



European Union  
Election Follow-up Mission

# **THE GAMBIA 2024**

Final Report



November 2024

**Final Report**  
**EU Election Follow-up Mission to The Gambia**  
**27 October – 24 November 2024**



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## LIST OF ACRONYMS

ACC	Anti-Corruption Commission
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CODE	Consolidation of democratic dispensation in The Gambia
CRC	Constitutional Reform Commission
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisations
ECOWAS	Economic Community of West African States
EOM	Election Observation Mission
EFM	Election Follow-Up Mission
EU	European Union
GPU	Gambian Journalists Union
GREAT	Gambia's Responsive and Accountable Democratic Transition
GRTS	Gambia Radio and Television Services
ICCPR	International Covenant on Civil and Political Rights and its Optional Protocols
International IDEA	International Institute for Democracy and Electoral Assistance
IEC	Independent Election Commission
IPC	Inter Party Committee
NA	National Assembly
NCCE	National Council for Civic Education
NHRC	National Human Rights Commission
NPP	National People's Party
PURA	Public Utilities Regulatory Authority
PwD	Persons with Disabilities
TRRC	Truth Reconciliation and Reparations Commission
UDP	United Democratic Party
UN	United Nations
UNCAC	UN Convention against Corruption
UNDP	UN Development Programme

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## **I. EXECUTIVE SUMMARY**

An EU Election Follow-up Mission (EFM) was deployed to The Gambia from 27 October to 24 November 2024, to assess the progress made in electoral reform and the implementation status of the 2021 EU Election Observation Mission (EOM) recommendations. The EFM was led by Mr. Norbert Neuser, former Member of the European Parliament and the Chief Observer of the 2021 EU EOM. The Mission met members of parliament, representatives of government, of political parties, of the Independent Electoral Commission (IEC), the media, civil society, domestic observers, development partners and members of the diplomatic community. The EFM also convened a roundtable gathering, where electoral reform and the recommendations of the EOM were discussed.

The EU EOM final report on the 2021 presidential election offered twenty recommendations for the consideration of national authorities and electoral stakeholders. The rationale underlying these recommendations was the enhancement of future elections through promotion of compliance with the commitments to democratic elections undertaken by The Gambia. None of the recommendations has yet been implemented in full. The EFM noted progress towards implementation in the case of a few recommendations, but, in most areas, greater political will is required to achieve change. However, beyond the deficiencies identified in the electoral system, the positive democratic dynamic is worth noting, with a full electoral cycle completed since 2021, with peaceful and credible elections in 2022 (legislative) and in 2023 (local).

In the positive, it was assessed that, while success cannot be certain, activity is ongoing which could result in the implementation of five of the recommendations. Seven of the recommendations were accorded priority over the rest. Of these, four are among the areas where some action is going, namely in relation to reform of the legal framework to bring it into line with international principles, increase in the administrative capacity of the IEC, improved rules to facilitate more comprehensive voter registration, and revision of the criminal law which restricts the freedom of expression. There is little certainty, however, that three of these four initiatives will be realised in advance of the next presidential election.

Some important legislative measures have been introduced in the broader democratisation area, in particular the Access to Information Act and the Gambia Anti-Corruption Act. Both instruments have the potential to improve transparency and accountability in governance, but robust implementation is awaited. The Information Commission was recently established, in September 2024, and the Anti-Corruption Commission is awaited.

In the negative, however, there has not been any change in the subject of thirteen recommendations. The EU EOM 2021 assessed that the election had been characterised by growing democratic tendencies, but equally identified numerous restrictions on political rights and inconsistencies between national law and international and regional commitments. The recommendations were intended to offer useful avenues for amelioration of that situation, in the context of the transitional process which was underway in The Gambia. While the transitional project continues, the speed of realisation is slow.

Constitutional reform has returned to the political agenda, stalled since the rejection of the Constitutional Reform Commission (CRC) draft constitution in 2020 ("CRC draft"). The 2024 Draft

Constitution tabled before the National Assembly in August 2024 will be read in the parliament imminently, while the Elections Bill, 2022, revived from its earlier 2020 emanation, is also scheduled to go before parliament within weeks. This was, therefore, an opportune time for the EU EFM to be in the country, as discussion of constitutional reform dominates political and civil society discourse and is also the subject of civic education activities. The EFM conducted discussions with electoral stakeholders to understand the political possibilities for reform, with discussions at the roundtable gathering being particularly fruitful.

The political context for constitutional reform is one of polarisation between the government and the opposition. No consensus exists as to the desirability of promulgation of a new constitution. Repeal of the prevailing 1997 instrument had been a national commitment from 2016, but the CRC draft constitution, intended to respond to this need, was rejected in parliament. The new 2024 Draft Constitution is widely vilified as a self-serving tool, designed to serve the interests of the incumbent president, rather than being designed as a national charter to renew the relationship between the citizenry and their elected leadership. It is possible that the current constitutional initiative may be unsuccessful, with the 1997 constitution remaining in place.

Some important elements of electoral reform are offered in the Elections Bill, 2022. Most significant are provisions for continuous voter registration, which would greatly enhance the inclusiveness of future elections, as well as a definitive statement that the Gambian diaspora would have voting rights. Elaboration of the modalities is left to the IEC. The use of attestations as a basis for voter registration is, controversially, retained in the Elections Bill. There is also no reference to the method of voting, using marbles, in the draft, raising questions as to how voting by the diaspora will be undertaken.

No progress has been made towards the advancement of the political participation of women. Women compose just 9.4 per cent of the total membership of the National Assembly, subsequent to the 2022 parliamentary election, at five among 58 members. Three were elected among the 53 elected members, and two were among the five presidential nominees. This represents a diminution from the parliament which assumed office in 2017, then with six women, three elected and three appointed.

There is a great deal of international cooperation underway and planned, intended to support and accompany The Gambia in its ongoing democratic transition. The EU Delegation works in partnership with diverse sectors, including government, UN agencies and civil society. Two significant EU-funded projects which include a response to the EU EOM recommendations are the Consolidation of Democratic Dispensation in The Gambia (CODE) and Gambia's Responsive and Accountable Democratic Transition (GREAT) projects, with the latter recently begun. There is an opportunity for these efforts to support electoral reform.

Two years remain before the next presidential election, due by December 2026. This period offers enough time to address many of the issues which are detailed in the EU EOM recommendations. Five of the recommendations could be achieved by administrative action, while the other fifteen, requiring legal and constitutional change, are also feasible, dependent upon the progress of legal and constitutional reform.

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## II. MISSION INFORMATION

An EU Election Follow-up Mission (EFM) was deployed to The Gambia between the 27 October and the 24 November 2024. The EFM was led by Norbert Neuser, former Member of the European Parliament and the Chief Observer of the 2021 EU Election Observation Mission (EU EOM) for the presidential election 2021. The EFM was further composed of two external consultants, an electoral and a legal expert, accompanied by two representatives of the European External Action Service.

The main objectives of the EFM were to assess the progress made in electoral reform and the degree to which the 2021 EU EOM recommendations have been implemented since the delivery of the final report, as well as to discuss ways to achieve further progress in this regard.

As part of its activities, the EU EFM engaged with a broad range of electoral stakeholders, including government officials, members of the National Assembly, the Independent Electoral Commission (IEC), the National Human Rights Commission (NHRC), political parties, the media and civil society organisations.

The EFM organised a roundtable to discuss the implementation of the 2021 EU EOM recommendations with various stakeholders and held a press conference to present its findings. The mission demonstrates the EU's continued commitment to supporting democratic governance and credible elections in The Gambia.

## III. CONTEXT

The EU EFM was deployed at an opportune time, as constitutional reform is on the political agenda and, two years before the next presidential election, there is still some time to accelerate the implementation of reform. Repeal of the current constitution of 1997 continues to be contemplated, which, of necessity, encompasses revision of the electoral system and of the protection for civil and political rights. Electoral reform, manifest in an Elections Bill, is also on the political agenda, but subsumed, to a significant degree, within the constitutional debate. Nonetheless, reform of voter registration represents an important element of the potential legislative reform. There has been little substantive progress in the implementation of recommendations offered by the EU EOM 2021, but work on several is ongoing within the constitutional and legislative drafting process.

### A. POLITICAL CONTEXT

The Gambia entered a significant period of political transition in 2016, with the election of President Adama Barrow, representative of the combined opposition forces gathered together in *Coalition 2016*, and the deposition of authoritarian President Yahya Jammeh. The Coalition's manifesto, and the new political order that was installed, articulated a promise of reform across all sectors of The Gambia, including through the promulgation of a new constitution, introduction of accountability mechanisms for the human rights abuses of the Jammeh regime, reform of the justice and security sectors, and indeed of all sectors of government.

President Barrow won a second term in office in December 2021, representing the new National People's Party (NPP), the earlier coalition having disintegrated. Parliamentary elections took place in April 2022, in which the government secured a slender majority, adequate to ensure parliamentary passage of ordinary legislative proposals, but less than that necessary to amend entrenched constitutional provisions or repeal the constitution. The transitional period continues, with many important reforms undertaken, but with a speed of change slower than many stakeholders aspire to.

