declaration of invalid nomination or the declaration of another winner or a scrutiny.

At the time of writing, 51 parliamentary election petitions have been submitted to the Union High Court, including for Iringa Urban, Tanga Urban, Buyungu constituency in Tabora, Longido in Arusha and Mgagala in Dar es Salaam. Other petitions were filed after the 30-day deadline. The court requested the NEC to confirm the dates of the declaration of results in the respective areas for further procedure. In addition, 155 petitions challenging Local Council results were filed at the magistrate courts in the Union.

Training for judges was organised by the UNDP through the Democratic Empowerment Project (DEP). A total of 84 judges were trained on how to adjudicate election petitions in order to strengthen the capacity of the judiciary in electoral dispute resolution, and promote effective and faster court proceedings. Training for Magistrates in charge of the Resident Magistrates' Courts and Registry officers took place after the elections, from 16 to 19 November. The aim was to handle all election petitions within six months.

### **XIII. United Republic Elections - Election Day and Post-Election Period**

#### *A. Voting and Closing*

On 25 October, voting took place from 07.00 to 16.00 hrs. The NEC increased the 51,572 polling stations in 2010 to 65,105 due to the higher number of registered voters. The centres used for the voter registration exercise were used as polling stations along with other locations. A maximum of 450 voters were allocated per polling station, with three polling staff, one direction clerk and one security officer outside a polling station. Political parties were allowed to appoint one party agent for each polling station.

On election day, EU observers followed the voting procedures at 625 polling stations in all regions of the country. The conduct of voting was positively assessed in 96 per cent of the polling stations observed by the EU EOM. All polling stations observed opened on time. Voting was conducted in an organised and generally calm atmosphere despite long queues being reported throughout the day. Voting procedures were observed to be consistent, allowing electors to vote in an overall efficient and organised way. Although the establishment of an adequate layout at polling station was mostly implemented, EU observers still reported inadequate protection of the secrecy of the vote in 21 per cent of polling stations visited, due to unintentionally inappropriate polling station layout. There were a few cases where campaign activities were observed in the vicinity of polling stations. Political party representatives were present in almost all of the polling stations observed while at least one national observer was present in 22 per cent of these stations. EU observers reported a few instances of political party representatives acting in excess of their mandate, as well as cases of ballot papers not being sufficient in 11 polling stations and protocols missing in 13 stations.

Overall, voting procedures were consistently followed in the polling stations visited by EU observers, providing adequate safeguards to ensure the integrity of the vote and transparency of the voting process. Polling and procedural safeguards put in place to protect the secrecy and integrity of the vote included photographs on the voter list, use of indelible ink to mark voters' fingers and transparent ballot boxes. Additional precautions were the recording of the voter's registration number on ballot stubs and the

stamping of ballots on two sides. The performance of polling staff was mostly assessed to be good and very good.

There were, however, some polling stations where elections had to be postponed. The NEC announced re-polling, on 26 October, for presidential and parliamentary elections to be held in 35 polling stations in Kinondoni in Dar es Salaam, and for 15 polling stations in Sumbawanga in Rukwa region. In Kinondoni polling staff destroyed ballot papers over disagreements with the NEC regarding payment for election day duties. In Mitepa ward in Sumbawanga, citizens burned ballots papers due to the alleged discovery of fake ballots. In Zanzibar, the elections had to be suspended in two National Assembly constituencies (Pangawe and Kijito Upele) due to a shortage of ballot papers. A lack of ballot papers was further reported from Chukwani and Mombasa constituencies.

Parliamentary elections were also previously postponed in six constituencies - Lushoto, Ulanga East, Arusha Urban, Masasi, Ludewa and Handeni - and in a number of wards due to deaths of candidates. The electoral law stipulates that the returning officer should cancel the election for the constituency, and that the NEC is to provide a new date, within 30 days of cancellation, for the relevant political party to nominate a new candidate. The other candidates are not required to re-submit their nomination. In addition, in two constituencies, Lulindi and Masasi town in Mtwara region, parliamentary elections for the Union were postponed due to lack of ballots and misprinted ballots.

#### *B. Counting and Tallying of Results*

Counting started immediately after closing in 86 per cent of the polling stations visited and was conducted in the presence of political party agents and observers. The integrity of the counting process was sufficiently protected. Copies of the result forms were publicly displayed and given to party agents. The overall assessment of the closing and counting process was good or very good in 83 per cent of the polling stations observed by the EU EOM, with the transparency of the process being assessed as good or very good in 88 per cent of the polling stations observed. A number of polling station locations lacked electricity, which presented difficulties in conducting the counting, even if they were equipped with lamps.

There was less transparency and credibility in the tallying process compared to the voting process. The NEC was not able to ensure a consistent implementation of tallying procedures throughout the regions. Clear guidelines on how to conduct the tallying and how to deal with arithmetical discrepancies were not always transmitted by the NEC to constituency returning officers or to political party representatives. Discretionary powers were exercised by returning officers and their capacity and proficiency varied greatly, impacting negatively on the organisation and management of the process. Different levels of access to the process were also granted to political party representatives and observers at the various tallying centres.

EU observers rated the overall conduct of the tallying process as very good or good in only 64 per cent of the centres observed. National observers were present only in 41 per cent of the centres visited. Unauthorised party officials or police were observed inside the tallying centre in some cases. In half of the centres visited, the organisation of the work was rated as good or very good, while in 15 per cent of cases the overall performance of the staff conducting tallying was assessed as bad. Political party agents of CCM and CHADEMA were present at 80 per cent of the centres observed and were often able to check the data on the forms before these were processed electronically. In most centres, the results were displayed on big screens once data was entered. However, cases of problems with the NEC results management system (RMS) were reported. When the system failed, data entry was concluded in Excel sheets as a backup system.

Presidential and parliamentary results were not always transported directly to the constituency centre for tabulation, but first taken to the ward centre with the councillors' results, which caused delays in the delivery of results forms. The organisation of the intake of materials varied. In the majority of cases, the

intake process was smooth and well organised. However, in 34 per cent of the observed intake of result forms and materials, the seals securing polling station materials were not intact. In a number of locations, the process of transfer and receipt of materials was disorganised, as observed in Songea, Nyamagana, Musoma Urban and Tanga constituencies. In Songea some ballot boxes arrived without being properly sealed.

Disparities in the procedures for the start of the tallying were observed. In Dodoma, Morogoro Rural, Dar es Salaam, Songea and Iringa Urban, the centres were organised to conduct the intake of materials and addition of results separately. Results forms and ballots were collected, stored and kept aside until all results forms and ballots were delivered, and data entry started only afterwards. In contrast, the intake and the addition of results were conducted simultaneously in Morogoro Urban, Morogoro South East and Kawe constituencies. In Morogoro Urban, Dar es Salaam and Ukonga tally centres, presidential and parliamentary elections were added simultaneously, not following NEC instructions to give priority to presidential votes. This duplicated process was found to be dysfunctional.

Instances of procedural errors or omissions were observed. Discrepancies between the polling station results forms and the figures entered in the tabulation were noted in 17 per cent of the cases observed. In Mwanza, there were irregularities in filling in results forms that were not corrected by the returning officer. Arithmetical errors on results forms were not checked during the intake process, while during the addition of results these errors were left uncorrected. An election petition was submitted. In Illemela, some polling stations results were not accurately transferred to the constituency summary Excel sheet. In a number of cases, a few votes (5 to 7) were added to the CCM candidate while in some cases CHADEMA votes were decreased. The CHADEMA party agent was not present during this phase of the tallying and later refused to sign the constituency parliamentary results form. A petition challenging these results was submitted.

In Dodoma Urban, the returning officer read out results for the parliamentary seat when only 122 out of 737 polling stations results had been entered. The returning officer deliberately failed to notify party agents of the announcement.

Delays in the tabulation process at constituency level raised tensions around some tally centres where party supporters had gathered to follow the announcement of results. In some instances, police intervened to disperse crowds using tear gas. Mostly, party supporters voiced concerns regarding delays in the announcement of parliamentary results. Violent incidents occurred in Mbozi in Mbeya, where crowds set fire to the Mlowo Primary Court and the CCM party district office, demanding the swift announcement of results. Instances of police dispersing crowds outside tally centres using tear gas were also reported by EU observers in Tukuyu in Mbeya, Songea in Rovuma, Bukoba Urban in Kagera, Mtwara, Tabora Urban and Igunga in Tabora, Bariadi West in Simiyu, Longido in Arusha, Ukonga in Dar es Salaam, Manyoni in Singida and in Tanga.

### *C. Announcement of Union Results*

The law does not determine a deadline for the National Electoral Commission (NEC) to announce Union presidential election results. The Constitution provides only for a seven-day deadline for the assumption of office by the president after being declared elected, and another seven-day deadline for the president to summon the new parliament following the declaration of parliamentary election results.

The NEC started the announcement of partial Union presidential results on 26 October. The national tallying for presidential results took place on 29 October in an open session, after the majority of constituency results forms had been received. The NEC officially announced Union presidential results on 30 October. Magufuli of CCM was declared the winner with 58 per cent of the votes (8,882,935 ballots); Lowassa of CHADEMA/UKAWA obtained 40 per cent (6,072,848 ballots). This was the best performance by an opposition candidate in Tanzania's modern democratic history. The six remaining presidential aspirants

received under 1.55 per cent of votes combined. The official turnout for the presidential vote was 67.31 per cent, thus much higher than the 2010 turnout of 43 per cent.

The new president was sworn in on 5 November. The attention provided to the ceremony and the high-level international participation left the Zanzibar issue to a secondary place.

### **Presidential results**

		Percentage
Registered Voters	23,161,440	
Voted	15,589,639	67.31%
Valid Votes	15,193,862	97.46%
Spoilt Votes	402,248	2.58%

	Candidate Name	Gender	Party	Votes	Percentage
1	ANNA ELISHA MGHWIRA	F	ACT	98,763	0.65%
2	CHIEF LUTALOSA YEMBA	M	ADC	66,049	0.43%
3	DKT. MAGUFULI JOHN POMBE JOSEPH	M	CCM	8,882,935	58.46%
4	LOWASSA EDWARD NGOYAI	M	CHADEMA	6,072,848	39.97%
5	HASHIM RUNGWE SPUNDA	M	CHAUMMA	49,256	0.32%
6	KASAMBALA JANKEN MALIK	M	NRA	8,028	0.05%
7	LYIMO M. ELIFATIO	M	TLP	8,198	0.05%
8	DOVUTWA FAHMI NASORO	M	UPDP	7,785	0.05%

Although both Magufuli and Lowassa conducted national campaigns, there was a clear regional distinction in the election results, with Lowassa winning in northern regions like Arusha and Kilimanjaro, and doing well in urban areas including the economic capital, Dar es Salaam, while Magufuli triumphed in most other areas, including throughout rural constituencies, and in the key battleground of Mwanza, in the country's northwest. Given that Tanzania's population remains predominantly rural, and with CHADEMA's urban support insufficient to overcome this demographic advantage, CCM maintained a stronger position. Allegations of fraud made by CHADEMA, including claims that its true vote count was suppressed in its strongholds, were not substantiated by publicly disclosed evidence.

Turnout in the election recovered from a historically low 43 per cent in 2010, and at nearly 67 per cent was well within Tanzania's historical norms. However, despite the high voter registration, the turnout in urban areas was not sufficiently high to overcome the majorities accrued in rural constituencies.

Despite the electoral coalition agreement, vote splitting between CUF and CHADEMA in a number of parliamentary constituencies, particularly in Dar es Salaam, was politically costly and helped CCM win or retain seats that would otherwise have been at risk of being won by the opposition.

Ukawa parties obtained a record number of parliamentarians in both directly and indirectly elected seats. From the combined 89 seats Ukawa parties held at dissolution of the former parliament, the coalition now holds 113 seats. Both TLP and UDP lost their single seats in parliament, while NCCR-M was reduced to one seat. ACT, a new parliamentary entrant, won one seat. While CCM still has a commanding majority in the National Assembly with 254 seats, more than twice as many representatives as the opposition (before

adding the postponed elections or presidentially appointed seats), a larger opposition caucus will challenge CCM's dominance.

#### *D. Post-Election Environment*

The post election environment was characterised by a number of arrests under the Cybercrimes Act resulting in four court cases, the prohibition through a police instruction of holding any type of public demonstration, and heavy presence of the police and military on the streets.

The Ukawa coalition, led by CHADEMA, rejected the Union presidential and parliamentary results, and insisted that its candidate had won the presidential elections. The party attempted to organise demonstrations in Dar es Salaam on 2 and 3 November, but was refused police permission. CHADEMA claimed that it had evidence of the falsification of results, and that there were significant discrepancies between polling station results and announced NEC figures. CHADEMA's own efforts to tabulate the figures were disrupted on 25 October, when a police raid confiscated data, computers and other equipment from CHADEMA communication centres, and 191 of its staff were arrested and brought before the courts and eight were remanded in custody until 30 October. CHADEMA communication centre staff were accused, under section 16 of the Cybercrimes Act, of publishing false, deceptive and inaccurate information without NEC's validation. The first hearing of this case was to take place on 22 December 2015.

In addition to the police raids in CHADEMA offices, the data centre of the Legal and Human Rights Centre (LHRC), where the domestic observer group TACCEO was compiling and analysing the reports received from their observers in the field, was also raided by the police, on 29 October. Staff were detained and computers and phones were confiscated, again under section 16 of the Cybercrime Act. The police considered that the group was collecting and distributing results through social media, contrary to their mandate for election observation.

Section 16 of the Cybercrimes Act was evoked in two other cases of arrests. A third case concerned a CHADEMA supporter, Yericko Yohanesty Nuyere, who was arrested on 24 October and later released on bail, charged with publication of false information through social media between 25 October and 3 November. The fourth and last case involved four individuals who are under investigation, suspected of publishing false information on 6 November. The four individuals remained in custody without bail being granted. All these cases were awaiting trial at the time of writing this report.

The Cybercrimes Act of 2015 received considerable criticism from political parties and civil society for non-compliance with international principles on freedom of expression, and has raised serious concerns over its implementation, especially with regards to the disproportionate sanctions and excessive powers provided to the police to conduct searches and seizure operations. Although there was potential for the restriction of freedom of expression due to its enactment, freedom of expression was generally respected throughout the pre-electoral period, and the media was able to operate in an atmosphere of relative freedom. However, immediately after election day, the raiding of CHADEMA offices and the national observers' group TACCEO/ Legal and Human Rights Centre (LHRC) by the police, where analysis of electoral data including election results was being conducted, and the consequent arrests of staff and confiscation of equipment and documents, under section 16 of the act, raised concerns over the use and implementation of the act.

Section 16 of the act relating to publication of false information states that *"Any person who publishes information, data or facts presented in a picture, text, symbol or any other form in a computer system where such information, data or fact is false, deceptive, misleading or inaccurate commits an offence, and shall on conviction be liable to a fine not less than TzSh3 million or to imprisonment for a term not less than 6 months or to both."*

In September 2015, the Tanzania Human Rights Defenders Coalition (THRDC) filed a petition challenging the

constitutionality of some of the provisions of the Cybercrimes Act, including the provisions restricting the right to seek, receive or disseminate information; the powers to law enforcers to search and seize computer systems, data and information without a court order; to restrict the appearance of a person against whom an application is brought to defend himself before court of law (section 38 provides for *ex parte* proceedings). The hearing was expected to take place on 10 February 2016. The petition, however, does not mention specifically section 16 of the Act.