Constitutional reform began with the establishment of the Constitutional Reform Commission (CRC), pursuant to the Constitutional Review Commission Act, 2017. From then to now, agreement on a draft constitution has been elusive. The CRC draft constitution was rejected by the government in the National Assembly (NA) in 2020. On 14 August 2024, the government published a new draft constitution, the Constitution of the Republic of The Gambia (Promulgation) Bill, 2024, in the official *Gazette* (the “2024 draft constitution”). This Bill, altering entrenched constitutional provisions, must be supported, on the second and third readings, by the votes of at least three quarters of all members of the NA. If carried, a referendum must be held within six months, to which a fifty per cent quorum applies, with a seventy-five per cent voter endorsement required for success.

The advancement of the draft constitution is a matter of political will. The main opposition party, the United Democratic Party (UDP), has stated their rejection of the draft, for reasons including an absence of meaningful consultation in the preparation of the instrument. They also allege that the draft serves the interests of the incumbent president in retaining the excessive powers of the executive office which exist under the current constitution. Political opinion is, therefore, divided and extremely polarised, with little prospect of imminent cross-party consensus on constitutional reform.

There is a great appetite for constitutional change expressed by civil society, political parties and by the general public, perceived as an important element of transitioning from the rule of an authoritarian dictator to a functioning democracy. There has, however, been significant civil society advocacy against the new draft, alleging that the process behind it was flawed, due to the absence of inclusive and participatory engagement with stakeholders. The content of the draft is also rejected, as undermining the separation of powers and the rule of law.

In a wider context, progress on realisation of the project of transition continues. The progressive legislation enacted to date, and of broad relevance to enhanced governance, includes the National Human Rights Commission Act, establishing the NHRC, which has been functional for several years; and the Access to Information Act, 2021, for which the implementing Access to Information Commission was established in September of this year. The Gambia Anti-Corruption Act, 2023, became law on 30 January 2024, with the Anti-Corruption Commission (ACC) yet to be set up. The provisions of the law, however, are not powerful and, additionally, do not address political party or campaign finance.

The Prevention of Torture Act, 2023, is of importance in improving compliance with the core international human rights treaties. The Victim’s Reparation Act, 2023, the Special Prosecutors’ Office Act, 2024, and the Special Accountability Mechanism (TRRC) Act, 2024, are also significant. While these measures address human rights atrocities perpetrated in the past, their practical implementation to advance accountability remains to be achieved.

Many laws remain in force which have been used to restrict civil liberties, including the Public Order Act and the Criminal Code. There has been intermittent but continued reliance on these laws. Concerns about freedom of expression were raised due to some cases against journalists and human rights activists. In October 2023, an activist was arrested, and subsequently released on bail, charged with seditious intention, incitement to violence and false broadcasting and information, for a post on Facebook and subsequent newspaper opinion piece commenting on a speech of the President.<sup>1</sup> Until the time of writing, no court case had been initiated.

Suppression of freedom of expression was evident most recently in a set of cases against journalists of *The Voice* newspaper, related to publication of an article which discussed the choice of a successor by President Barrow. The journalists were sued for civil defamation by the President, while the Police also brought criminal charges of false publication against them. The President agreed to drop the civil

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<sup>1</sup> The charges were based on sections 51, 59B and 181A, respectively, of the Criminal Code.



case, following a huge out-cry at the violation of the freedom of expression, but the criminal case continues.

According to the current constitution, the next presidential election must be conducted within the three-month period in advance of the end of the mandate of the current incumbent. President Barrow was inaugurated on 19 January 2022 for his second term-in-office. His mandate, therefore, will end in January 2027, and, unless a new constitution is adopted which changes the rules, an election must be held within the three months preceding this date. In the event that the 2024 draft constitution is adopted as currently written, the presidential election will have to be held within three months, but not later than six weeks, before the end of the term. Campaigning for the election has effectively already begun, with some candidacies declared.

Originally, upon promulgation of the 1997 Constitution, there had been a limit of two terms in office imposed upon the president. This was removed by amendment, so there is now no limit in place. A limit of two terms was proposed in the CRC draft constitution, with retrospective effect. The 2024 draft constitution also imposes a two-term limit, but without retrospective effect. There is ambiguity as to whether, upon promulgation of this new constitution, the term of the president at that time would count towards the term limit.

It is important that electoral law be well settled in advance of the presidential election. Section 134(3) of the current Elections Act provides that the IEC shall not make any significant change to the rules relating to elections within the six months before an election. Additionally, Article 2 of the ECOWAS Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, ratified by The Gambia, prohibits any substantial modification of electoral laws in the six months preceding an election, without the consent of a majority of political actors.

## **B. ELECTION-RELATED DEVELOPMENTS**

Electoral reform was initiated by the IEC in 2019, including through stakeholder consultations, resulting in proposals for reform of the prevailing Elections Act which were submitted to the Ministry of Justice, tabled before the National Assembly on 22 March 2021.

On 29 March 2021, the Elections Bill was referred to the Joint Committee of Human Rights and Constitutional Matters, and of Local Government & Lands, Ombudsman and IEC for scrutiny and report to the plenary.<sup>2</sup> The task of the Joint Committee was not completed before the dissolution of the NA and the 2022 elections. The bill was revived before the sixth NA as the Elections Bill, 2022. On 4 December 2023, the Report of the Joint Committee on the Elections Bill, 2022 was published,<sup>3</sup> with recommendations for amendment, but there has not been any progress towards enactment of the bill since then.<sup>4</sup> It is scheduled to be tabled before a plenary sitting of the NA before the end of this year.

The overall electoral system is not addressed in the Elections Bill, as that is a matter of constitutional law. The Elections Bill is important, but principally technical in content, containing proposals to reform the registration of voters, the demarcation of boundaries, and related matters. Much of the content reiterates the content of existing law. While the IEC had advocated abandonment of the method of voting with marbles (“ballot tokens”), this is not in the draft, and indeed the EU EFM

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<sup>2</sup> The Joint Committee derives its mandate from section 109 of the 1997 Constitution and is constituted pursuant to Standing Order 104 of the revised 2019 Standing Orders of the National Assembly.

<sup>3</sup> [Report of the Joint Committee of Regional Government & Lands, Ombudsman & IEC & Human Rights and Constitutional Matters](#)

<sup>4</sup> [https://assembly.gm/?page\\_id=709](https://assembly.gm/?page_id=709). The bill is not available online and there appears to be some confusion over the various versions of this bill amongst interlocutors.

encountered widespread support for the maintenance of the current method, due, in particular, to the high rate of illiteracy among voters. Additionally, transition to a different method of voting would require planning and voter education across the country, well ahead of an election. There was also widespread acknowledgement that facilitation of diaspora voting may create obstacles to the continuation of the current voting method.<sup>5</sup> Registration of Gambians living abroad is specifically included in the draft law, with details to be decided by the IEC.

The draft constitution contains some elements which address the electoral system, but which cannot be characterised as reform. It does re-introduce a two-term limit on presidential office, a provision which had been removed from the 1997 constitution by amendment. It falls short, however, of the proposal in the CRC draft constitution to apply retroactivity to the term limit. It also replaces the one-round plurality system for electing the president in the current constitution with a 50 per cent plus one majority system, leading to a two round system if no candidate wins in the first round.

The constitutional debate is complex, as there are three documents which are being compared and discussed. The content of the current constitution has been a source of widely shared dissatisfaction since promulgation. The CRC draft was widely welcomed by civil society and many political parties, characterised as representing a revision of the relationship between the citizens and their leaders, through a charter to protect fundamental rights, and to preserve the rule of law and the separation of powers. While the CRC draft was rejected in the NA, and there is now a draft promoted by government on the agenda, much commentary compares the current draft to the CRC draft. This comparison allegedly exposes the lacunae in the new draft, as it would fail to articulate a new social contract for The Gambia which many had been hoping for.

Most of the interlocutors of the EU EFM recommend that the current emanation of the 2024 draft constitution not be proceeded with, due to flaws in both the process of drafting it, as well as in the content. Establishment of a national consultative committee on constitutional reform is advocated instead, to be mandated to conduct broad consultation on the content of the draft.

More specifically, on electoral matters, the CRC had included provisions to restrict the presidential power of appointment of senior government officials, including members of the Independent Boundaries and Electoral Commission (currently the IEC). While the CRC draft had vested confirmation powers for these nominations in the NA, this safeguard does not exist anymore in the 2024 Draft. The 2024 draft constitution introduces reserved seats for women and persons with disabilities in the NA, albeit half the number compared to the CRC draft.<sup>6</sup>

### C. INSTITUTIONAL CONTEXT

The IEC is the body with the primary purpose of conducting elections. It perceives itself as having electoral reform within its mandate, and it initiated the process which led to the drafting of the Elections Bill 2022. Several other institutions have a tangential role in managing diverse aspects of the broader electoral process, including the judiciary, media regulators, civic education providers, and the National Human Rights Commission (NHRC). Civil society actors have also taken up the cause of electoral reform, with individual organisations and umbrella groups contributing expertise and advocacy. Political parties have not been active in this realm.

The Independent Electoral Commission (IEC) is a constitutional body, led by a five-member commission, with the principal function of conducting elections. The membership of the IEC remains

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<sup>5</sup> The 2024 Draft Constitution does not introduce a constituency for diaspora.

<sup>6</sup> Schedule 4 related to sections 74, 75 and 125 of the Draft Constitution.

largely as it was during the 2021 presidential election, with the chairperson in office having recently celebrated his 88<sup>th</sup> birthday. The sole female member of the IEC retired and was replaced by another woman in 2023. The IEC has repeatedly drawn public attention to obstacles to the growth of the institution, namely stagnation in terms of human resources, insufficient capacity building for staff, and lack of physical resources, including vehicles and office space. Some offices have been rehabilitated recently, but difficulties persist.<sup>7</sup>

From an exalted height, following their successful conduct of the 2016 presidential election, public confidence in the IEC has diminished somewhat. Figures recently published by Afrobarometer indicate a 40 per cent level of trust in the IEC, compared to 61 per cent in 2018.<sup>8</sup> It was announced, while the EU EFM was in the country, that nine institutions, including the IEC, had been conferred with exemptions by the Gambia Public Procurement Authority, excluding them from the requirements of compliance with public procurement rules. This was a matter of some public comment, as the IEC management of public funds has been the subject of a recent audit by the National Audit Office. The outcome of the audit is not yet in the public domain.

The presidential election of 2026 is already on the mind of the IEC. The previous electoral cycle was concluded last year, as the presidential election in 2021 was followed by parliamentary elections in 2022, and by local authority elections in 2023. The government currently plans to promote a constitutional referendum in 2025.

In May 2022, a government White Paper was published, which reflected the recommendations of the Truth, Reconciliation and Reparations Commission (TRRC), followed in May 2023 by an implementation plan, with monitoring and evaluation responsibilities vested in the NHRC. Some of the themes of the TRRC have relevance for electoral reform, including the attack on the media, and the attack on political opponents. Protection of freedom of expression, of freedom of assembly, the creation of a strong and organised civil society, and of an independent and efficient judiciary, are all outcomes sought to implement the TRRC recommendations. These outcomes are echoed in several of the recommendations offered in the EU EOM final report on the 2021 presidential election. Monitoring of progress by the NHRC, in relation to these specific outcomes, effectively amounts to promotion of electoral reform. The work of the NHRC, more broadly, in monitoring national compliance with regional and international human rights commitments, also addresses advancement of the political rights which underlie several of the EU EOM recommendations.

Advocacy of electoral reform is led principally by civil society. Civil society organisations, individually and collectively, have undertaken a great deal of research and analysis on the various emanations of draft constitutions, draft elections bills, and other pertinent instruments, including in the areas of criminal law, anti-corruption law, and in freedom of expression. Their advocacy work is ongoing and important, particularly through engagement with the NA. Political parties, as discrete entities, have not promoted electoral reform from the perspective of the national interest, but have reflected partisan interests in their interventions.

#### **D. EU ACTIONS ON EOM FOLLOW-UP**

The EU Delegation is monitoring the implementation of the 2021 EU EOM recommendations to its best ability, forming part of the EU Delegation's political dialogue and cooperation partnership with

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<sup>7</sup> The Select Committee on Regional Government, Lands, Ombudsman & the IEC – [report on the oversight tour](#) to offices of the Ministry of Lands, Regional Government & Religious Affairs, & the IEC, 16-26 October, 2023

<sup>8</sup> [Afrobarometer news release, 17 October 2024](#), *Gambians report declining trust in institutions amid rising concerns over corruption, according to new Afrobarometer survey*

the Government throughout the electoral cycle. The EU approach to governance encompasses three main reforms: transitional justice, legal reform and security sector reform. There are two ongoing projects that, though not strictly focusing on elections, could have a positive impact on the electoral process and would eventually support the EU EOM follow-up.

The EU-UNDP Gambia's Responsive and Accountable Democratic Transition (GREAT) initiative (2023-2027) leads these efforts, focusing on legal reform, equitable justice systems, healing and reconciliation, and enhancing local governance.

The GREAT project aims to enhance the democratic system and is rooted in national priorities (particularly those in the post-TRRC process and the May 2022 White Paper on TRRC implementation). The project aims at reinforcing the civic space by empowering civil society, particularly women and youth-led groups, and media, to participate in the revision and elaboration of legislation as well as ensuring that these groups are meaningfully involved in the processes and have the capacity to hold the government to account and to promote fact-checking.

This initiative contributes to the democratic transition through three specific objectives: supporting constitutional and legislative reforms to strengthen checks and balances and safeguard human rights; enhancing the ongoing transitional justice process, rule of law, and human rights; strengthening the effectiveness of local governance structures. The aim is that by 2028, marginalised and vulnerable groups will participate in functional, accountable, and transparent institutions for the efficient delivery of public services and good governance.

The EU funded Consolidation of democratic dispensation in The Gambia (CODE) project (2023-2026), implemented by International IDEA, supports key democratic institutions, including the National Assembly (NA), the National Human Rights Commission (NHRC), and the Gambia Press Union (GPU), reinforcing legislative functions, human rights protection, and press freedom. Gender Platform, the CSO supported by the EU-funded CODE project, encompasses several organisations.

The project aims at: the NA exercising its legislative, oversight, representative functions more effectively, transparently and inclusively; the NHRC responding to complexities in democratic consolidation and implementing human rights-based approaches in an inclusive manner including in the adoption of a new constitution under the agreed frameworks; the GPU utilising its enhanced capacity to implement its mandate, assist and support media to report on constitutional, electoral and institutional reform processes in a socially responsible manner that best serves public interest, as well as to provide impartial, informed, accurate coverage of these processes; the Gender Platform holding the legislative and constitution-makers accountable and increasing women's voices in legislative and constitution making process.

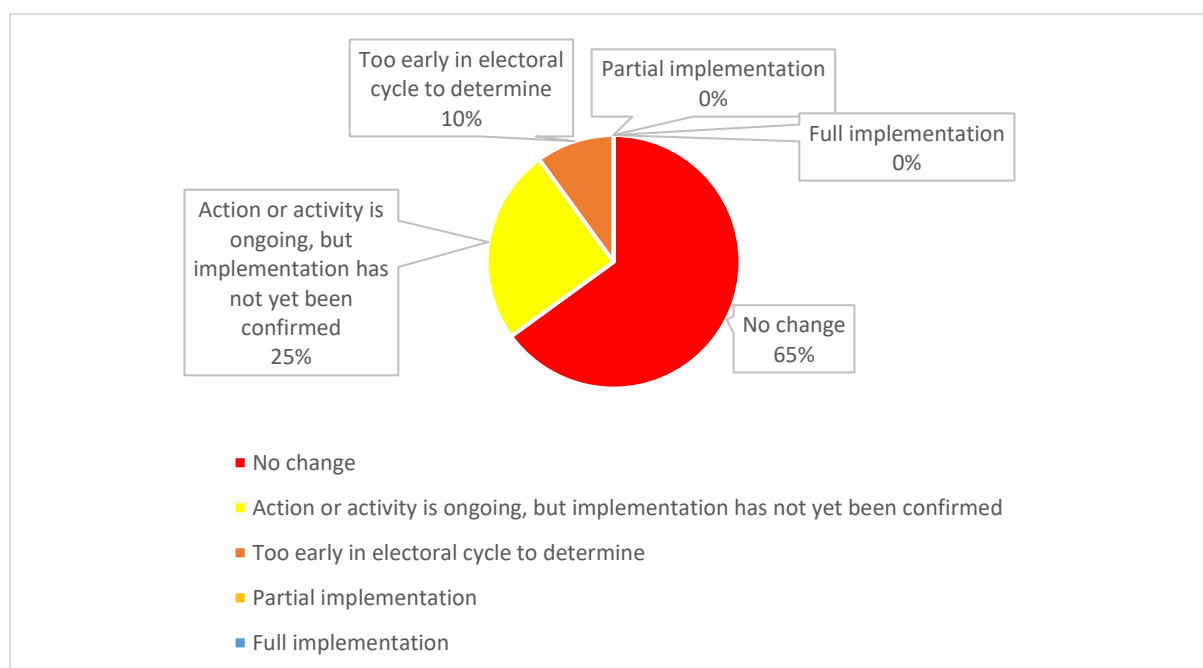
#### **IV. IMPLEMENTATION STATUS OF EU EOM RECOMMENDATIONS**

The assessment of the status of implementation of the 2021 EU EOM recommendations reveals quite limited progress. Of the 20 recommendations offered by the 2021 EU EOM, all remain relevant, with none of the recommendations having yet been fully implemented. Fifteen out of the 20 recommendations offered required legal reforms, in the form of repeal or amendment of legal provisions, or enactment of new legislation, while three of them required constitutional change. Amongst the 20 recommendations, seven were identified as priority ones, implementation of which would have the highest impact upon electoral integrity. They refer to the legal framework, election administration, campaign finance, the media and electoral disputes. Four required legal changes,

where more political will is needed to advance, while three could be implemented via administrative action.