The Heads of Mission of the European Union, Switzerland, Canada, Norway and the United States accredited in the country issued a Joint Local Statement on 9 November expressing concerns on the use of the Cybercrimes Act in a way that infringes fundamental freedoms, and limits the scope of action for civil society organisations and domestic observers.

#### **XIV. Zanzibar Elections - Election Day and Post-Election Period**

##### *A. Voting and Closing*

In Zanzibar the EU EOM observed the process in 71 polling stations. Almost all polling stations observed opened on time and opening procedures were followed, except in one case. The conduct of voting was positively assessed in 96 per cent of the polling stations observed by the EU EOM. Voting was conducted in an organised and generally calm atmosphere despite long queues being reported during the morning. There were a few cases where campaign activities were observed in the vicinity of polling stations. At the Sharifumsa polling centre (Mtoni constituency) a candidate and voters felt intimidated by the presence of armed special department (security) forces at the entrance gate. Political party representatives were present in almost all the polling stations observed. EU observers reported that in one polling station political party representatives acted in excess of their mandate and that ballot papers were insufficient in two polling stations. Polling procedures were mainly followed in the polling stations visited by EU observers, providing adequate safeguards to ensure the integrity of the vote. EU observers reported inadequate protection of the secrecy of the vote in 8 per cent of polling stations visited, mainly due to inappropriate polling station layout. The performance of ZEC polling staff was mostly assessed to be good and very good.

##### *B. Counting and Tallying of Results*

Copies of the polling station result forms were posted outside the polling station and provided to party agents. Presidential and House of Representatives election results forms were transferred to the 54 returning officers at constituency level.

In the tallying centres observed by the EU EOM on Pemba, the election officials, upon receiving polling stations materials, checked that the results sheets were completed correctly and in full. Presiding officers were present throughout the processing of results forms of their respective polling stations. Political party agents of CCM, CUF, CHADEMA and ADC were present during the aggregation of results. National observers were absent. During the tallying of results, it was difficult for observers to follow the process since ZEC did not use a tallying sheet, and figures were called out loud, written on a blackboard and then erased quickly. Nonetheless, the total number of votes for each candidate announced by the returning officer at the observed constituency tally centres coincided with the aggregated figures calculated by party agents and observers. Party agents present signed the results sheets in the centres observed and no significant procedural errors or omissions were noted.

Returning officers tabulated the results for presidential and House of Representatives' elections and declared the winners for the House of Representatives in each constituency. The returning officers of the 54 constituencies in Zanzibar provided a certificate of election to all elected candidates for the House of

Representatives, upon announcement of election results on the night of 25 October and on 26 October.

For the central tallying of presidential results in Zanzibar, members of the ZEC and a representative of each contesting political party were present at ZEC Bwawani tallying centre. Contrary to the tallying of Union presidential results, to which observers were not granted access, EU observers, UNDP, the United States of America and British High Commission observers were allowed to observe the process. The tabulation process at ZEC central level was, in general, transparent during the first two days (26 and 27 October) after which observers no longer had access until the decision to nullify the elections.

Upon receiving constituency results forms, the ZEC carried out the verification and the tallying of results while political party agents scrutinised the process. Results were recorded in an Excel sheet that was projected on the wall. The verification of results process was initially established at polling station level and changed to constituency level verification, going back again to polling station level verification upon requests submitted by the CCM party agents. Partial presidential results verified by ZEC were continuously announced at the tallying centre. The majority of results forms held by ZEC concurred with those given to party agents. In case of discrepancies, the ZEC requested party agents to provide their original copy from a particular polling station. EU observers reported that, as constituency verification progressed, the process suffered repeated interruptions and delays. The ZEC increased requests for party agents to submit their polling station results as CCM agents frequently disagreed on a number of polling station results. These frequent requests slowed down the tallying process and international observers were increasingly prevented from observing the tallying process in the room dedicated to the verification of results.

In the afternoon of 27 October, security forces from the Tanzanian People's Defence Forces, in conjunction with the special security departments of Zanzibar, prevented entry and exit into and from the central tallying centre, denying access to EU observers and other international missions. Access was restored after five hours, with no explanation provided by the ZEC or by security officials. By the evening of 27 October, the ZEC had announced 31 out of the 54 constituency results for the presidential elections. None of these results were from Pemba.

The ZEC held an internal meeting on 28 October, following postponements of further announcements of results. When the ZEC chairman left the tallying centre, the ZEC vice-chairman attempted to continue tallying, but was prevented from doing so and escorted outside the centre by security forces. The ZEC chairman subsequently broadcast on ZBC a message nullifying the election results in Zanzibar and mentioned grounds for the nullification. The reasons given by the ZEC chairman for the nullification included disagreements between ZEC commissioners; ZEC commissioners failing to perform their duties as commissioners and acting instead as party representatives; the fact that some political parties were not represented at the ZEC; polling stations, especially on Pemba, where the number of voters outnumbered the number of registered voters; ballot boxes being transferred on Pemba and counted outside polling stations; party agents, especially from TADEA, removed from polling stations and beaten; the raiding of polling stations by youth, and restricted access to polling stations; political parties interfering with ZEC's duties, including announcing their victory; many complains brought forward from different political parties claiming they were not satisfied with the results of the general elections; and the tampering of figures on the results forms in some of the polling stations, particularly on Pemba.

### *C. Nullification of Elections and Post-Nullification Developments*

Following the announcement on 28 October by the chairman of the Zanzibar Electoral Commission (ZEC) that the Zanzibar election results were nullified, and that a re-run of elections would take place, several security incidents were reported, including violence directed by state security actors against perceived supporters of CUF on the island of Tumbatu, near Unguja. Two explosive devices were found near Stonetown, Unguja. The police detonated one device in a controlled explosion, while the other exploded.

No injuries were reported. Despite these incidents, the overall political environment in Zanzibar remained calm, largely because CUF publicly and repeatedly asked its supporters to show restraint.

On 29 October, the EU EOM and the international observer missions of the African Union, SADC and the Commonwealth issued a joint statement on Zanzibar. The missions expressed great concern regarding the decision of the ZEC chairman to nullify the Zanzibar elections, and stood by their previous assessment that the voting and counting process at the polling stations was, overall, conducted in a generally peaceful and organised manner, according to the procedures outlined in the laws of the United Republic of Tanzania and the laws of Zanzibar. The missions requested the ZEC specify in which polling stations there had been irregularities, and appealed to the ZEC to act with full transparency in its decision to nullify the elections.

An initial 48-hour deadline set by CUF for resolution of the crisis passed without developments, and contacts between CUF and CCM remained limited. CCM, in its public pronouncements, reiterated its support for ZEC's call for new elections, while CUF rejected any suggestion that new polls should be held and called for the resumption of the tallying and consequent announcement of presidential results and considered the nullification of election results illegal.

Immediately after the announcement of the ZEC chairman to nullify the elections, discussions began within civil society and the legal community started regarding the legality of this decision in terms of procedures and substance. Initially, the ZEC chairman announced that it was his decision to nullify the elections, which raised concerns over the respect for ZEC decision-making procedures. According to the Constitution of Zanzibar, any ZEC decision requires a quorum of at least five members (chairperson or vice-chairperson and four commissioners) and, for a decision to be approved, a majority vote is required (three votes considering a quorum of five members). Therefore, a unilateral decision by the ZEC chairman could not be considered valid.

However, on 1 November, the ZEC held its first meeting since the nullification of results, with all commissioners in attendance. The ZEC decided retrospectively to approve the nullification of the elections, but was entirely split along party lines, with CCM appointees and one other member joining the chairman in approving the decision with a majority of four votes, while CUF representatives and the vice-chairman voting against. This was the last meeting held by ZEC until the departure of the EU EOM on 8 December. ZEC's decision to nullify elections in Zanzibar was published in the official Gazette on 11 November with the date of 6 November. The notice in the Gazette stated that the ZEC chairman, on behalf of the ZEC, nullified the results of the general elections conducted on 25 October and cited two articles on which the decision was based: article 119 (10) of the Constitution relating to the required quorum and approval of any decision of the commission; and article 3 (1) and 5 (a) stating that all regulations, directions and notices that the ZEC is empowered to make shall be deemed to have been validly made under the signature of the chairperson or the director of elections; and that the ZEC is responsible for the overall supervision of the conduct of the general elections. The notice did not specify the grounds for the nullification or the powers conferred on to the ZEC to nullify elections according to any specific ground. It also stated that a new election date would be set, without further details.

Independently of whether the decision had become procedurally valid - due to its endorsement by the required number of ZEC commissioners and publication in the Gazette - the power to nullify an entire election or the entire electoral process remained disputed, as there is no explicit provision for this in the law. All interlocutors from the legal community and judiciary, except for the current Attorney General, with whom the EU EOM met, agreed that the law does not provide for nullification of the entire electoral process, including the different phases and simultaneously the three elections, or of an entire single election (presidential, House of Representatives or Local Councils). According to the law, the ZEC may, for any reason, request the recount of ballots in the constituencies or in a specific constituency. Further, the law provides that presidential election results should be declared within three days after election day,

except when there are election problems in some polling stations, in which case results should be announced three days after such problems have been resolved. Furthermore, the nullification of the parliamentary and Local Council elections remains controversial as these results had already been officially announced, on 25 and 26 October, by the respective returning officers as stipulated in the law and could only be challenged in the High Court through election petitions. All returning officers had given elected candidates for the House of Representatives a certificate of election according to the law. The election results announced by the 54 returning officers at constituency level for the House of Representatives gave CCM and CUF 27 seats each.

Although the decision of the ZEC chairman could have been appealed before the High Court, the judiciary in Zanzibar enjoys little confidence regarding its transparency and impartiality by most interlocutors, including political parties. The EU EOM was told that judges would likely be under pressure to uphold the decision to nullify the elections. The perception regarding the likelihood of pressure on the judiciary was exacerbated by the manner in which the vice-chairman of the ZEC, himself a High Court judge, was escorted by the security forces out of the tallying centre and not allowed to continue the tallying. In this context, and with further suspicions that a possible court case could remain unresolved for an indeterminate period, aggrieved parties excluded the possibility of seeking judicial redress.

On 9 November, CCM and CUF initiated talks, in what was the first of a series of nine meetings<sup>24</sup> between the two leading presidential candidates, Ali Mohammed Shein of CCM (President of Zanzibar) and Seif Sharif Hamad of CUF (First Vice-President of Zanzibar). The meetings were also attended by former President of Zanzibar, Amani Abeid Karume, former President of Tanzania (and Zanzibari) Ali Hassan Mwinyi, and Second Vice-President Seif Ali Iddi. These direct talks between the main contestants followed a meeting on 4 November between President Kikwete and Seif Sharif Hamad.

The fact that the decision of the ZEC chairman was published in the official Gazette on 11 November, while the second meeting was taking place, changed the tone of the discussions between the two parties. While CUF expected an agreement for the continuation of tallying, the publication in the Gazette changed the legal context as the decision by the ZEC became valid from the date of publication unless challenged in court. CUF considered that CCM had no intention of reaching an agreement during the discussions. These remained focused on the legality of the decision taken by the ZEC regarding the powers afforded by law to the ZEC to nullify election results. A request by CUF to bring the ZEC chairman to the meetings was rejected by CCM on the grounds that they had no authority to summon the chairperson.

During the fourth meeting, on 24 November, CUF put forward two possibilities for the resolution of the situation in Zanzibar: i) in case of a re-run of all three Zanzibar elections, CUF would participate only on the condition that the elections would be administered by an UN-led independent commission; ii) a partial re-run of the presidential elections only in the 14 constituencies on Pemba where there were claims of irregularities. In the remaining nine constituencies where presidential results were verified, but not announced by the ZEC, results could be considered valid or not, leaving the decision to CCM. However, all the results announced for the House of Representatives and Local Councils should be deemed valid since they had been officially announced by respective returning officers, as should the 31 (out of 54) constituency presidential results that were certified and announced by the ZEC. During the fifth meeting, both proposals were dismissed by CCM, the first on the grounds of lack of legal provisions to allow the deployment of an UN-led independent commission, while the second was not even considered by CCM.

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<sup>24</sup> Meetings between the two presidential candidates took place on 9 November, 16 November, 23 and 24 November, 30 November, 7 December, 15 December, 11 January and 14 January. The ZEC announced the re-run of elections for 20 March on 22 January 2016.

After several meetings, CUF believed it was meaningless to continue the bilateral meetings claiming CCM had no real will to negotiate an agreement. CCM insisted on a re-run only of the voting exercise, since the ZEC chairman nullified only the voting and counting / tallying stages.

The main concerns regarding a re-run of elections were over the legitimacy of and the confidence in the current ZEC to re-run elections; fears that results could again be nullified; and the availability of financial resources for the re-run. The total cost of the 25 October general elections in Zanzibar amounted to €3 million. Although there was no confidence in the current Zanzibar Electoral Commission, due to appointment procedures the commissioners and the secretariat were unlikely to be changed if a re-run took place. CCM insisted though that non-permanent staff, including polling station staff, had to be changed due to the alleged irregularities encountered in the 25 October elections.

The role of international actors in the mediation of the crisis was peripheral despite many efforts by diplomatic missions to reach out to all the stakeholders. The talks remained an entirely Zanzibar affair, and it did not appear that CCM was open to external mediation. Moreover, no visible efforts were made, until the departure of the EU EOM from Tanzania, by the Union CCM or Union President to deal with the Zanzibar crisis, even after the newly-elected President Magufuli stated during the inauguration of the National Assembly on 20 November that the Vice-President would play a key role in the resolution of the Zanzibar crisis. Attempts by CUF to contact the President had failed until 8 December. President Magufuli met separately the Zanzibar President Ali Mohammed Shein (CCM) and Vice-President Seif Sharif Hamad (CUF) only at the end of December.

The EU EOM remained in Tanzania until 8 December, maintaining a regular presence in Zanzibar to follow the developments regarding the electoral process on the isles. The EU EOM held regular meetings with key stakeholders in Zanzibar, including political parties, the former and current Attorneys General, members of the legal community and the judiciary, civil society organisations and electoral officials. The EU EOM noted that the outcomes of the discussions between CCM and CUF were not made available to the public and that there was a clear attempt to limit public access to this information. The meetings between the two parties were considered secret and no news in terms of content or developments were reported, leaving the population uncertain about the political future of the elected institutions in Zanzibar. This uncertainty, together with the highly visible military presence on the isles, brought about a situation in which some sectors of the population believed the military had taken over government affairs until a political solution was found.

Despite several requests, the EU EOM was unable to hold a meeting with the ZEC chairman or the vice-chairman. Since the nullification decision, the ZEC chairman was unreachable and the ZEC, as the institution responsible for the administration and supervision of the electoral process, became invisible. Except for the ZEC director of elections, ZEC commissioners were not present at the electoral commission offices. No further public statements were issued by the ZEC to inform voters on the electoral process or to clarify or present evidence of the claimed irregularities that led to the nullification of elections. The EU EOM noted the ZEC demonstrated a clear lack of accountability regarding the electoral process. This was further revealed by the fact that, despite being the body responsible for the electoral process, the ZEC was excluded from the meetings between the two main political parties, in which solutions to the impasse were discussed.