The EU EFM has assessed that, although their implementation cannot yet be confirmed, action or activity towards the realisation of five recommendations is ongoing. These include four from among the priority ones, namely on the reform of the legal framework to bring it into line with international principles, an increase in IEC administrative capacity, voter registration and the media legal framework. For two recommendations, it is too early in the electoral cycle to determine their implementation status. In the case of thirteen recommendations, that is, for the majority of recommendations, there has not yet been any progress made.

The country is currently in the midst of a period of a revived constitutional review, and legislative reform is underway, that could potentially result in the implementation of some additional EU EOM 2021 recommendations.



A detailed overview of the implementation status of each recommendation is provided in Annex B. This assessment reflects the status as of November 2024 and it is based on the information gathered by the EU EFM.

#### a. Legal framework (1-2)

The EU EOM 2021 assessed that the legal framework provides a minimal basis for conducting democratic elections, and identified critical gaps, restrictions, and legal uncertainties that require significant reform. The mission also assessed that many areas of the election law are poorly regulated, with little or no subsidiary legislation to guide the interpretation of the existing legal provisions. Further, several provisions of the Elections Act, 1996 were found to be ambiguous, contradictory, or incoherently drafted, and therefore, problematic as to their enforcement. International standards provide that the legal framework should be structured so as to be unambiguous, understandable and transparent.

Two recommendations were offered in the context of the legal framework. The first recommendation, a priority, addressed one of the most fundamental aspects of the assessment of elections, namely, the

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legal framework's compliance with the regional and international standards for democratic elections. The second addressed access to legal information.

The Gambia is a state party to major international and regional treaties containing principles and commitments for the conduct of democratic elections.<sup>9</sup> Some of the principles established in these international and regional treaty commitments have yet to be incorporated into domestic law. In order to enhance the rule of law the EU EOM suggested, as a priority, to make essential changes in the electoral legal framework; to bring the draft Elections Act into line with international standards; to streamline provisions of the draft constitution and the draft Elections Act as well with other Acts relevant to the conduct of elections.

It was recommended that the legal framework is brought into line with the country's international obligations to reinforce respect for the rule of law. Legal provisions to be addressed include those on the registration of voters, on restrictions on the right to vote and to candidacy, the independence of institutions, and freedom of the media. Lack of harmonisation of electoral law with international legal standards is also reflected in the Constitution. Freedoms of expression, assembly, and association are enshrined, but legal restrictions, beyond the limits set out in international standards, are allowed for.

Significant constitutional and legislative review efforts have been initiated, but the legal reforms necessary to bring the framework into line with international standards have not materialised. An Elections Bill, tabled in 2020, remains before the NA and is yet to be enacted. Even if they were to become law, the 2024 draft constitution and the Elections Bill, 2022, would address very few of the EU EOM recommendations in their current form. Several other bills are also being considered within the effort to bring the legal framework into line with the commitments of The Gambia, including the Criminal Offenses Bill, the Criminal Procedure Bill, and the Data Protection Bill. Other acts are currently under review by the Law Reform Commission, including the Information and Communications Act and the Public Order Act.

At present, several instruments must be read together to establish the law. The need to make changes to the electoral legal framework to enhance clarity of the content of the law and promote legal certainty was seen as essential by the EU EOM 2021. According to the Ministry of Justice, such an effort is underway within the broader revision of the legislation in force. This is clearly an ongoing activity, which could eventually lead to implementation of the first recommendation.

The EU EOM 2021 noted limited awareness of the law and of the avenues for access to justice amongst interlocutors. The frequency of amendments, the lack of codified texts, the unavailability of legislation online, and the absence of any official legal database limit access and increase legal uncertainty for stakeholders as to the content and application of the law. The EU EOM 2021 therefore recommended the creation of a legal database, publicly accessible, including online codified texts of the laws and of case law.

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<sup>9</sup> These include the UN International Covenant on Civil and Political Rights and its Optional Protocols (ICCPR), the Convention on the Elimination of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of Persons with Disabilities (CRPD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the UN Convention against Corruption (UNCAC 1). As a member state of the African Union and ECOWAS, The Gambia is committed to the African Charter on Human and People's Rights (Banjul Charter), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, the African Charter on Democracy, Elections and Governance (ratified in 2018), the ECOWAS Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security. The Gambia re-joined the Commonwealth in 2018 after having withdrawn in 2013.

The Access to Information Act 2021 represents an important measure to increase transparency. The Act imposes duties on public bodies to create, organise and maintain information in a manner which facilitates access to information for the public. However, EU EFM interlocutors report a persistent unavailability of information and considerable delays from various institutions in responding to requests for information. It would be premature to assess the potential impact of the access to information regime when the commission has just been established. There is now an obligation on public bodies, custodians of a great deal of legal information, to proactively disclose this information.

Apart from the establishment of the Access to Information Commission, there has not yet been any progress in improved access to legal documents or data. The recommendation called for access specifically to case-law and to legal instruments. The National Council for Law Reporting has been dormant for some years, so there is gap in public access to law reports. Legislative instruments are available only on an ad hoc basis on the websites of various ministries or in expensive hard copy from the government printers. It is clear that there has not been any change made or initiative undertaken with regards to the subject matter of recommendation number 2.

b. Electoral Administration (3-5)

An independent and effective electoral management body is an important element in promoting the integrity of an electoral process. Three recommendations were offered in the sphere of electoral administration, two of which addressed matters within the control of the IEC itself, while the third required constitutional change. While none of the three has yet been implemented, donor support is planned which could facilitate implementation of one of the recommendations.

A priority recommendation (number 3) was made to increase the capacity of the IEC in areas critical to advance the quality of their work, with the establishment of legal and gender divisions being identified as potentially impactful. While the IEC has a wide breadth of responsibilities, the capacity of the institution is modest. Legal and gender departments now exist, nominally, but without qualified personnel or any apparent output to date. It has been agreed, however, as part of UNDP plans to support the IEC, that assistance in the establishment of functional legal and gender units will be offered. It can be said, therefore, that activity in this sphere is ongoing.

Another priority recommendation (number 4) aimed to enhance transparency. It advocated publication by the IEC of complete presidential election results, disaggregated by polling station, on their website, and without delay. It is too early to assess what the practice will be during the next presidential election.

Beyond the specific point of polling station results, the Access to Information Act, 2021, applies to the IEC as a public body. The IEC now has legal obligations to institute a regime of greater transparency, including the proactive disclosure of public information. The IEC has not yet appointed an information officer, as required by law. On the face of it, the new law, and the work of the nascent Access to Information Commission, finally established in September 2024, may compel compliance with transparency principles by the IEC.

Another recommendation (number 5) addressed the institutional independence of the IEC, undermined by the method of appointment. The provisions on the appointment of commissioners, in Article 72 of the 2024 draft constitution, are identical to the current law, set out in Article 42 of the prevailing constitution, vesting the power of appointment in the president. In contrast, the defeated CRC draft constitution stated that the appointments would be subject to confirmation by the National Assembly, requiring the votes of at least sixty per cent of all members. Success or failure in passing the current constitutional bill will not address this matter, so the situation remains unchanged.



All three recommendations on election administration remain valid and important. Work on recommendation 3 is ongoing, it is too early to assess the implementation of recommendation 4, while there is no change in relation to number 5.

c. Voter registration (6-7)

Voter registration was completed in advance of the 2021 presidential election. The law, however, lacks any requirement for continuous updating or correction of the register, while also making transfer of place of registration difficult. A priority recommendation (number 6) proposed that electoral law should be amended to provide for continuous registration, ongoing correction of the register, and ease of transfer of place of registration for voters requiring this.

The law in this matter has not been amended. The Elections Bill, 2022, however, in section 16. (1), provides that “*the Commission may make the necessary arrangement for the continuous registration of voters nationwide.*” There is no elaboration of how this would be done, and the list of deletions specified in the existing law is absent. The Bill also makes provision, in section 17, for the transfer of place of registration. The enactment of this bill is anticipated during this parliamentary session, but this is, of course, a matter of political will. It is important that the voter register is accurate, neither inflated with deceased persons or voters who have emigrated, nor deflated due to the exclusion of young voters. Work on the implementation of this recommendation remains ongoing, apparently proceeding in a positive direction.

The right to vote is guaranteed to all citizens of full age and capacity without unreasonable restrictions in the Constitution,<sup>10</sup> but it is circumscribed, in *prima facie* violation of international treaties, in the case of prisoners who are serving a sentence, who are deprived of the right to vote by law. The EU EOM 2021 recommended revision of the law which disqualifies all prisoners from voting, regardless of the reason for imprisonment, ensuring instead that the suspension of voting rights is proportionate to the offence committed.

The implementation of this recommendation would require amendment of section 13(b) of the Elections Act, to ensure that the suspension of voting rights is proportionate to the offence committed. The same restriction is maintained in the Elections Bill, 2022, in section 15(a). The restriction is, in practice, also extended to prisoners on remand, as the EU EOM 2021 observed that voting was not facilitated for those in detention. This recommendation has not been implemented.

d. Registration of Candidates and Political Parties (8)

Freedom of association, expressed as the freedom to form and to join political parties, is a fundamental basis for the conduct of credible elections. It is also important that the freedom not to associate is respected, and that candidates are free to contest elections independently of political party affiliation. The EU EOM in 2021 (as had the earlier EU EOM in 2017) assessed that the legal requirements to register a political party represented an obstacle to the freedom of association, as they were excessively onerous. In addition, the de-registration powers of the IEC were assessed as requiring detailed procedural elaboration.

There has not been any progress towards the implementation of this recommendation to date. The Elections Bill, 2022, reiterated all of the onerous requirements precedent to political party registration, as contained in the present Elections Act, as amended in 2015. There is a single minimal change, in section 107 of the bill, which requires that 75 per cent, rather than 100 per cent, of party executives

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<sup>10</sup> Articles 26, 39, Constitution. The same provisions are included in the 2024 Draft Constitution under articles 45 and 66 respectively.



must be permanent residents in The Gambia. There is no change to the rules for party de-registration, with criteria for same still absent.

There appears to be little political will for implementation of this recommendation, principally because it has not been strictly applied by the IEC in the course of political party registration to date. The number of political parties in The Gambia continues to increase, with 19 registered political parties now members of the Inter-party Committee (IPC). This recommendation remains relevant because, should the legal rules be strictly implemented, this would impose difficulties in registering a party.

e. Campaign Environment (9)

Scattered provisions on corrupt practices and prohibitions on the use of public property are to be found in the Elections Act and in the Criminal Code. The EU EOM 2021 recommended the introduction of an effective oversight and implementation mechanism (including moratoria on public works during the campaign) against the misuse of state resources and public office, including administrative apparatus, during the campaign period.

Although the use of public property during a campaign is prohibited by law, there are no formal restrictions on the announcement of or the opening of new projects, which could influence voters. The recommendation suggests that prohibition of the use of state resources for political campaigning should be enforced to create a level playing field. To date, there appears to be no initiative from the government or opposition to propose amendments to the legislation in this regard. This recommendation would ideally require legal amendments, but no consideration has been given either in introducing any subsidiary legislation in the form of rules, regulations etc.

The Elections Bill, 2022, reiterates the provisions prohibiting use of public property during an election campaign included in the current Act. It further foresees that a political party may undertake campaigning activities outside the election campaign period and imposes an explicit requirement of compliance with the Code on Election Campaign Ethics during such time.

f. Campaign Finance (10)

The EU EOM 2021 also recommended the establishment of a legal framework and independent oversight body to regulate and oversee political / campaign finance to enhance transparency and accountability, introduce periodic auditing, reporting, and publishing obligations for political parties, and rules for contestants during electoral periods (ceilings on donations, expenditures, interim and final reporting, etc.).

The Gambia acceded to the United Nations Convention against Corruption (UNCAC) on 8 July 2015 but has yet to ratify it. The current legal framework lacks regulation of campaign finance and provides only minimal oversight of political party financing. The Constitution contains an asset declaration regime, which is extremely limited in conception. Political parties are subject to annual reporting obligations to the IEC, but no scrutiny of the reports is undertaken.

Interlocutors report low trust in public institutions while perceptions of corruption are worsening.<sup>11</sup> In 2021, two prominent civil society organisations, Gambia Participates and the Centre for Research and Policy Development, brought a lawsuit to challenge a loan scheme of GMD54.4 million (approx. EUR723,000) included in the national budget, intended to benefit National Assembly Members. The Supreme Court's judgment in May 2021 deemed the loan to be unconstitutional.<sup>12</sup>

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<sup>11</sup> <https://www.afrobarometer.org/wp-content/uploads/2024/10/News-release-Gambians-report-declining-trust-in-institutions-amid-rising-corruption-Afrobarometer-17oct24.pdf>

<sup>12</sup> Gambia Participates and Or Vs Clerk of the National Assembly and Ors. – SC CS/002/2020, 4 May 2021

The Anti-Corruption Act, 2023, was passed in the National Assembly on 21 December 2023, repealing the Anti-Corruption Act 2012, which was binding but which had been unenforced. The new law encompasses clauses such as whistle blower protection and a range of measures designed to deter corrupt practices in the public and private sector. It represents a step towards transparency and accountability but has been heavily criticised by civil society as limited in content. Of particular note is the fact that the Anti-Corruption Act does not apply to the regulation of campaign finance or political party finance. While the Act provides for the establishment of an anti-corruption oversight body, this has not yet been formed.

The Elections Bill 2022 does not include any new provisions on campaign finance regulations but maintains the ban on donations from foreign individuals or corporations.<sup>13</sup> Such a provision was included in the CRC draft but has been removed in the 2024 draft constitution. Alongside the non-inclusion of provisions referring to leadership and integrity, the 2024 draft constitution maintains the competence of submission of candidates' declaration of assets with the Independent Electoral and Boundaries Commission (the current IEC), which then must ascertain their accuracy.<sup>14</sup> The IEC acknowledged to the EU EFM that it has no capacity or expertise to scrutinise such reports.

While these concerns persist amongst interlocutors, they have not been prioritised within the legal reforms. There has been no progress on the two recommendations relating to the campaign environment and finance and outside an election campaign period these topics do not feature prominently in the ongoing political debate or in the constitutional and electoral reform.

g. Media (11- 14)

The EU EOM 2021 assessed that the legal framework then in place severely undermined the freedom of expression. Instruments of particular note were those which created offences of sedition, criminal defamation and the dissemination of so-called false news. Four recommendations were advanced to reform the legal and regulatory framework for the operation of the media. There has not yet been any change in this sphere, leaving the subject of the four recommendations unchanged.

Journalists face the potential imposition of both civil and criminal law for undertaking their work. They informed the EU EFM of the chilling effect of these laws, inducing self-censorship to avoid being charged. There have been some instances of charge and arrest since 2021, most recently evident in the criminal charges against *the Voice* journalists.

The NHRC, in assessment of the implementation of the TRRC recommendations, noted no progress towards the outcome that there should be a “*conducive working environment created for journalists to carry out their work*”; and 30.9 per cent progress towards the outcome of “*domestic legislation adequately protects freedom of expression, access to information and protection of media practitioners*”. In the positive, the Access to Information Commission was established in September 2024.

There are several legal instruments in draft form which could address several of the EU EOM media-related recommendations, if enacted. The Criminal Offences Bill, 2023, intended to replace the prevailing Criminal Code, 1933, was originally tabled before the former NA in 2020. Now revived, it was scrutinised before the NA Standing Committee on Human Rights and Constitutional Matters in November 2023. The bill is intended, according to its objects and reasons, “*to remove all provisions*

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<sup>13</sup> Except for a restriction on imported campaign vehicles to seven every five years, as well as the obligation of the IEC to publish the media airtime rates applicable during the campaign.

<sup>14</sup> Clause 85(1)(b) of the 2024 draft constitution. The CRC Draft assigned this competence to the Anti-Corruption Commission.

*inimical to freedom of speech such as criminal defamation and sedition*". It is due before a plenary of the NA before the end of the year, in tandem with an accompanying bill to reform the Criminal Procedure Code. It is possible, therefore, to assess activity as ongoing in relation to recommendation 11.

The Information and Communications Act 2009, as amended in 2013, was the subject of several of the media recommendations. The Information and Communications (Amendment) Bill, 2019 was tabled before the NA in 2020, with objects and reasons to specifically address the need to protect the rights of the media. There has not been any change to the Public Utilities Regulatory Authority Act, 2001, establishing the Public Utilities Regulatory Authority (PURA), nor to the legislation establishing the GRTS (Gambia Radio and Television Services), with consequent concerns about the absence of independence of these bodies continuing. The pace of progress in media reform is slow, with the recommendations advanced in 2021 remaining relevant and feasible.

h. Social Media and Digital Rights (15-16)

In the beginning of 2024, there were 1.52 million internet users, when internet penetration stood at 54.2 per cent in The Gambia. The Gambia was home to 404,000 social media users, equating to 14.4 per cent of the total population. Data published in Meta's advertising resources indicates that Facebook had 404,000 users, and Instagram had 151,800 users in early 2024. Numbers published in X (Twitter)'s advertising resources indicate that X had 35,700 users in early 2024, equivalent to 1.3 per cent of the total population at the time.<sup>15</sup>

The EU EOM 2021 had assessed that compliance with international standards for privacy and data protection is not ensured and recommended to *"Adopt a privacy and personal data protection law. The law should prescribe an implementation and oversight mechanism that would robustly protect citizens' privacy and personal data online and offline. Such powers should be vested in an independent authority."*

Personal privacy is guaranteed under Article 23 of the Constitution, yet consolidated legislation ensuring full respect for this right is not enacted. There is currently no dedicated data protection legislation, personal data is not defined and there is no data protection authority in place. The Information and Communications Act, 2009, provides for the restructuring, development, and regulation of the information and communications sector, including the processing of personal information by telecommunications providers. Since 2019, the government has adopted a Data Protection and Privacy Policy, prepared in consultation with the Council of Europe, laying the foundations for an institutional and legal framework for data protection and privacy. The first Data Protection Bill is expected before parliament imminently. Further information on either the status of the Data Protection Bill or its content was not shared with the EU EFM. The implementation of this recommendation is ongoing.