The EU EOM concluded that up until the time of its departure on 8 December, the ZEC had not acted with transparency in its decision to nullify the elections and had not provided the mission or any electoral stakeholder with evidence of the irregularities that justified the nullification of elections.

On 8 December, before its temporary relocation to Europe, the EU EOM issued a press release calling for a speedy solution for the completion of the electoral process in Zanzibar, in line with principles of inclusive, transparent, periodic and credible elections. The press release stated that, although the electoral process in

Zanzibar was not yet complete, the EU remained committed to the electoral process in Zanzibar and that a redeployment of the mission would take place when an agreement for the resumption of the electoral process was reached in line with inclusive, transparent, periodic and credible elections.

Despite the fact that meetings continued between the Zanzibar CCM and CUF leadership until January 2016, no agreement was reached regarding the electoral impasse as both political parties maintained their initial positions. On 22 January, before any decision to officially halt bilateral meetings, the ZEC chairman, on behalf of the ZEC that had met on 30 and 31 December 2015, announced 20 March 2016 as the date for a re-run of the Zanzibar general elections. On 28 January, after internal meetings, CUF officially declared that the party would not participate in the re-run of the Zanzibar elections. Following these events, on 29 January, the heads of diplomatic missions of Belgium, Canada, Denmark, the European Union, Finland, France, Germany, Ireland, Italy, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom and the United States issued a joint local statement. In this statement, the heads of missions reaffirmed their belief that the political impasse in Zanzibar would be best addressed through a mutually acceptable and negotiated solution. Diplomats expressed their concern that the unilateral declaration of a re-run could lead to an escalation of intimidation and tensions. The statement called on all parties and their supporters to continue to work together towards finding a peaceful solution and urged President Magufuli to exercise leadership during this political impasse, so as to ensure a peaceful outcome and the integrity of the electoral process. The heads of missions also emphasised that credible electoral processes must be inclusive and representative and that, under the current circumstances, the provision of international electoral observation would be difficult to consider.

The re-run of the Zanzibar elections took place on 20 March. The elections were boycotted by nine of the 14 political parties that participated in the previous October elections, including CUF. Despite parties writing to the ZEC to inform of their refusal to participate, the ZEC did not remove the boycotting candidates' names or political party affiliations from the ballot papers, basing their decision on procedural arguments. Political parties participating in the re-run were not allowed to conduct any campaign prior to the elections. The EU EOM did not observe the 20 March elections as it considered the conditions and context in which the re-run was taking place were not conducive to inclusive, genuine and credible elections.

## **XV. RECOMMENDATIONS**

Enhancement of many aspects of the electoral process, including a review of the Union and Zanzibar legal frameworks, is required for the full realisation of fundamental rights of individuals and groups, as provided for in international and regional principles for democratic elections. In this regard, the following recommendations are offered for consideration and action to the Government of the United Republic of Tanzania, the Government of Zanzibar, the National Electoral Commission, the Zanzibar Electoral Commission, political parties, civil society and the international community. Many of these recommendations were included in the 2010 EU EOM Final Report and remain valid. Discussions on implementation of the following priority recommendations should be considered as early as possible in order to address in a timely manner the shortcomings identified in the 2015 electoral process. A detailed table of recommendations can be found in Annex I to this report.

### **Legal framework**

1. The right to stand for election should not be limited to party-nominated candidates. In this regard, the ruling of the African Court on Human and Peoples' Rights should be implemented. Independent candidates should have the right to stand for any Union or Zanzibar election as established by the International Covenant on Civil and Political Rights and the African Charter of Human and Peoples'

Rights. The implementation of the right of independent candidates to stand for elections does not have implications on the First-Past-the-Post (FPTP) electoral system used in the Union and in Zanzibar.

2. The right of political parties to form and register electoral coalitions and to field joint candidates should be specifically provided in the laws, specifically in the case of the Union presidential elections where two candidates are nominated on the same ticket for president and vice-president.
3. Both the Constitutions of the Union and of Zanzibar currently deny the right to challenge the presidential election results. The right to petition presidential elections results should be established by law in accordance with international principles for the conduct of democratic elections.
4. The list of female candidates for the special reserved seats submitted by political parties to the NEC and ZEC before the elections should not be treated as confidential. Political parties should be legally required to provide the list of candidates for the proportional allocation of special reserved seats at the National Assembly and House of Representatives, and NEC and ZEC should make those lists public enabling voters to know what candidates would benefit from their vote.
5. The application of certain provisions of the Cybercrimes Act has the potential to limit freedom of expression and lead to arbitrary arrests. Implementation rules should be adopted to provide for a proportionate and predictable application of the Act. Persons charged with offences under this Act should not be deprived of the right to defend themselves before the court, as section 38 of the Act stipulates that proceedings for hearing of an application shall be *ex parte* and in camera.

#### Electoral Administration

6. A review of constituency boundaries should be undertaken to ensure that constituencies better reflect actual population trends, thus contributing to greater equality of the vote. Equal suffrage means that each vote carries the same weight. The NEC and the ZEC must address the wide variation in the number of voters registered in each constituency to ensure that boundary demarcations reflect population density and thus lead to an equal weight in parliamentary representation. Provisions could be considered for close coordination between the government, responsible for ward delimitation, and the electoral administration, responsible for constituency delimitation.
7. Serious efforts should be made to limit the involvement of governmental administrative structures in the organisation and implementation of the electoral process. The development of a permanent independent structure of the NEC at regional level should be envisaged, as well as a temporary independent structure at constituency levels during the period of elections, abandoning its dependence on local administrative structures. The appointment of NEC commissioners should be revised in order to increase confidence in the NEC's independence among all stakeholders.
8. To enhance transparency, accountability and the trust of political parties in the electoral process, the NEC and the ZEC should establish a policy for effective dialogue, cooperation and information sharing with political parties and develop the effectiveness of their public information departments to improve the flow of information to the public. Clear and updated information should be published and timely disseminated to all stakeholders, including all of the technical tools of the electoral process: polling station lists, constituency lists, voter registers and any information on electoral operations. Decisions and regulations produced by the electoral commissions should be clearly explained to stakeholders.

### Voter registration

9. A longer period of time for public exhibition of the voter registers of the Union and of Zanzibar would significantly improve the quality of the voter registers for future elections.
10. In regard to the Zanzibar voter registration process, the pre-requisite of holding a Zanzibar identification card, attached to the 36-month residency requirement, should be reviewed in light of the difference of treatment between Tanzanian citizens registered on the mainland and Zanzibar. The discretionary powers attributed to local authorities (the *shehas*) in the proof of residency should also be reviewed to increase confidence in the process. The voter register should be inclusive and residency requirements should be shortened.
11. Political parties should receive periodic and timely information on voter register additions, corrections and deletions, and they should receive copies of the voter register well in advance of elections.

### Voter Education

12. In order to timely and effectively inform citizens on the voting process and their electoral choices, the electoral commissions should consider taking measures for improved planning, budgeting and implementation of voter education activities. Activities should aim at inclusiveness, with targeted information addressing specific groups such as the youth and first time voters, women, and people with disabilities.

### Election Day

13. Procedural instructions regarding key stages of the aggregation, transmission and announcement of results should be issued avoiding the discretionary interpretation of returning officers. Training of all electoral officers on procedures for counting and tallying, namely the filling of the various forms and particularly the results forms, could be strengthened. Instructions and procedural manuals should be made available to election staff and stakeholders in advance of election day.
14. The role of security forces on election day should be revised. The mandate of the police in elections should be clearly stated in the law and made public to voters. An excessive presence and display of military force, such as the one observed, particularly in Zanzibar, enhances the risks of intimidation, or at least the perception of intimidation during the electoral period.
15. Permission should be granted for accredited media to enter polling stations on election day and tallying centres to enhance the transparency of the process. Specific guidelines for media access could be designed by the electoral commissions in cooperation with the Media Council of Tanzania.

### Election Results

16. To increase confidence in the electoral process, clear transparency measures, such as unlimited access for political party representatives and observers to all the stages of the tallying of results process, should be considered. Suitable facilities with proper layouts should be put in place to allow for effective monitoring and observation of the process.

### Complaints and Appeals

17. The judiciary should have a clear oversight role of the performance and decisions of the electoral commissions. The decisions of the NEC and the ZEC should be clearly subjected to challenge in

court by way of judicial review immediately after the nomination of candidates' period, and throughout the entire process. Aggrieved parties should not have to wait until the announcement of results to seek recourse to justice.

18. The costs associated with filing a petition should be significantly reduced in order to provide petitioners the effective right to access justice and seek a legal remedy.
19. The timeframes for the submission and the handling of election petitions in Zanzibar should be harmonised with the deadlines provided for the Union. In Zanzibar, a petition may be submitted to the courts within 15 days after the announcement of results, whereas in the Union a petition may be submitted within 30 days. For the handling of election petitions, in Zanzibar the courts may issue a decision within 24 months, whereas the Union courts have a 12-month period to rule on the petition.
20. The ZEC and NEC should consider adopting clear, consistent and transparent procedures to handle electoral complaints, for reasons of consistency in its responses and to increase confidence and transparency to the process.

## Media

21. National broadcast media, Tanzania Broadcast Corporation (TBC) and Zanzibar Broadcast Corporation (ZBC), should be transformed into public service broadcasters enjoying full editorial and financial independence from government.
22. The independence of the Tanzania Communications Regulatory Authority (TCRA) should be strengthened through legislative requirements for an open and transparent mechanism for the appointment of its board and director, free from control by any particular political party, involving civil society and organisations of media professionals.
23. Media should identify paid airtime or party-sponsored slots in a clear manner so that voters are aware of the nature of the programme.
24. Free airtime granted for contestants' political broadcasts should be provided in a fair manner, on the basis of transparent and objective criteria. Provisions pertaining to free airtime could be precisely defined.
25. Media regulatory bodies should consider amending the Broadcasting Services (Content) (The Political Party Elections Broadcasts) Code to stipulate less strict obligations, in particular for the private media. The TCRA should review the code in an inclusive manner considering the views of media stakeholders who tested its provisions for the first time during these elections.
26. Legislation pertaining to freedom of speech, including the recently adopted Statistics Act and Cybercrimes Act, should be amended to exclude disproportionate penal sentences.

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# **ANNEXES**

**Annex I: Table of Recommendations**

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>LEGAL FRAMEWORK</b>				
<p>To promote the right and the opportunity to participate in public affairs, namely the right and opportunity to stand for elections</p> <p><i>Final Report Pages 13 and 21</i></p>	<p>The right to stand for election should not be limited to party-nominated candidates. Independent candidates should have the right to stand for any Union or Zanzibar election. The implementation of the right of independent candidates to stand for elections does not have implications on the First-Past-the-Post (FPTP) electoral system used in the Union and in Zanzibar.</p>	<p>Amendment of both the Union and of Zanzibar Constitutions and the National Elections Act and the Zanzibar Election Act no.11</p>	<p>National Assembly, House of Representatives</p>	<p>Articles 3 and 25 (a) of the ICCPR; ICCPR General Comment 25, par. 15: <i>“The effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates”</i> and par. 17: <i>“The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties.”</i></p> <p>Articles 2 and 13 (1) of the ACHPR and African Court of Human and Peoples’ Rights <i>Judgment Application 009-011-2011, Rev Christopher Mtikila v Tanzania.</i></p>
<p>To fully guarantee the right of association</p> <p><i>Final Report Pages 13 and 21</i></p>	<p>The right of political parties to form and register electoral coalitions and to field joint candidates should be specifically provided in the laws, specifically in the case of the Union presidential elections where two candidates are nominated on the same ticket for president and vice-president.</p>	<p>Amendment of Constitutions of the Union and of Zanzibar and of the Political Parties Act</p>	<p>National Assembly, House of Representatives</p>	<p>Art. 22 of the ICCPR and ICCPR General Comment 25: <i>“The right of freedom of association, including the right to join and form organizations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25.”</i></p>
<p>Increase confidence in electoral process and the promote the right to seek a legal remedy</p> <p><i>Final Report Pages 13 and 34</i></p>	<p>Both the Constitutions of the Union and of Zanzibar currently deny the right to challenge the presidential election results. The right to petition presidential elections results should be established by law in accordance with international principles for the conduct of democratic elections.</p>	<p>Amendment of Constitutions of the Union and of Zanzibar, the National Elections Act and the Zanzibar Election Act no.11</p>	<p>National Assembly, House of Representatives</p>	<p>Art. 2(3) of the ICCPR: <i>“a) any person whose rights or freedoms ... are violated shall have an effective remedy;”</i> ICCPR General Comment 25: <i>“There should be an independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of votes.”</i></p>

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>LEGAL FRAMEWORK</b>				
<p>To promote the right of political representation and the right to information <i>Final Report Page 14</i></p>	<p>The list of female candidates for the special reserved seats submitted by political parties to the NEC before the elections should not be treated as confidential. The political parties should be legally required to provide the list of candidates for the proportional allocation of special reserved seats at the National Assembly and House of Representatives. The NEC and ZEC should make those lists public enabling voters to know what candidates would benefit from their vote.</p>	<p>Amendment of the National Elections Act and the Zanzibar Election Act no.11</p>	<p>National Assembly, House of Representatives</p>	<p>ICCPR General Comment 25, para 26: <i>“In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential”</i>; Article 19(2) of the ICCPR: <i>“the right of access to information held by public bodies.”</i></p>
<p>To protect freedom of expression and the right to a fair trial <i>Final Report Pages 27,28 and 38</i></p>	<p>The application of certain provisions of the Cybercrimes Act has the potential to limit freedom of expression and lead to arbitrary arrests. Implementation rules should be adopted to provide for a proportionate and predictable application of the act. Persons charged with offences under this Act should not be deprived of the right to defend themselves before the court as the Act stipulates that proceedings for hearing of an application shall be <i>ex parte</i> and in camera.</p>	<p>Review of several provisions of the Cybercrimes Act to avoid subjective interpretation, specifically section 16 and the term “publication of information” and section 38 which restricts the appearance of a person against whom an application is made to defend himself before the court.</p>	<p>National Assembly</p>	<p>Article 14 ICCPR and ICCPR General Comment 32, para. 31: <i>“In the case of trials in absentia, article 14, paragraph 3 (a) requires that, notwithstanding the absence of the accused, all due steps have been taken to inform accused persons of the charges and to notify them of the proceedings.”</i></p>