To counter misinformation and ensure transparency of the digital environment, the EU EOM recommended *formalisation of cooperation between the IEC, civil society, and main social media platforms, to develop an efficient mechanism ensuring transparency of online campaigning, including its financing, and to counter disinformation*. Such cooperation should ensure that social media platforms, including Facebook, introduce good practices in The Gambia, such as regular engagement with a broad range of national stakeholders, transparency in political advertising, employment of content moderators, and prompt removal of disinformation.

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<sup>15</sup> [DataReportal Digital 2024 The Gambia, 23 February 2024.](#)

Despite the widely acknowledged need to ensure transparency of sharing information online and to counter disinformation, even outside campaign periods, such cooperation initiatives are not yet in place. Fact checking of online content is mainly performed by Civil Society Organisations (CSOs). Therefore, this recommendation has not been addressed.

With regards to the overall development of the regulatory framework for the digital environment, concerns have been recently raised over the Cybercrime Bill, introduced in the National Assembly in March 2024. It is currently at the committee stage for consideration. The Bill is seen as a threat to expression, press freedom and digital rights. The Gambia Press Union (GPU) argued that the bill's definitions of offences like 'false news' and 'incitement' are too broad and could be misused.

The Criminal Offenses Bill, which will replace the Criminal Code when enacted, removes the provisions on sedition and false news from the legal framework, but retains those on false publication and broadcasting, which are seen as potentially harmful to digital platforms.

Despite the liberal reform which led to the adoption of the Access to Information Act in August 2021, other outdated laws, such as the Official Secrets Act and the Public Security Act, which can be invoked to compel journalists to reveal their sources or face heavy sanctions, a heavy penalty or imprisonment, have not yet been repealed to achieve full compliance with international standards related to access to information.

i. Participation of Women (17)

Equality in the political participation of women and men, while protected by law, is not reflected in reality. Not a single one of the 2021 presidential election candidates was a woman. Women now compose just 9.4 per cent of the total membership of the National Assembly, at five among 58 members. Three were elected among the 53 elected members,<sup>16</sup> and two were among the five presidential nominees. This represents a decrease from the parliament which assumed office in 2017, then with six women, three elected and three appointed.

The legal framework provides for affirmative action for women, through the adoption of temporary special measures to accelerate the realisation of *de facto* equality between men and women. The Women's (Amendment) Act, 2021, introduced a mandatory clause to the Women's Act, that "*for all political and public offices, a minimum of thirty per cent of all offices, positions and appointments are reserved for eligible women*". There has not been any action taken, however, in response to this law.

A recommendation was offered (number 17) that political parties should include women in leadership positions and as candidates for election. There has been little change in the political landscape which could be perceived as implementation of this recommendation. The Elections Bill, 2022, does not contain any provisions to advance the political participation of women. It would be possible, should there be activity to revise political party registration rules (recommendation 8), that these rules could be amended to require the inclusion of women in executive roles within political parties, as a condition precedent to registration.

The 2024 draft constitution includes reservation of seven seats in the NA for women representing the seven administrative areas, to be allocated proportionate to the votes received by political parties. This is half of the number proposed in the CRC constitutional draft. The current draft also provides for two seats reserved for persons with disabilities, nominated by their federation. There has been no progress towards implementation of this recommendation number 17.

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<sup>16</sup> Only one was nominated by a political party, the other two competed as independent candidates.

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j. Electoral Dispute Resolution (18-19)

According to international standards, the legal framework should provide timely deadlines for filing, considering and determining remedies for a complaint. Deadlines must allow for a degree of flexibility, considering the nature of the complaint and the electoral urgency.

Appeals against the decision of the Returning Officer on nominations are to be submitted to the IEC within two days upon announcement of the list of nominated candidates. The EU EOM 2021 observed that appeals submitted by rejected aspirants against the decision of the Returning Officer to the IEC, and dismissed, were brought before the court, challenging the IEC nomination process as breaching the fundamental right to stand for election. Court proceedings had to be expedited, given the limited timeframe from the nomination until election day which, even if successful, made it practically impossible for candidates to run. Access to effective and timely remedies is crucial to ensuring candidates' fundamental right to contest an election. In this context, the EU EOM 2021 offered a recommendation to revise the rules for objections and appeals to the nomination of candidates; the time period should be revised and extended in order to allow for effective scrutiny and legal remedy.

The Elections Bill 2022 does not modify any provisions related to the nomination process, period of scrutiny of candidates or challenges to such decisions. The IEC maintains that the timeframes as currently provided are adequate for the aspirants or the public to raise any concerns and for these to be properly addressed.

A priority recommendation of the EU EOM 2021 was to introduce a detailed and comprehensive complaints procedure throughout the electoral process, with reasonable time limits for adjudication, regulating matters such as format and venue, including for the implementation of the Code on Election Campaign Ethics.

The responsibility to resolve complaints under the Code of Campaign Ethics falls on the IEC. Nevertheless, submission, processing, investigation, adjudication, and follow-up action on complaints do not have clearly prescribed timeframes or codified rules indicating the procedures to be followed to ensure stakeholders' awareness and confidence. The legal framework should provide effective mechanisms and remedies for compliance with the law for the enforcement of electoral rights, defining penalties for specific electoral offences.

The Supreme Court has exclusive jurisdiction to determine the validity of presidential election results, through election petitions. The Constitution stipulates that any political party or candidate having participated in the election can challenge the results within ten days from their announcement and a judgment must be delivered within 30 days. Similar provisions are also included in the Elections Act, without specifying the type of election, which stipulates a 30-day deadline while offering a broader legal standing. The 2024 Draft Constitution shortens the consideration period by expressly foreseeing a 14-day deadline after the filing of a petition for the Supreme Court to issue a judgment on the petition. The Elections Bill 2022 streamlines the legislative to the constitutional provision, prescribing a ten-day deadline for filing of an election petition. None of the recommendations related to electoral dispute resolution has been addressed nor is any such reform underway. Such concerns are not prioritised by interlocutors outside the election period.

The judiciary enjoys a great deal of trust amongst the EU EFM interlocutors and is seen as an independent institution, despite all challenges faced, some, in fact, beyond their control. On the World Justice Project's Rule of Law index, the Gambia had a score of 0.49, from a range of 0 to 1, in 2023, ranking 85 out of 142 countries globally (World Justice Project 2023).



Ongoing efforts to introduce technology and digitalise court processes were shared with the EU EFM. There is currently a pilot programme for e-case management system. A strategic plan is also being put in place to strengthen delivery of justice in a timely manner. Finally, the Supreme Court rules of practice and procedure are being revised and a session is scheduled in December for them to be adopted.

k. Polling, Counting and Tabulation (20)

Administrative aspects of the conduct of elections are important in ensuring the coherency and legitimacy of the process. There is an absence of written procedures within the IEC to govern the conduct of polling, counting, collation and the transfer of results. Recommendation number 20 is that such procedures should be formalised, and enhanced security measures should be introduced to the process. Implementation of this recommendation lies entirely within the internal competence of the IEC. This matter can be assessed only in the context of the next presidential election.

## V. THE STAKEHOLDER ROUNDTABLE

On 14 November, the EU EFM convened a roundtable gathering of electoral stakeholders to facilitate dialogue on the status of electoral reform and the implementation of the EU EOM 2021 recommendations. This platform enabled participants to share perspectives on challenges, progress, and the way forward in advancing electoral reform, in the context of the twenty recommendations which had been offered. A diverse group of people participated, among them members of political parties, representatives of government departments, of independent institutions, including commissioners of the IEC, of professional and civil society bodies, and of the media. The high level of participation, on all sides, was a welcome indication of interest in electoral reform.

The discussion was divided into two sessions and six thematic area blocks. The first issue discussed was the responsibilities of political parties, in the advancement of the equal political participation of women, and in the regulation of campaign finance and in their conduct of campaigning.

The need for political parties to have mandatory measures for the inclusion of women, that all parties should adhere to, was widely agreed to. There was some consensus that voluntary measures would not succeed. The importance of internal reform within political parties to advance women's participation, followed by legal reforms to provide women with opportunities to contest elections, was underlined. Unless legal obligations are in place imposing responsibilities on political parties to adopt internal quotas to ensure women's participation, there will not be progress. It was further pointed out that, while awaiting legal reforms, political parties should voluntarily prioritise women's appointment to leadership roles. Significant gaps in women's electoral participation were acknowledged and a quota system to address underrepresentation, including through reserved seats in the NA for women, were perceived as the way forward by all stakeholders.

Less consensus was evident on the topic of political party responsibilities in relation to campaign finance and campaign regulations. There was some opposition expressed by political parties to the imposition of any transparency measures on their finances, in the absence of public funding for their parties and for campaigning. On the other hand, from the non-political party stakeholders, there was consensus that increased regulation and enforcement of such regulation is much needed to promote fairness in elections.

The identification of a competent oversight authority was contentious, with the role and limited capacity of the IEC in the matter ventilated. There was some argument in favour of strengthening the

human capacity of the IEC in this field, while also extending their legal responsibilities. Drawing upon experience from other countries, the yet to be established Anti-Corruption Commission (ACC) was seen as potentially a more appropriate body to be vested with legislative powers to regulate campaign finance and the use of state resources, citing its likely financial expertise as an advantage. However, concerns were raised over the creation of new institutions, citing challenges in funding and sustainability, and the need for rigorous selection processes to ensure appointment of members with integrity, independent of political influence, was underlined. There were voices which pointed out that, in essence, the choice of institution is irrelevant, but rather that the focus should be on having a legal regime which is both enforced and respected.

State funding for campaign purposes, from the national budget, was suggested by some participants as necessary to create a level playing field during elections, especially for smaller parties. It was argued that this should be incorporated into new electoral laws. Specific criteria, such as a basis in previous electoral results, were discussed. Concerns over the abuse of state resources during election campaigns were also raised, with instances cited by participants where state vehicles and resources were used for political purposes. It was asserted that the failure of the IEC to restrain such practices undermines fair competition. Civil society highlighted that vote-buying during election campaigns further undermines voter freedom of choice, as they are subject to undue influence. Issues such as allocation of time in the media, use of state resources by the incumbent and the role of traditional leaders in elections were also discussed.

The second round of discussion addressed political participation rights, i.e. voter registration, and privacy and personal data protection in elections. The current provisions on voter registration were deemed to effectively disenfranchising many voters. It was noted that the proposed Elections Bill provides for continuous voter registration, which was welcomed. The possibility of holding elections simultaneously within one year, to minimise costs and enhance efficiency, was mentioned. The issue of attestations for voter registration, observed as a practice abused in previous elections, was debated. This was in tandem with discussion of the validity of citizens' documents, such as birth certificates and ID cards, used as a basis voter registration. Civil society called for greater government efforts to ensure that citizens possess state identification documents, thus minimising reliance on attestations. It was noted that the continued use of attestations remains in the Elections Bill, based on the argumentation that traditional local authorities, such as chiefs and *Alkalos*, are best positioned to identify community members in remote rural environments. Proposals to limit this administrative practice might undermine inclusion of eligible voters in remote rural environments where citizens may lack the identity documents required to register otherwise. However, some participants alleged that the role of traditional authorities in the issuance of attestations is advocated by political parties from self-interest.

The third area addressed was that of constitutional reform, media law reform and access to legal information. The importance of a robust constitutional framework that reflects wide consultation was emphasised by many participants. There was acknowledgement of the broader need for continuous legal reform for the harmonisation of various laws, while delays and challenges posed by legislative processes were noted. The need to identify and adopt best practices to promote good governance while awaiting a new constitution was brought forward.

The need for media law reform was affirmed, particularly in light of recent cases of arrest of journalists for "false publications". The lack of clear definition of terms such as "false publication" in the laws was underlined. The efforts of the Law Reform Commission to address outdated laws was noted, including two bills at the consideration stage before the National Assembly, namely the Criminal Offenses Bill and the Criminal Procedures Bill. The view was expressed that stakeholders

should, collectively, pay more attention to the broad task of legislative reform, as it would be unwise to defer law reform until there has been promulgation of a new constitution, as this may take several years. Waiting for this eventuality would be unwise.

The issue of accessing legal information and the difficulties encountered in obtaining public information were briefly discussed. Despite the enactment of the Access to Information Act in 2021, civil society noted difficulties and long waiting time for responses to requests for information from government institutions, hampering research efforts on critical issues surrounding the electoral process. While the law and oversight are in place, information is still not publicly available.

The fourth strand of discussion was on institutional independence, namely in relation to IEC, PURA and GRTS. The interest was focused on the IEC and more specifically on whether the appointment method of commissioners should be subject to parliamentary approval, in order to reduce political influence. A more inclusive appointment process, involving political parties and civil society organisations, was broadly endorsed. A regulatory framework to remove dismissal powers for heads of institutions like the IEC, PURA, and GRTS from the presidential purview was also mentioned. The idea of an alternative model of an electoral management body, to be composed of political party representatives, was also brought up in the discussion. It was acknowledged that the creation of trust in the electoral management body and its effectiveness is in the interest of all stakeholders

Further, procedures around elections and transparency over results management were discussed. The need for greater capacity to facilitate real-time result aggregation at polling stations was acknowledged, as well as political parties' will to collaborate with the IEC in implementing online results management systems. To further enhance transparency and credibility in elections, the establishment of a dedicated data analysis unit within the IEC was also discussed. Social media was addressed principally from the perspective that the medium ought to be better used by the IEC to promote greater transparency at all stages of elections, including in the dissemination of results.

The roundtable facilitated engaging discussions among stakeholders, who expressed their appreciation for the opportunity to come together, conceding that most amongst them had not discussed these matters with each other prior to then. Participants acknowledged that the event provided a platform to share insights on electoral reform.

## **VI. ONGOING AND PLANNED DONOR SUPPORT TO ELECTORAL REFORM AND FUTURE ELECTION PROCESSES**

The EU Delegation is monitoring the implementation of the 2021 EU EOM recommendations, to the extent possible, which form part of the EU Delegation's political dialogue with the Government throughout the electoral cycle, and offering support towards implementation where appropriate and useful. The EU-UNDP Gambia's Responsive and Accountable Democratic Transition (GREAT) initiative (2023-2027) leads these efforts, focusing on legal reform, equitable justice systems, healing and reconciliation, and enhancing local governance.

The EU and partners will monitor progress and will adjust their programmatic support as required, depending upon evolving needs. They will continue to offer assistance to enhance the electoral environment, in the interest of Gambian citizens.



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## VII. CONCLUSIONS

The EU EFM noted very limited progress in the implementation of the 2021 EU EOM recommendations. None of the recommendations offered has been fully implemented, activity towards some is ongoing, but with uncertain outcomes, while most have not been addressed at all. There are also recommendations for which it is too early in the electoral process to determine their status. On a more positive note, beyond the remaining deficiencies identified in the electoral system, the democratic path which the country has continued to take since 2021, with a full electoral cycle now completed, with peaceful and credible elections in 2022 (legislative) and in 2023 (local), is worth acknowledging.

With the 2026 presidential elections two years away, there is still time for comprehensive electoral reform, provided that the government and the parliament prioritise legislative measures addressing the specifics of elections, as well as the broader electoral context of freedom of expression and rule of law, while accelerating the speed of enactment. The fact that the Elections Bill is due for plenary review by the NA soon could facilitate enactment and application for the next presidential election.

The revived constitutional review process offers less prospect of electoral reform, as the provisions of the 2024 Draft, as currently elaborated, offer responses to few of the twenty EU EOM recommendations, with the exception of the proposal that there be seven NA seats reserved for women. It is possible, however, with government support, that the provisions of the draft might be revised, with outcomes more conducive to electoral reform.

Some of the recommendations require only administrative action, and relatively few resources, for implementation. This is the case in relation to the recommendations directed towards reform of operational aspects of the IEC, such as through introduction of fairer procedures to adjudicate electoral disputes, more meaningful engagement with civil society and voters, better transparency, and formal cooperation with social media platforms. There is considerable scope for internal reform of the IEC, using the powers already vested in the institution, to enhance future electoral processes.

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## VIII. ANNEXES

### A. PRESS RELEASE



## EUROPEAN UNION ELECTION FOLLOW-UP MISSION THE GAMBIA 2024

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### PRESS RELEASE

#### **EU Election Follow-up Mission encourages constitutional and legal reform to improve the electoral process in line with regional & international standards for democratic elections**

**Banjul, 14 November 2024**

The European Union has deployed an Election Follow-up Mission (EU EFM) to The Gambia to assess progress towards electoral reform. This EU EFM is led by Mr. Norbert Neuser, former Chief Observer of the EU Election Observation Mission 2021 and former Member of the European Parliament.

The mission has met a wide range of Gambian electoral stakeholders, including members of the Government, National Assembly Members, the Independent Electoral Commission, the National Human Rights Commission and representatives of political parties and civil society. The mission organised a round-table meeting of electoral stakeholders, on 14 November, where participants had the opportunity to discuss the current status of electoral reform.

The Chief of Mission, Norbert Neuser, when opening the round-table meeting, identified the present opportunity for reform: *“It is now mid-way through the electoral cycle leading to the presidential election in 2026. Constitutional reform has been initiated, with the gazetting of the Draft Constitution of the Republic of the Gambia (Promulgation) Bill, 2024, in August this year, due to be tabled before the National Assembly before the end of this month.”* Mr. Neuser added: *“The Elections Bill, 2022, remains on the legislative agenda. There is now an important opportunity for the renewal of the social contract between the people of the Gambia and their elected leaders, through these parallel reform processes, which can enhance the conduct of future elections.”*

The EU Election Observation Mission in 2021 made 20 recommendations, which addressed diverse aspects of presidential elections, including the legal framework, election administration and voter registration, the campaign and campaign finance, and the political participation of women. Implementation of fifteen of these recommendations would require legal change, amongst which three require constitutional change. Seven recommendations were identified as being of priority, as they could have the most positive impact on future elections if implemented.