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>ELECTION ADMINISTRATION</b>				
<p>To promote equal suffrage</p> <p><b>Final Report</b> Pages 16 and 17</p>	<p>A review of constituency boundaries should be undertaken to ensure that constituencies better reflect actual population trends, thus contributing to greater equality of the vote. Equal suffrage means that each vote carries the same weight. Provisions could be considered for close coordination between the government, responsible for the ward delimitation, and the electoral administration, responsible for the constituency delimitation.</p>	<p>Address the wide variation in the number of voters registered in each constituency to ensure that boundary demarcations reflect population density and thus lead to an equal weight in parliamentary representation.</p>	<p>NEC and ZEC and competent government authorities of the Union and Zanzibar</p>	<p>Article 25 (b) ICCPR and ICCPR General Comment 25, para. 21: <i>“within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely”</i>; Article 21.3 UDHR.</p>
<p>To enhance the independence and confidence in the election management</p> <p><b>Final Report</b> Page 14</p>	<p>Serious efforts should be made to limit the involvement of governmental administrative structures and dependence on local administrative structures in the organisation and implementation of the electoral process. The appointment of NEC commissioners should be revised to increase confidence in the NEC's independence.</p>	<p>Establishment of a permanent independent structure of the NEC at regional level and, during the period of elections, a temporary independent structure at constituency levels.</p>	<p>NEC and the Union government</p>	<p>ICCPR General Comment 25 para.20: <i>“An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially...”</i>; African Union Declaration on the Principles Governing Democratic Elections in Africa, 2002, section II. 4 (e); SADC Principles and Guidelines Governing Democratic Elections of 2004, Section 7, Article 7.3.</p>
<p>To enhance transparency, accountability and the trust of political parties in the electoral process</p> <p><b>Final Report</b> Pages 15 and 16</p>	<p>The NEC and the ZEC should establish a policy for effective dialogue and information sharing with political parties and develop the effectiveness of their public information departments to improve the flow of information to the public. Decisions and regulations of the Electoral Commissions should be clearly explained to stakeholders.</p>	<p>Clear and updated information should be published and timely disseminated, including polling station lists, constituency lists, voter registers and any information on electoral operations.</p>	<p>NEC and ZEC</p>	<p>ICCPR General Comment 25, para 26: <i>“In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential”</i>; ICCPR General Comment 34 para.18 and article 19(2) of the ICCPR: <i>“the right of access to information held by public bodies.”</i></p>

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>VOTER REGISTRATION</b>				
<p>To ensure an accurate, inclusive and credible voters' list</p> <p><i><b>Final Report Pages 19 and 20</b></i></p>	<p>A longer period of time for public exhibition of the voter registers of the Union and of Zanzibar would significantly improve the quality of the voter registers for future elections.</p>		<p>NEC and ZEC</p>	<p>ICCPR General Comment 25: <i>"States must take effective measures to ensure that all persons entitled to vote are able to exercise that right."</i></p>
<p>To ensure an inclusive voters' list</p> <p><i><b>Final Report Pages 19 and 20</b></i></p>	<p>In regard to the Zanzibar voter registration process, the pre-requisite of holding a Zanzibar identification card, attached to the 36-month residency requirement, should be reviewed in light of the difference of treatment between Tanzanian citizens registered on the mainland and Zanzibar. The discretionary powers attributed to local authorities (the <i>shehas</i>) in the proof of residency should also be reviewed to increase confidence in the process. The voter register should be inclusive and residency requirements should be shortened.</p>	<p>Reduce the lengthy residency requirement and the discretionary powers of local authorities</p>	<p>ZEC and Zanzibar government authorities</p>	<p>ICCPR General Comment 25 p.11: <i>"States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable."</i>; p.12: <i>"positive measures should be taken to overcome...impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively."</i></p>
<p>To promote the right of access to information and to ensure transparency and confidence in the voter registers</p> <p><i><b>Final Report Page 20</b></i></p>	<p>Political parties should receive periodic and timely information on voter register additions, corrections and deletions, and they should receive copies of the voter register well in advance of elections.</p>		<p>NEC and ZEC</p>	<p>ICCPR General Comment 34 p.18 and article 19(2) of the ICCPR: <i>"the right of access to information held by public bodies."</i></p>

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>VOTER EDUCATION</b>				
<p>To ensure effective exercise of political rights and the right to an informed choice</p> <p><i>Final Report Page 18</i></p>	<p>In order to timely and effectively inform citizens on the voting process and their electoral choices, the electoral commissions should consider taking measures for improved planning, budgeting and implementation of voter education activities. Activities should aim at inclusiveness, with targeted information addressing specific groups such as the youth and first time voters, women, and people with disabilities.</p>		<p>NEC and ZEC</p>	<p>ICCPR General Comment 25 p.11: <i>“Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community”</i>; p.12: <i>“Positive measures should be taken to overcome specific difficulties,... which prevent persons entitled to vote from exercising their rights effectively. Specific methods,..., should be adopted to ensure that illiterate voters have adequate information on which to base their choice.”</i></p>
<b>ELECTION DAY</b>				
<p>To ensure greater clarity and consistency in election day procedures</p> <p><i>Final Report Pages 36 and 37</i></p>	<p>Procedural instructions regarding key stages of the aggregation, transmission and announcement of results should be issued avoiding the discretionary interpretation of returning officers. Training of all electoral officers on procedures for counting and tallying, namely the filling of the various forms and particularly the result forms, could be strengthened. Instructions and procedural manuals should be made largely available to election staff and stakeholders in advance of election day.</p>	<p>Improved training of electoral officers and polling station staff on procedures</p>	<p>NEC and ZEC</p>	
<p>To ensure clarity regarding the role of security forces during elections</p> <p><i>Final Report Page 44</i></p>	<p>The role of security forces on election day should be revised. The mandate of the police and the military during elections should be clearly stated in the law and informed to voters.</p>		<p>National Assembly, Zanzibar House of Representatives, Governments, NEC and ZEC.</p>	

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>ELECTION DAY</b>				
<p>To enhance the transparency of the process</p> <p><i>Final Report Page 36</i></p>	<p>Permission should be granted for the accredited media to enter polling stations on election day and tallying centres. Specific guidelines for media access could be designed by the electoral commissions in cooperation with the Media Council of Tanzania.</p>		<p>NEC and ZEC</p>	
<b>ELECTION RESULTS</b>				
<p>To increase confidence in the electoral process</p> <p><i>Final Report Page 36</i></p>	<p>Clear transparency measures, such as unlimited access to political party representatives and observers during all stages of the tallying of results process, should be considered. Suitable facilities with proper layout should be put in place to allow for effective monitoring and observation of the process.</p>		<p>NEC and ZEC</p>	
<b>COMPLAINTS AND APPEALS</b>				
<p>To promote the right to a timely and effective remedy</p> <p><i>Final Report Pages 22 and 33</i></p>	<p>The judiciary should have a clear oversight role over the performance and decisions of the electoral commissions. The decisions of the NEC and the ZEC should be clearly subjected to challenge in court by way of judicial review immediately after the nomination of candidates and throughout the entire process. Aggrieved parties should not have to wait until the announcement of results to seek recourse to justice.</p>	<p>Amendment of both the Union and the Zanzibar Constitutions, the National Elections Act and the Zanzibar Election Act no.11</p>	<p>NEC, ZEC, National Assembly, House of Representatives and the judiciary</p>	<p>Art. 2(3) of the ICCPR: “a) any person whose rights or freedoms ... are violated shall have an effective remedy.; (b) any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities,... and to develop the possibilities of judicial remedy.”</p>

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>COMPLAINTS AND APPEALS</b>				
<p>Ensure the right to access justice and legal remedies <i>Final Report Page 34</i></p>	<p>The costs associated with filing a petition should be significantly reduced in order to provide petitioners the effective right to access justice and seek a legal remedy.</p>	<p>Amendment of the National Elections Act and the Zanzibar Election Act no.11</p>	<p>National Assembly and House of Representatives</p>	<p>Article 26 of the ICCPR: <i>“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law ... guarantee to all persons equal and effective protection against discrimination on any ground...”</i></p>
<p>Ensure the right to a timely and effective remedy <i>Final Report Page 34</i></p>	<p>The timeframes for the submission and the handling of election petitions in Zanzibar should be harmonised with the deadlines provided for the Union. In Zanzibar, a petition may be submitted to the courts within 15 days after the announcement of results whereas in the Union a petition may be submitted within 30 days. For the handling of election petitions, in Zanzibar the courts may issue a decision within 24 months whereas the Union courts have a 12-month period to rule on the petition.</p>	<p>Amendment of the National Elections Act and the Zanzibar Election Act no.11</p>	<p>National Assembly and House of Representatives</p>	
<p>To ensure that decisions are legally reasoned and published and to promote confidence and transparency to the process. <i>Final Report Page 33</i></p>	<p>The ZEC and NEC should consider adopting clear, consistent and transparent procedures to handle electoral complaints for reasons of consistency in its responses.</p>		<p>NEC and ZEC</p>	<p>ICCPR General Comment 13 p.6: <i>“The publicity of hearings is an important safeguard in the interest of the individual and of society at large... the Committee considers that...even in cases in which the public is excluded from the trial, the judgment must, with certain strictly defined exceptions, be made public.”</i></p>

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>MEDIA AND ELECTIONS</b>				
<p>To ensure editorial independence of the state media</p> <p><i>Final Report Page 27</i></p>	<p>National broadcast media Tanzania Broadcast Corporation (TBC) and Zanzibar Broadcast Corporation (ZBC) should be transformed into public service broadcasters enjoying full editorial and financial independence from government.</p>	<p>Conclude the transformation process envisioned in the Tanzania Communication Regulatory Authority Act, 2003</p>	<p>TCRA, Ministry of Information, Youth, Culture and Sports (Mainland Tanzania); Ministry of Information, Culture, Tourism and Sports (Zanzibar)</p>	<p>ICCPR General Comment 34, para. 16 <i>“States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence.”</i>; Declaration of the Principles on Freedom of Expression in Africa: Public Broadcasting, article VI: <i>“State and government controlled broadcasters should be transformed into public service broadcasters... in accordance with the following principles: be governed by a board which is protected against interference; the editorial independence of public service broadcasters should be guaranteed; public broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets; the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods.”</i></p>
<p>To ensure independence of the TCRA and the appointment process of its members from government</p> <p><i>Final Report Page 30</i></p>	<p>The independence of the Tanzania Communications Regulatory Authority (TCRA) should be strengthened through legislation for an open and transparent mechanism for the appointment of its board and director, free from control by any particular political party, involving civil society organizations and media professionals.</p>	<p>Amend the Tanzania Communication Regulatory Authority Act, 2003</p>	<p>National Assembly</p>	<p>Declaration of the Principles on Freedom of Expression in Africa: Public Broadcasting, article VII: <i>“Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature... The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party.”</i></p>

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
<b>MEDIA AND ELECTIONS</b>				
To enhance the difference between paid campaign airtime and media coverage of elections	Media should identify paid airtime or party-sponsored slots in a clear manner so that voters could be aware of the nature of the programme.		Media	
To provide fair and equitable free airtime to contestants <i>Final Report Page 29</i>	Free airtime granted for contestants' political broadcasts should be provided in a fair manner, on the basis of transparent and objective criteria. Provisions pertaining to free airtime could be precisely defined.	Review the Election act; Broadcasting Services act	State media	SADC Principles and Guidelines Governing Democratic Elections of 2004, article 2.1.5: <i>SADC member states [shall provide] "Equal opportunity for all political parties to access the state media."</i>
Parts of Code are too prescriptive and seen as interfering with editorial independence. <i>Final Report Page 28</i>	Media regulatory bodies could consider amending the Broadcasting Services (Content) (The Political Party Elections Broadcasts) Code to stipulate less strict obligations, in particular for the private media. The TCRA should review the code in an inclusive manner considering the views of media stakeholders who tested its provisions for the first time during these elections.	Amendment of the Broadcasting Services (Content) (The Political Party Elections Broadcasts) Code	TCRA	ICCPR General Comment 25, para. 26: "... the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for ... freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, ... to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas."
To ensure freedom of speech and proportional penalties <i>Final Report Page 27 and 28</i>	The set of legislation pertaining to freedom of speech including the recently adopted Statistics Act and Cybercrimes Act should be amended to exclude disproportionate penal sentences.	Amend the legislation regarding freedom of speech	National Assembly	ICCPR General Comment 25, para. 26: "... the free communication of information and ideas about public and political issues ... is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion."

**ANNEX II: EU EOM MEDIA MONITORING RESULTS**



European Union Election Observation Mission  
Tanzania 2015



# **Media Monitoring Results**

**For the period between  
21 September and 24 October 2015**



# European Union Election Observation Mission Tanzania 2015



The EU EOM conducted media monitoring of broadcast and print media outlets from 21 September till 24 October 2015, using quantitative and qualitative analyses, assessing the amount of time/space allocated to contestants (and other political actors) as well as the tone of their coverage. The media which were monitored are as follows:

The monitored media were:

The state-owned nation-wide TV channel Tanzania Broadcasting Corporation (TBC1); and Television Zanzibar (ZBC TV), available in Zanzibar and partially also on mainland Tanzania.

The private Independent Television (ITV), Channel 10, Star TV, and TV Azam 2 (all nation-wide except of Azam TV)

The monitored TV channels were recorded daily, during the evening prime time from 17:00 till 23:00

The state-owned nation-wide radio station Tanzania Broadcasting Corporation (TBC Taifa) and Radio Zanzibar, that is accessible only on the territory of Zanzibar (Radio Zanzibar was monitored from 29 September till 24 October)

Private Radio Free Africa and Radio One, both with nation-wide coverage

All stations were monitored daily from 6am till 8am and from 4pm till 21:30pm

The state-owned daily newspapers *Daily News* and *Zanzibar Leo* and the private dailies *Mwananchi* and *Nipashe*, as well as private weeklies *Mwana Halisi* and *Raja Mwema*.

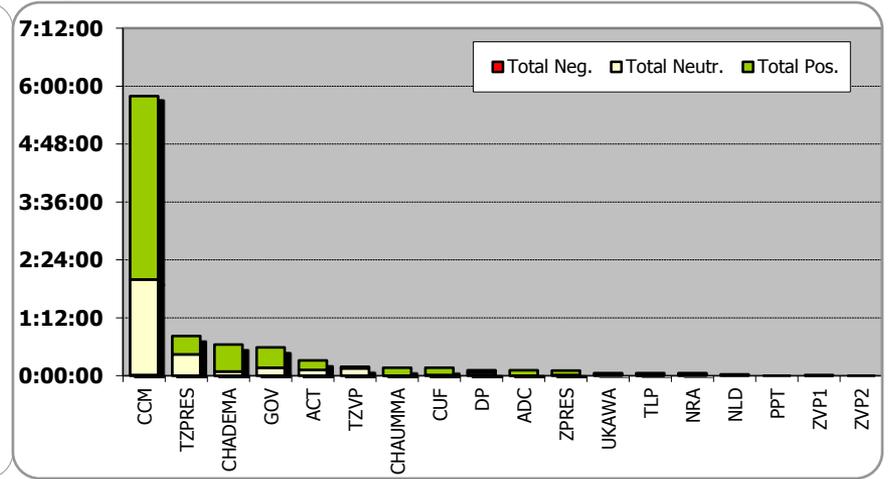
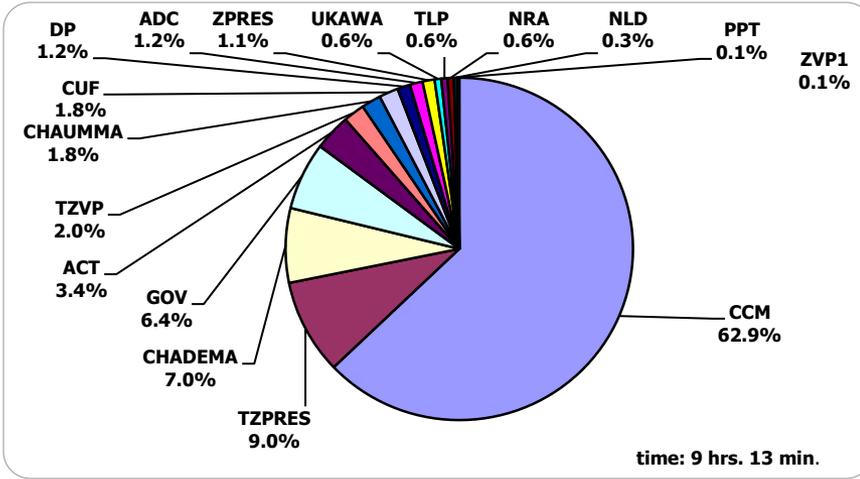
Explanation of the charts: The pie charts show the percentage of airtime/space allocated to contestants and other subjects. The bar charts show how much airtime/space contestants and other subjects received, and the tone of their coverage - positive (green), neutral (white) and negative (red).



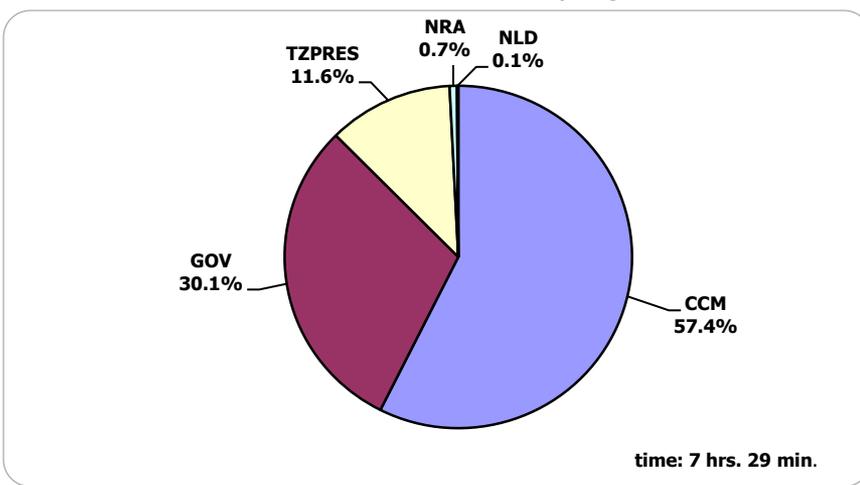
# European Union Election Observation Mission Tanzania 2015



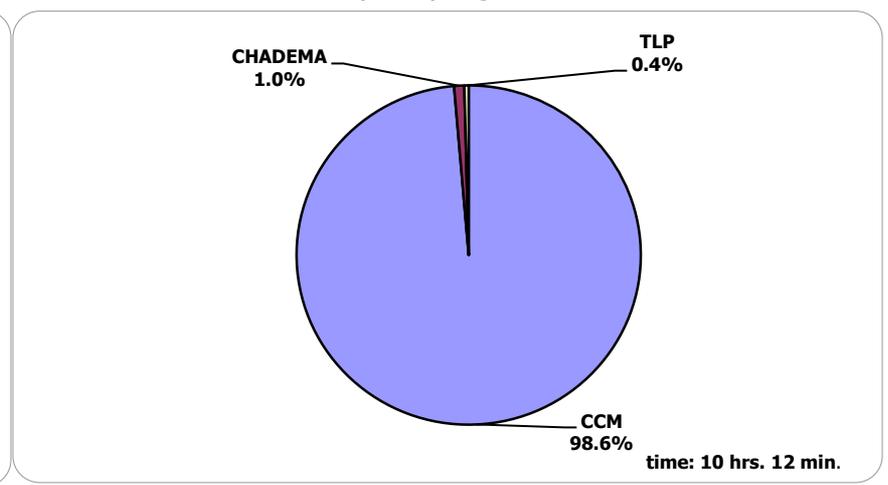
### TBC TV news programmes



### TBC TV other editorial programmes



### TBC TV paid programmes

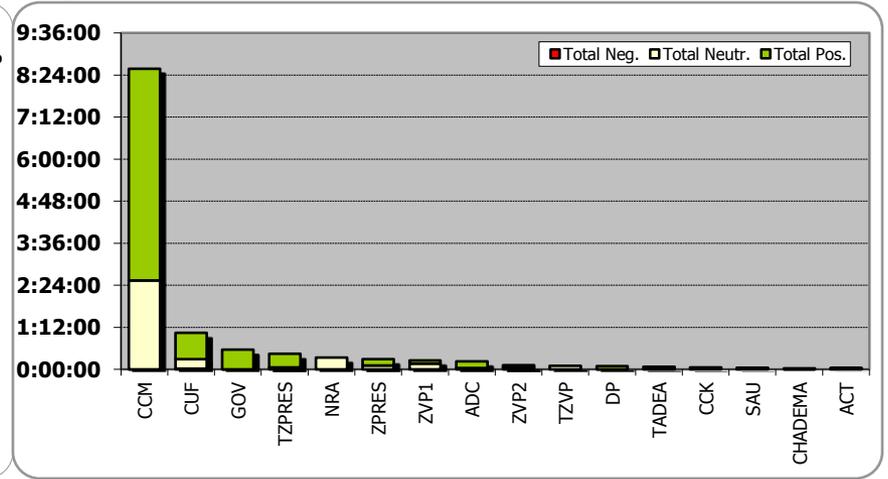
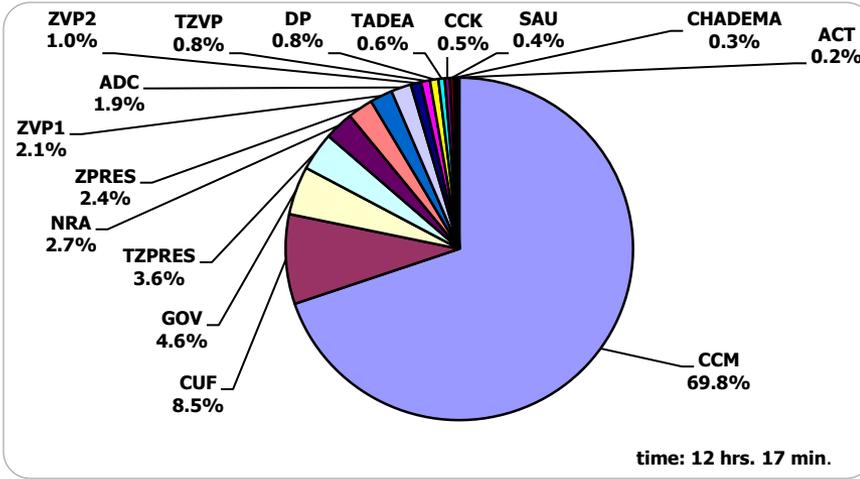




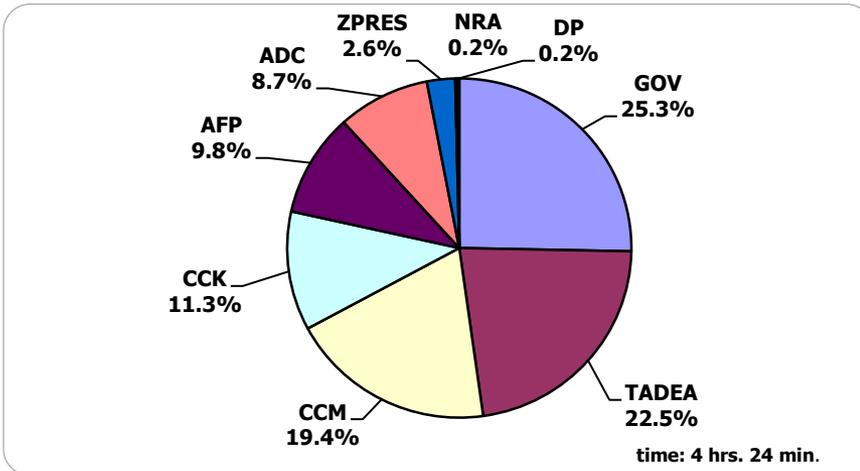
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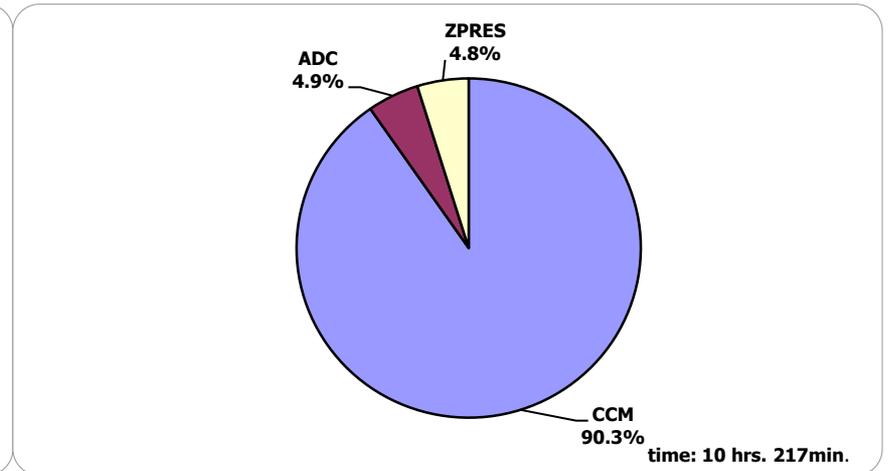
### ZBC TV news programmes



### ZBC TV other editorial programmes (incl. free airtime)



### ZBC TV paid programmes

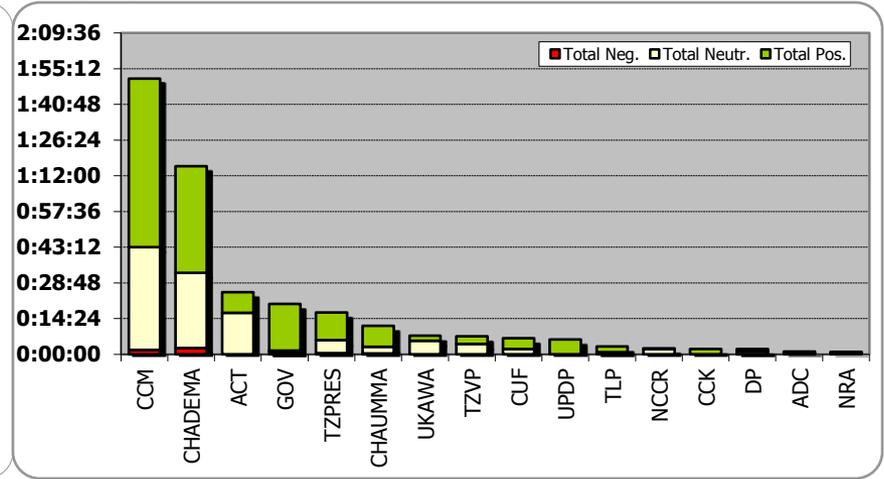
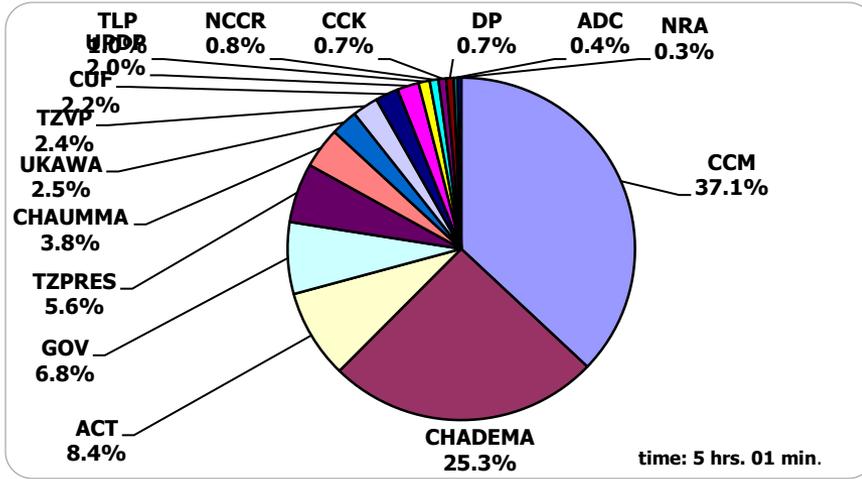




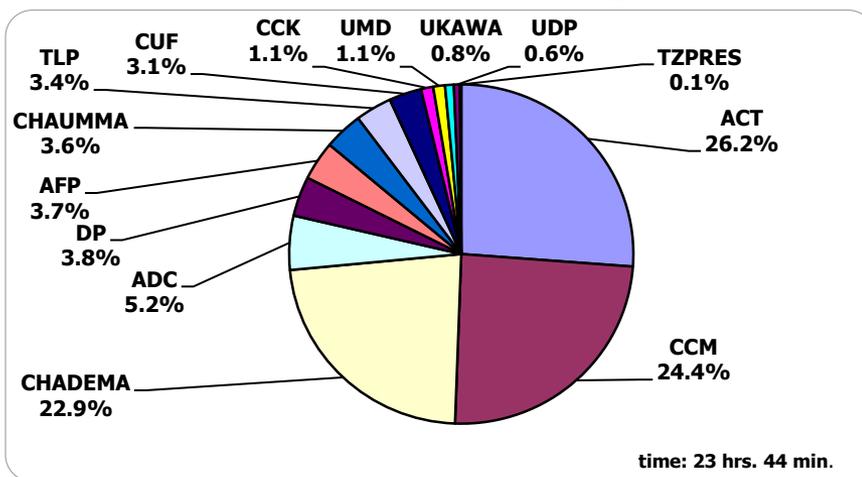
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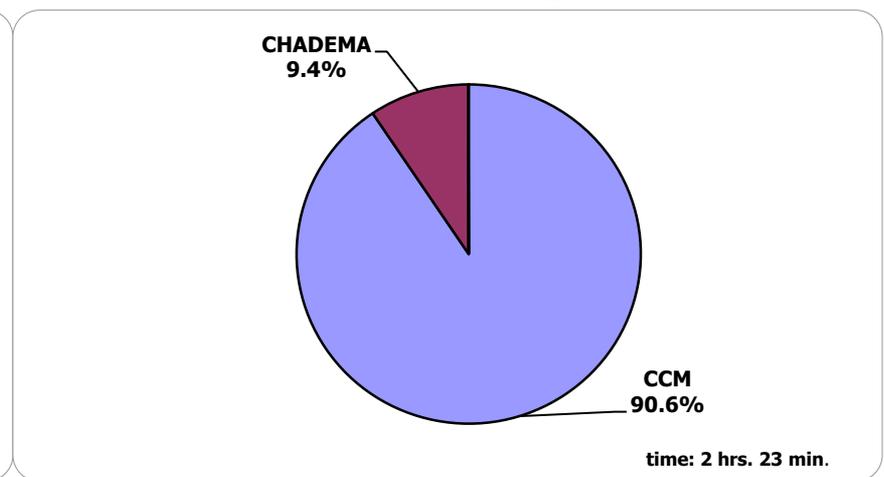
### TV AZAM 2 news programmes



### TV AZAM 2 other editorial programmes



### TV AZAM 2 paid programmes

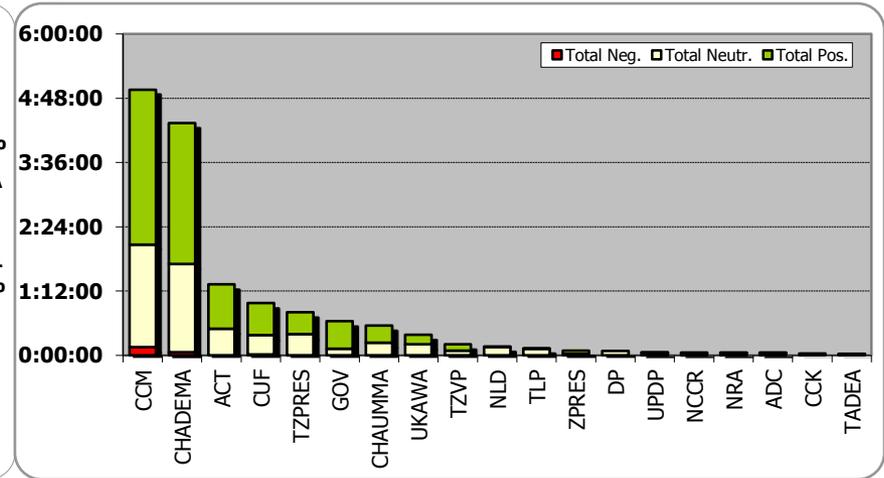
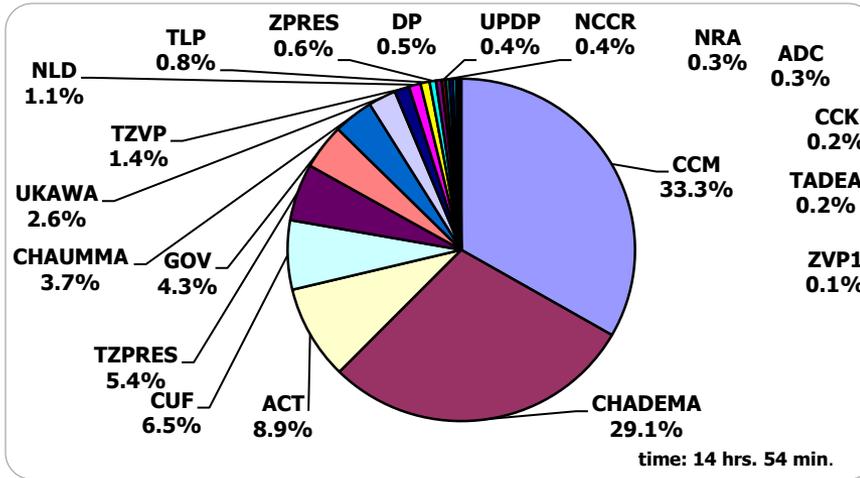




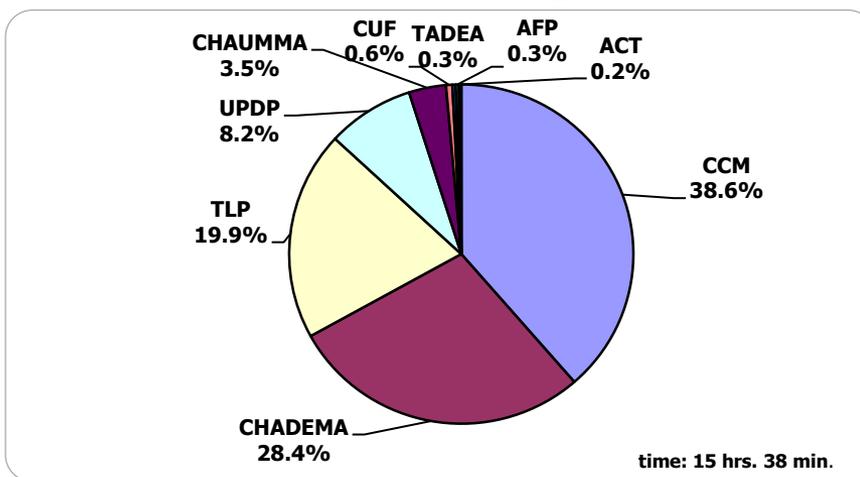
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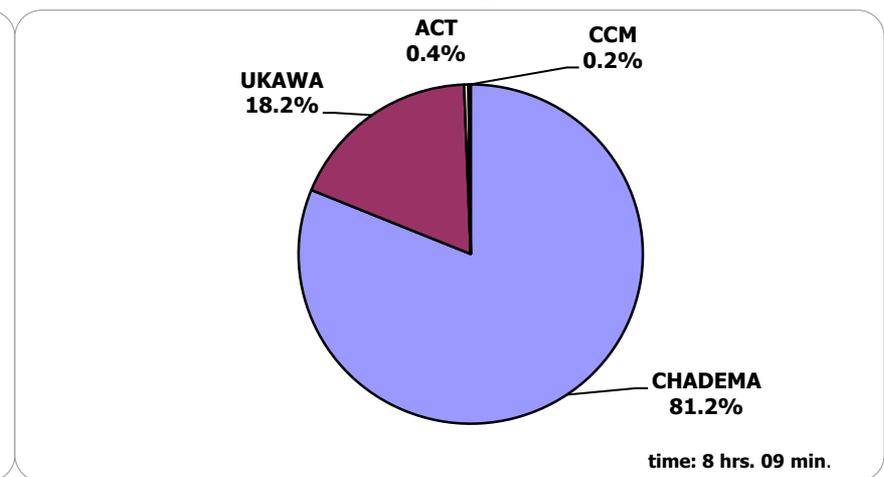
## ITV news programmes



## ITV other editorial programmes



## ITV paid programmes

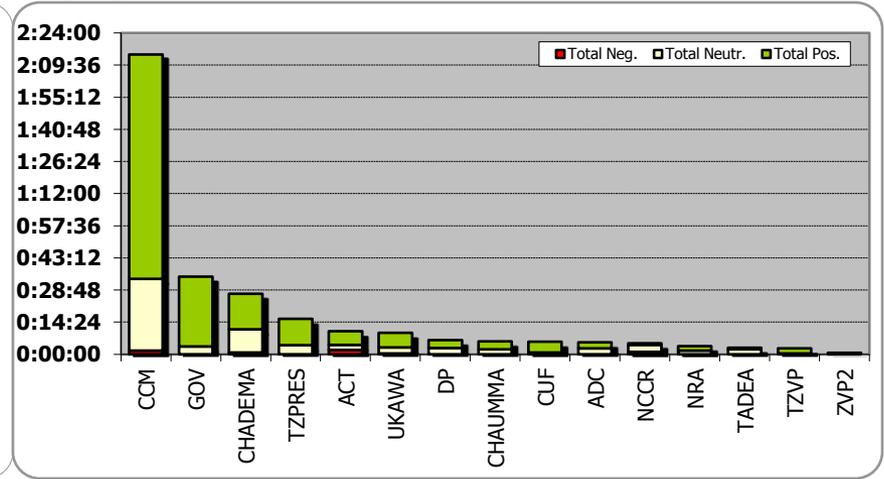
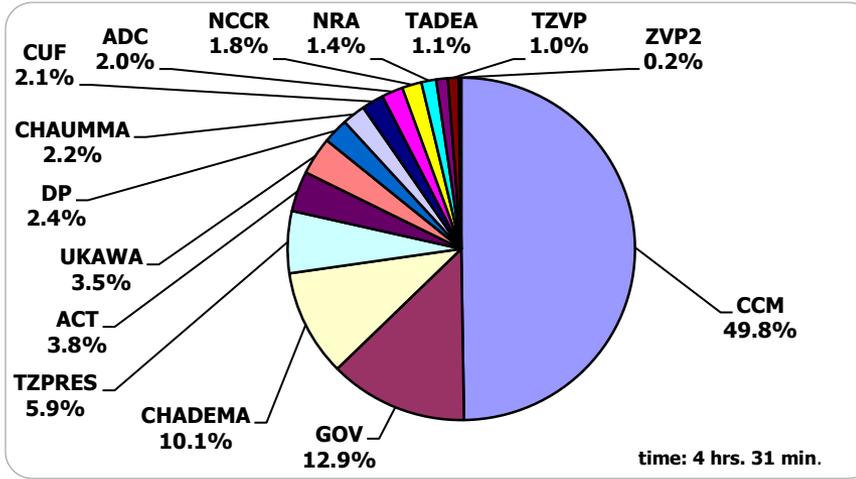




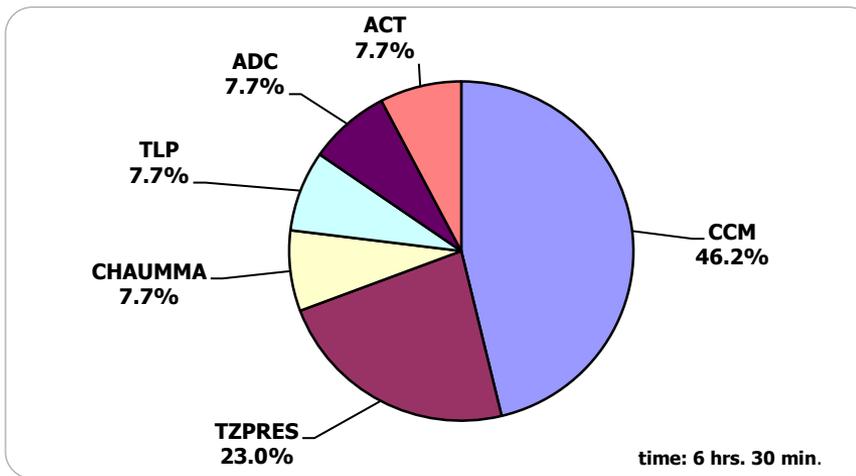
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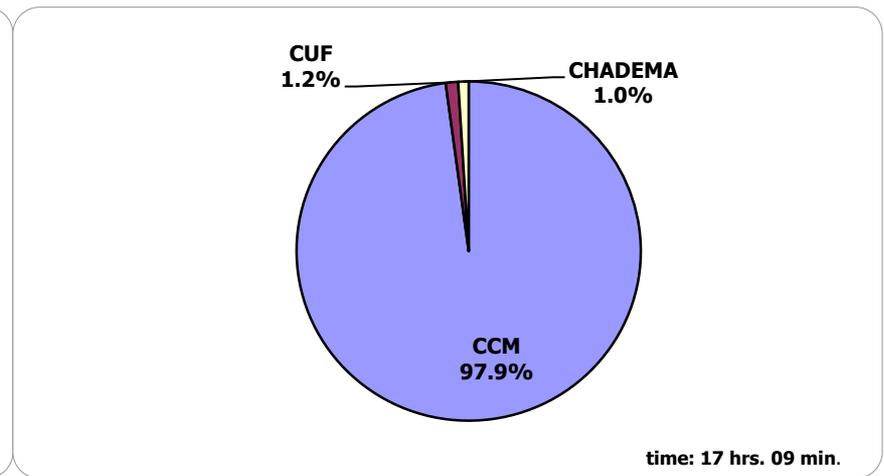
## Star TV news programmes



## Star TV other editorial programmes



## Star TV paid programmes

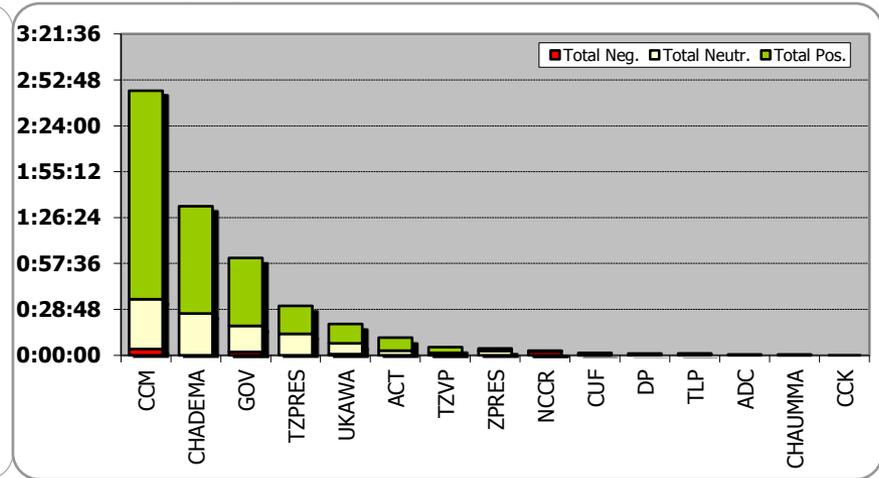
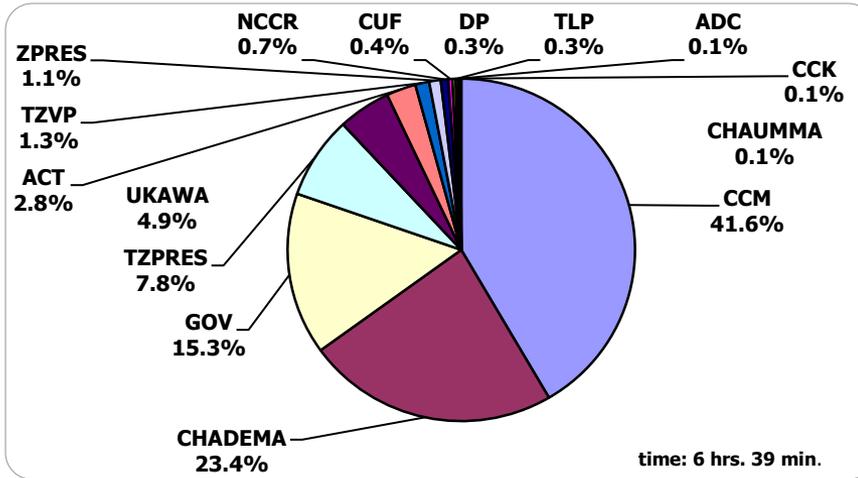




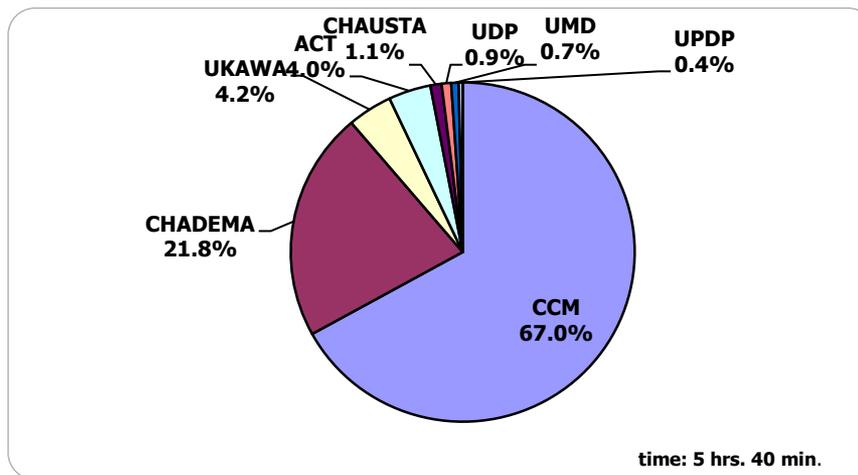
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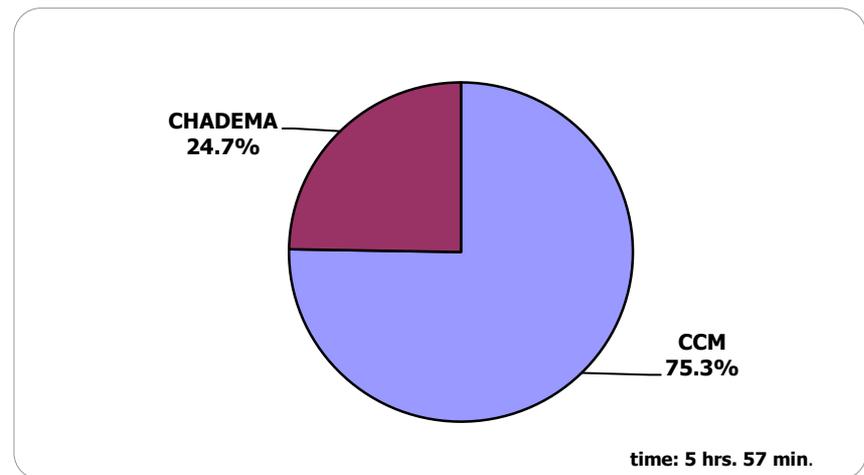
### Channel 10 TV news programmes



### Channel 10 TV other editorial programmes



### Channel 10 TV paid programmes

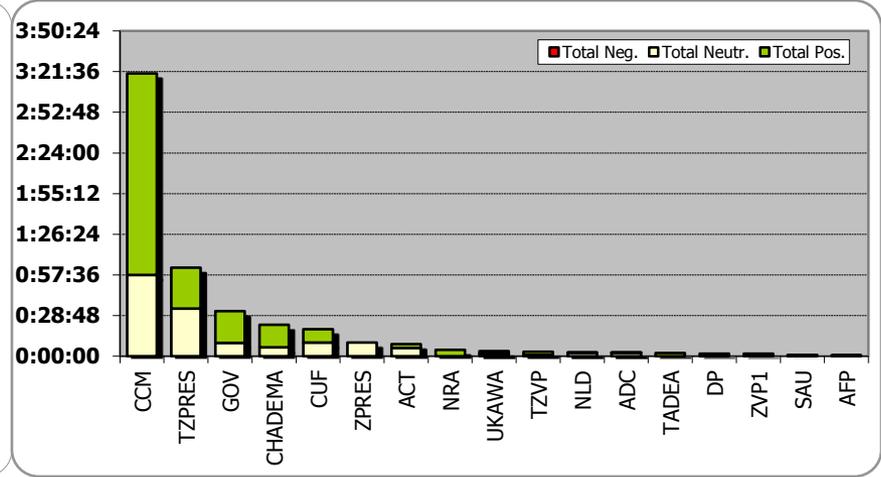
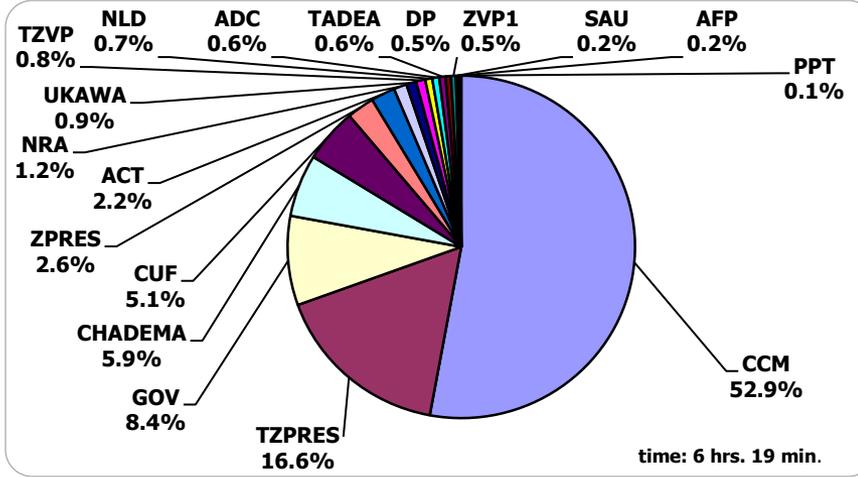




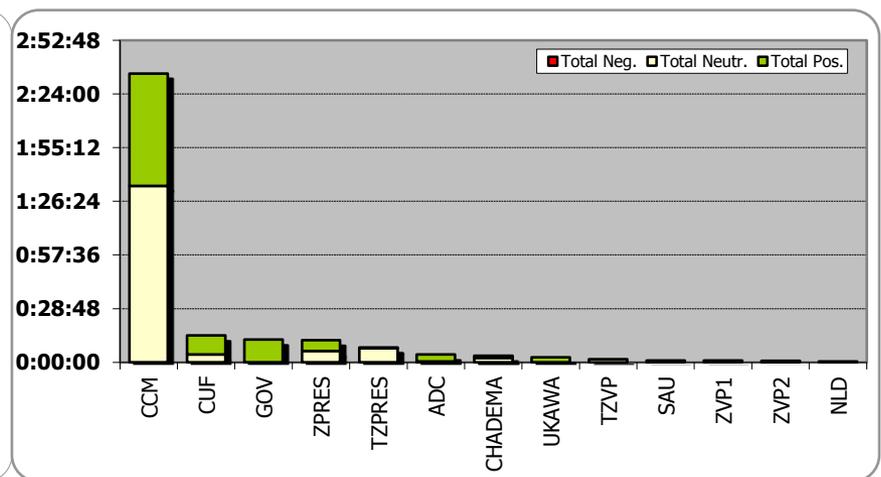
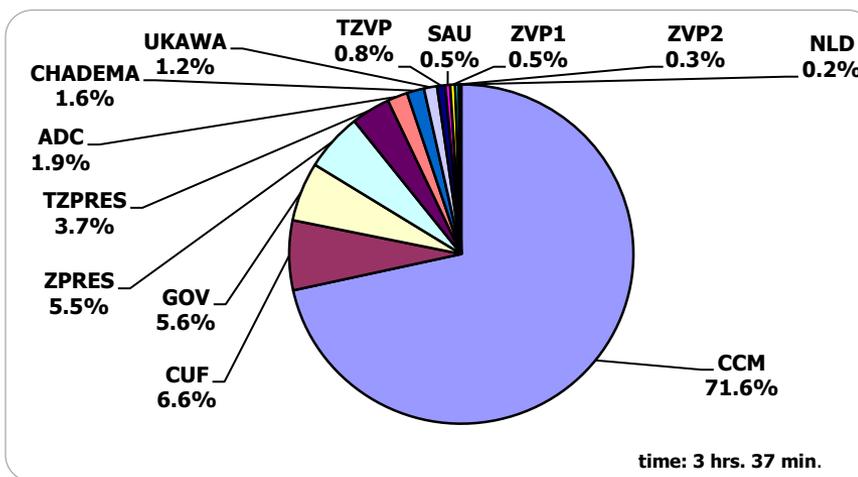
# European Union Election Observation Mission Tanzania 2015



### TBC Radio news programmes



### ZBC Radio news programmes

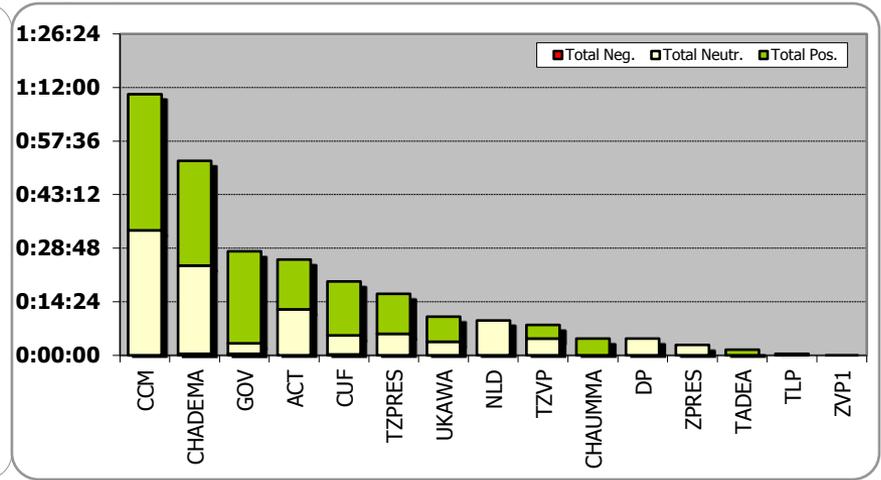
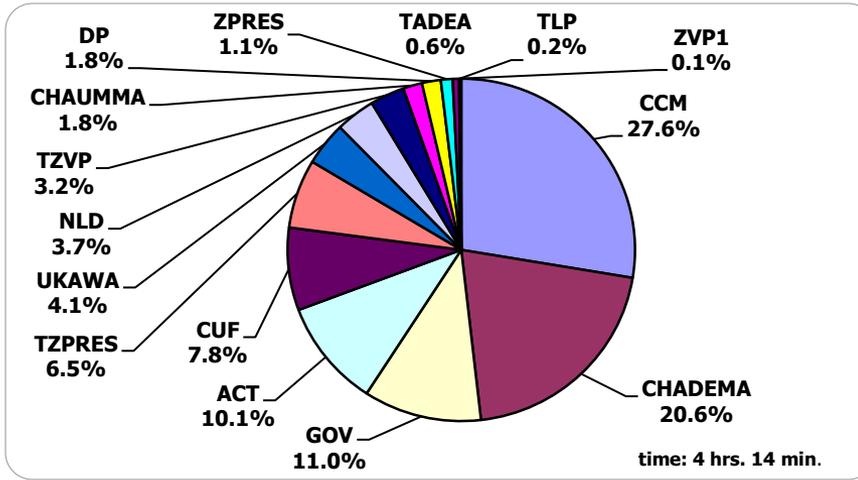




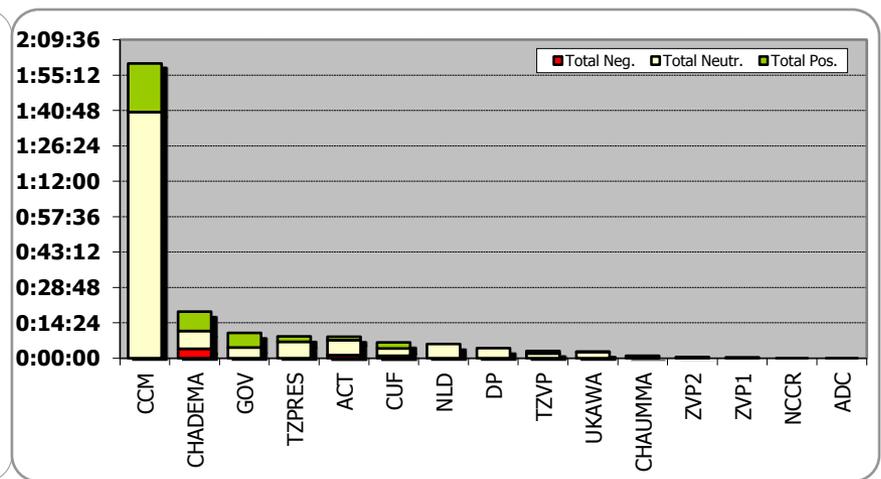
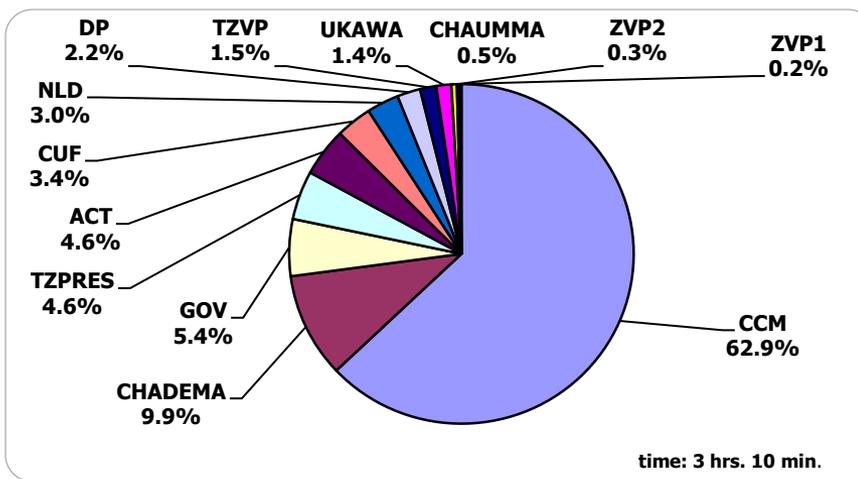
# European Union Election Observation Mission Tanzania 2015



### Radio One news programmes



### Radio Free Africa news programmes

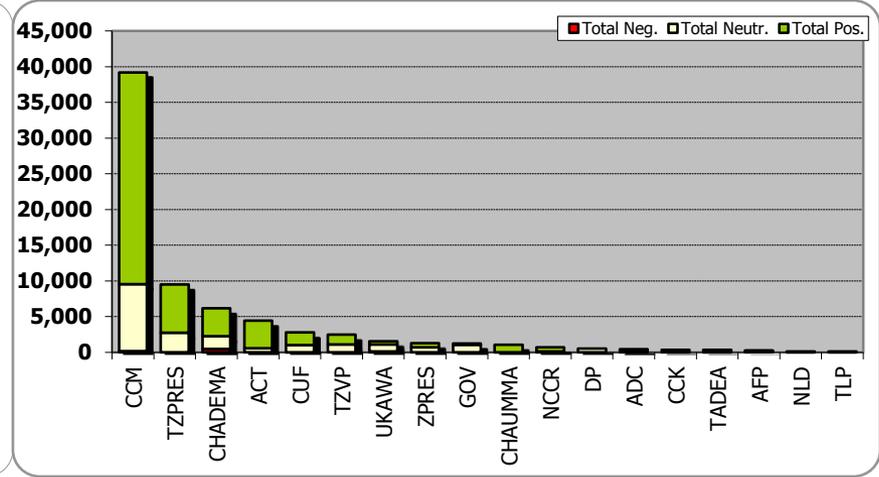
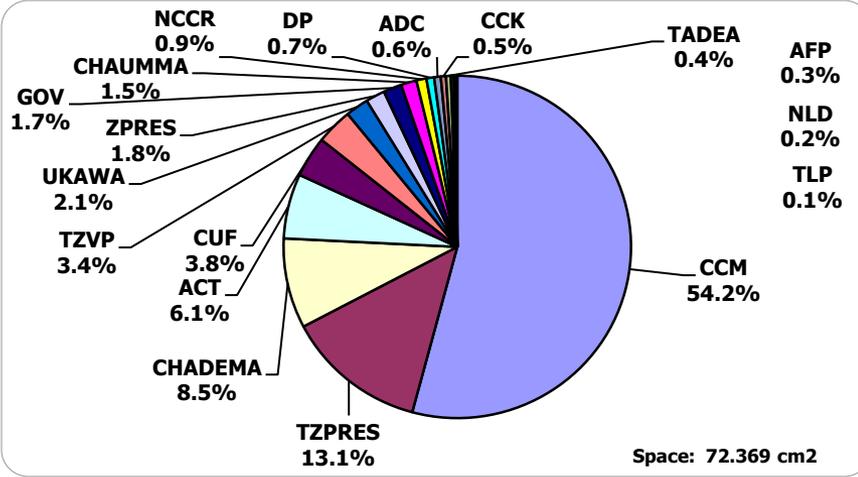




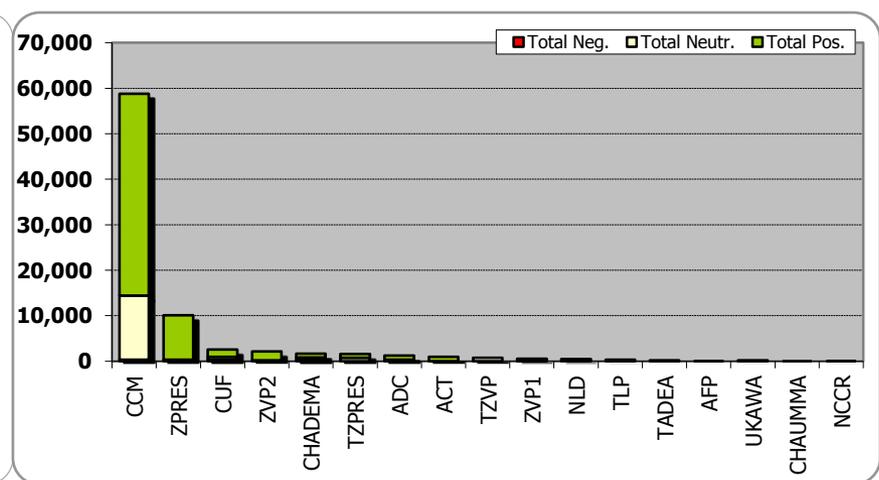
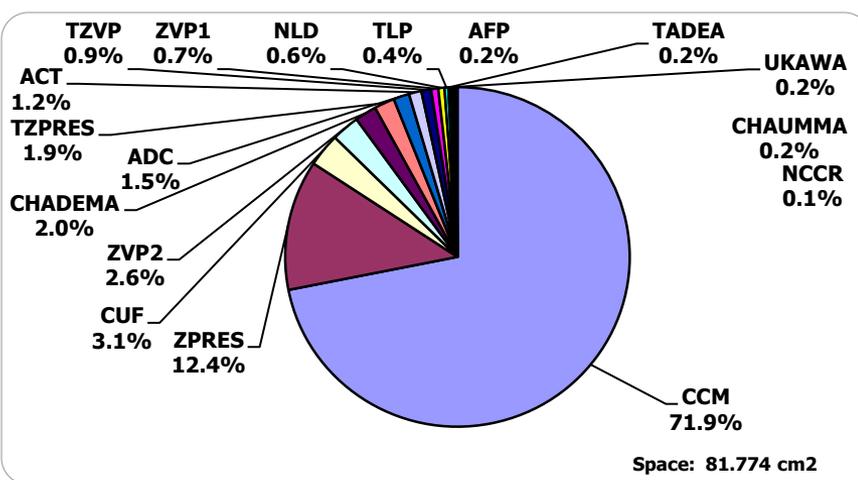
# European Union Election Observation Mission Tanzania 2015



## Daily News



## Zanzibar Leo

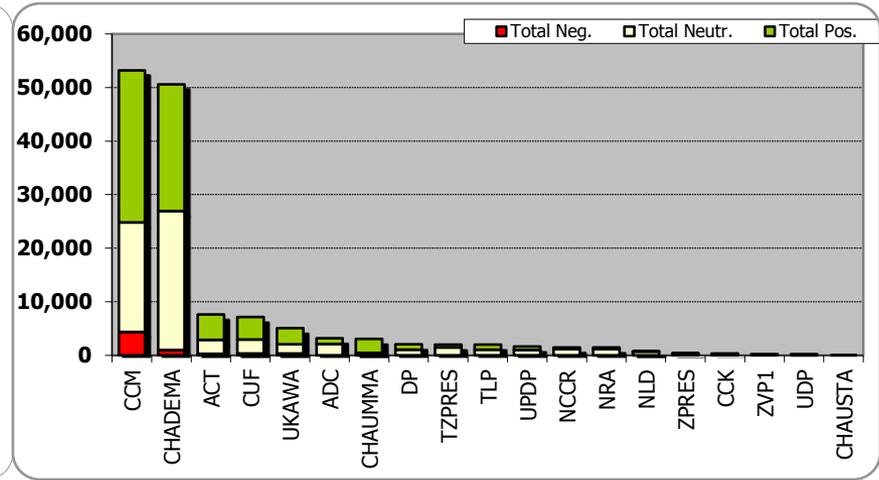
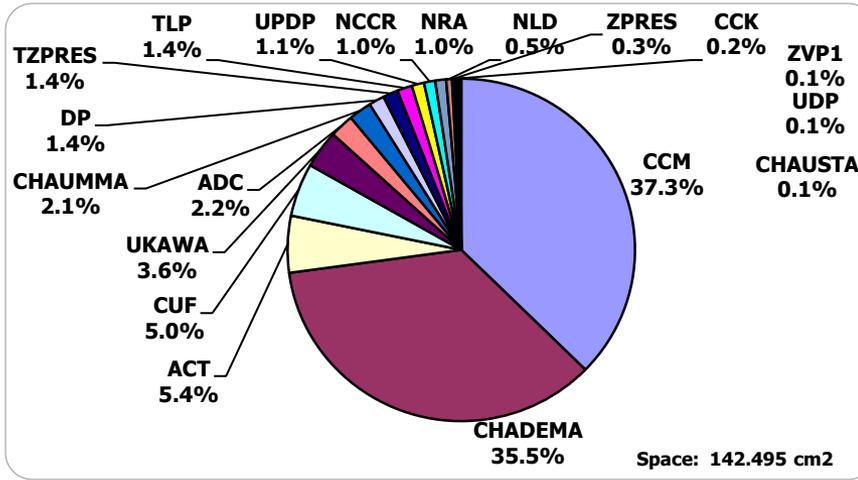




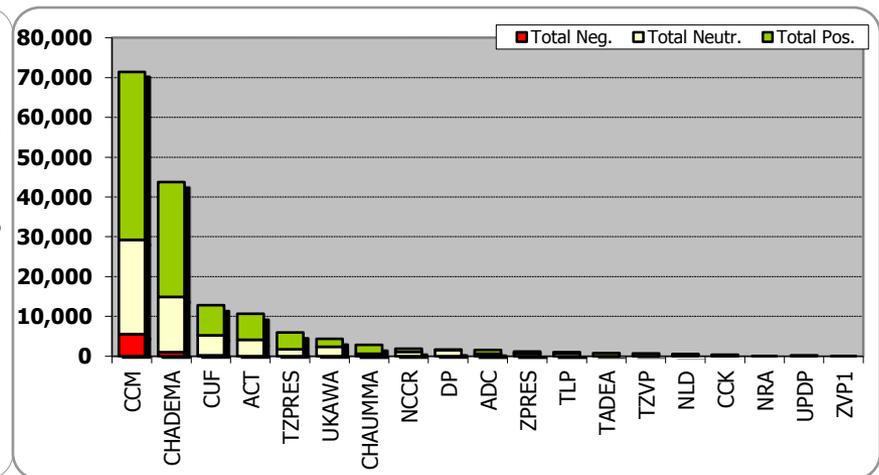
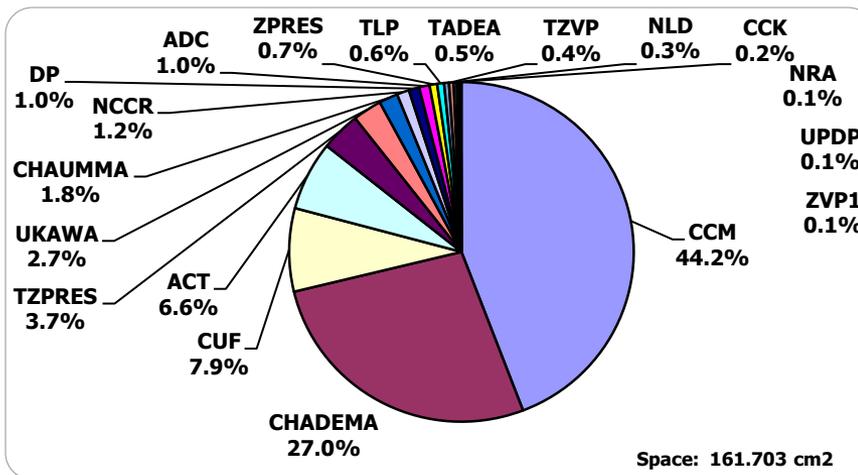
# European Union Election Observation Mission Tanzania 2015



## Mwananchi



## Nipashe

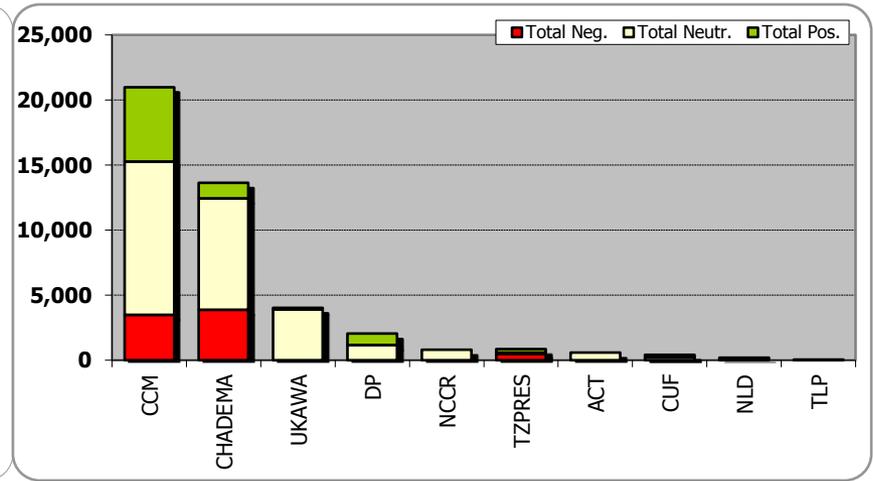
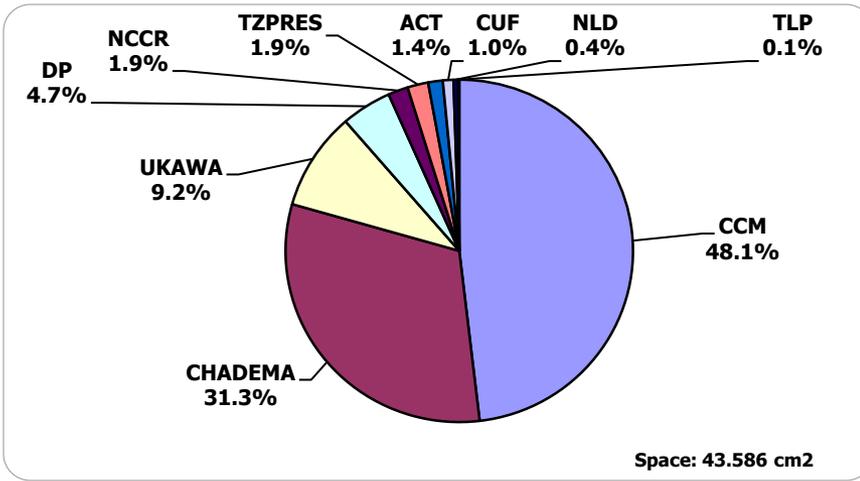




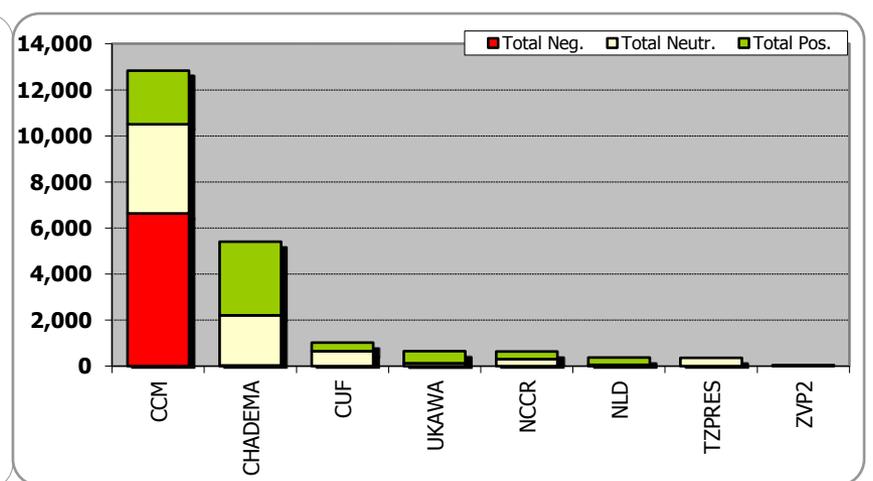
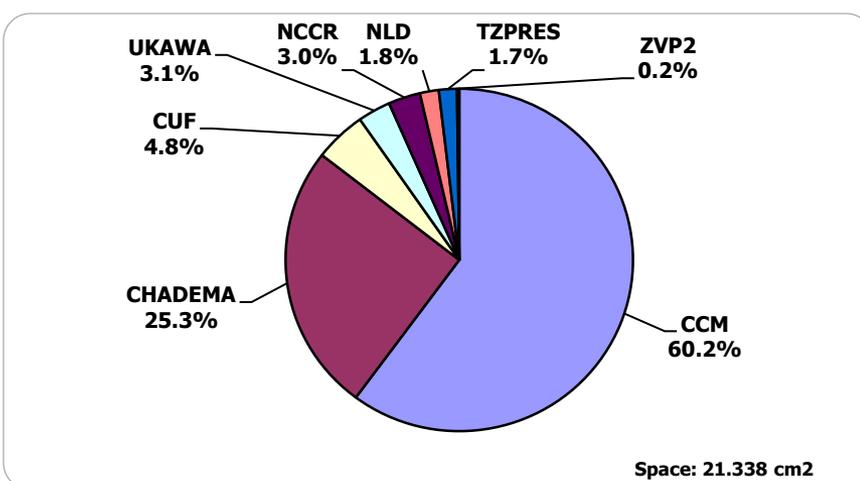
# European Union Election Observation Mission Tanzania 2015



## Raia Mwema



## Mwana Halisi





# European Union Election Observation Mission Tanzania 2015



Alliance for Change and Transparency	ACT	National Reconstruction Alliance	NRA
Alliance for Democratic Change	ADC	Progressive Party of Tanzania	PPT
Allaince for Tanzania Farmers Party	AFP	Sauti ya Umma	SAU
Chama Cha Kijamii	CCK	Tanzania Democratic Alliance	TADEA
Chama Cha Mapinduzi	CCM	Tanzania Labour Party	TLP
Chama Cha Demokrasia na Maendeleo	CHADEMA	President of United Republic of Tanzania	TZPRES
Chama Cha Ukombozi wa Umma	CHAUMMA	Vice-president of United Republic of Tanzania	TZVP
Chama Cha Haki na Ustawi	CHAUSTA	United Democratic Party	UDP
Civic United Front	CUF	Umoja wa Katiba ya Wananchi	UKAWA
Demokrasia Makini	DM	Union for Multiparty Democracy	UMD
Democratic Party	DP	United People's Democratic Party	UPDP
Government	GOV	President of Zanzibar	ZPRES
National Convention for Constitution and Reform	NCCR	1st Vice-president of Zanzibar	ZVP1
National League for Democracy	NLD	2nd Vice-president of Zanzibar	ZVP2