In a press conference held today, Chief of Mission Neuser commented on the implementation status of the recommendations: *“While none of the recommendations has yet been implemented in full, it is positive to note there are several legal instruments on the legislative agenda which, if enacted and enforced, could represent progress in the advancement of the rights of political participation. In addition to the draft constitutional and electoral reform bills, these include the Personal Data Protection and Privacy Bill, 2024.”* Mr. Neuser highlighted: *“It is important that progress on these measures be undertaken in a transparent and consultative manner. Two years still remain in which electoral reforms can be undertaken in advance of the next presidential election. Implementation of*

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*the recommendations offered by the EU EOM, particularly the seven priority ones, would greatly enhance the integrity, legitimacy and credibility of the electoral process.”*

Mr. Neuser went on to say that: *The EU supports continued democracy and good governance in The Gambia including by actively supporting stakeholders in their efforts to promote all related reforms”*

The EU Election Follow-up Mission will publish a Final Report, at a later stage, which will offer a detailed analysis of the existing arrangements for elections in The Gambia, as well as of the extent to which the EU EOM recommendations have been addressed.

*The Final Report of the EU Election Observation Mission 2021 is available at:*

[https://www.eeas.europa.eu/sites/default/files/eu\\_eom\\_gam\\_2021\\_fr\\_1.pdf](https://www.eeas.europa.eu/sites/default/files/eu_eom_gam_2021_fr_1.pdf)

## B. MATRIX ON THE IMPLEMENTATION STATUS OF EOM RECOMMENDATIONS

No.	Year	Recommendation	Electoral Theme	Status (1-6)	Comments and Additional information
1	2021	<b>Priority recommendation:</b> Make essential changes in the electoral legal framework. Bring the Draft Elections Act in line with international standards. Streamline provisions of the Draft Constitution and the Draft Elections Act as well with other Acts relevant to the conduct of elections.	Legal Framework	2 activity is ongoing	Work on this recommendation is ongoing, and change is likely, given the revival of the constitutional reform with the gazetting of the 2024 Draft Constitution and the tabling of the latest version of the Elections Bill 2022 in the National Assembly. It remains to be seen whether the changes brought will bring the electoral legal framework into line with international standards.
2	2021	Create a legal database publicly accessible including online codified texts of the laws and case law.	Legal Framework	1 no change	Although access to information could have been enhanced with the Access to Information Act in 2021, there is little progress in this matter. The recommendation focused on legal information and no such initiative has been undertaken by institutions to digitalise content and make information, such as laws, bills or case law available online. Therefore, this recommendation has not been addressed.
3	2021	<b>Priority recommendation:</b> Increase IEC capacity and transparency in critical areas, including the establishment of specialised divisions (legal, gender) within the IEC.	Electoral Administration	2 activity is ongoing	Work has begun in this sphere, as legal and gender units have been nominally created by the IEC, but without adequate human capacity or resources. Support from donors will soon begin to address the deficiencies in this sphere.
4	2021	<b>Priority recommendation:</b> The IEC should publish complete presidential election results, disaggregated by polling station, on its website without delay. In all future elections, disaggregated results should be released during the tabulation process.	Electoral Administration	5 Too early to determine	This is a transparency measure which can only be assessed during the course of the next presidential election. However, it is to be hoped that the new Access to Information regime will compel better disclosure of information by the IEC, but this remains speculative at present.

5	2021	Strengthen the institutional independence of the IEC by establishing an inclusive mechanism for the selection and appointment of the IEC Chairperson and Commissioners and by ensuring the security of tenure of the commissioners.	Electoral Administration	1 no change	The provisions on the appointment of the Chairperson and the four other members of the IEC (then IBEC) in Article 72 of the 2024 draft constitution are identical to the current provisions in Article 42 of the prevailing constitution. This represents retrogression, when compared to the pertinent proposals in the CRC draft constitution. There it had been proposed, in Article 82, that the appointments would be subject to confirmation by the National Assembly, with the votes of at least sixty per cent of all the members of the NA required.
6	2021	<b>Priority recommendation:</b> Legal provisions should be made for continuous registration and updating of the voter register to allow for the removal of deceased voters, inclusion of citizens who will turn 18 prior to the elections, and transfer of place of registration for people who have moved.	Voter Registration	2 activity is ongoing	The Elections Bill, 2022, section 16. (1) states that “the Commission may make the necessary arrangement for the continuous registration of voters nationwide.” There is no elaboration of how this would be done, and the list of deletions specified in the existing law is absent. The Bill also makes provision, in section 17, for the transfer of place of registration. It is unclear when, or if, the Elections Bill will be enacted, but progress in that direction continues, albeit extremely slowly.
7	2021	Revise the law which disqualifies all prisoners from voting, regardless of the reason for imprisonment, ensuring that the suspension of voting rights proportionate to the offence committed.	Voter Registration	1 no change	The Elections Bill, 2022, in section 15, retains the disqualification of all convicted prisoners from voting, as in the current Elections Act. The recommendation remains unaddressed.
8	2021	Revise the legal requirements for registration of political parties and specify criteria for deregistration.	Registration of Candidates and Political Parties	1 no change	The Elections Bill, 2022, reiterates all of the onerous requirements precedent to political party registration, as set out in the current Elections Act, as amended in 2015. There is one minimal change, in section 107 of the Bill, which is that $\frac{3}{4}$ of members of party executives must be resident in The Gambia, as compared to 100 per cent of them before. There has not been any change of substance to the rules for party de-registration, with criteria for same still absent.
9	2021	Introduce an effective oversight and implementation mechanism (including moratoria on public works during the campaign) against the misuse of state	Campaign Environment	1 no change	No legal amendments have been made to this end. No new provision related to this recommendation is included in the Elections Bill 2022 and no initiative to introduce any such

		resources and public office, including administrative apparatus during the campaign period.			subsidiary legislation in the form of rules or regulations has either been advocated or initiated.
10	2021	Establish a legal framework and independent oversight body to regulate and oversee political / campaign finance to enhance transparency and accountability. Introduce periodic auditing, reporting, and publishing obligations for political parties, and rules for contestants during electoral periods (ceilings on donations, expenditures, interim and final reporting, etc.).	Campaign Finance	1 no change	No legal provisions or independent oversight body have been introduced to regulate and political and campaign finance. Despite the enactment of the Anti-Corruption Act, in January 2024, the Anti-Corruption Commission is yet to be established. Further, the Anti-Corruption Act does not contain any provisions relating to political or campaign finance. The Elections Bill 2022 does not contain any provisions on campaign finance either. The 2024 draft constitution does not contain any chapter on political finance or accountability and maintains the oversight responsibility for candidates' declarations of assets with the election management body. This is as opposed to the CRC draft which had proposed transferring the responsibility to the Anti-Corruption Commission.
11	2021	<b>Priority recommendation:</b> Bring the legal framework, including the Constitution, the Criminal Code and the Information and Communications Act, in line with the country's international and regional commitments on freedom of expression.	Media	2 activity is ongoing	Laws that restrict freedom of expression remain in effect. Bills have been drafted to repeal several of the pertinent pieces of oppressive legislation, but they have not been advanced with any expedition through the legislative process. It remains to be seen what the precise content of the law will be, if and when they are enacted. This is a matter of political will. That being said, twin legislative instruments, to reform the substantive and the procedural elements of criminal law, have been before the NA (and the previous NA) for several years.
12	2021	Establish an independent and public broadcasting licensing regulatory and oversight authority, with the power to examine broadcasting applications and to grant licences, as well as oversee and implement broadcasting legislation.	Media	1 no change	This recommendation requires an amendment to the Information and Communications Act, to alter the appointment mechanism to the Public Utilities Regulatory Authority. This has not happened.
13	2021	Monitor and implement PURA Broadcast Service Content regulations, through a	Media	1 no change	Implementation of this recommendation would require a fundamental change in the nature of the activity of PURA. This

		systematic process.			has not happened.
14	2021	Transform the GRTS into an independent public service broadcaster (i.e., independent management, financing, and oversight).	Media	1 no change	Implementation of this recommendation would require amendment of the Radio and Television Services Corporation Act. No such change to the law has been made.
15	2021	Adopt a privacy and personal data protection law. The law should prescribe an implementation and oversight mechanism that would robustly protect citizens' privacy and personal data online and offline. Such powers should be vested in an independent authority.	Social media	2 activity is ongoing	There is currently no specific data protection legislation in place, neither is there a data protection authority. In 2019, the government adopted the Data Protection and Privacy Policy laying the foundations of institutional and legal framework for data protection and privacy. The Information and Communications Act, 2009 provides for the regulation of the information and communications sector, including the processing of personal information by telecommunications providers. The Data Protection and Privacy Bill is yet to be tabled before the NA. Activity in ongoing, but the recommendation has not yet been implemented.
16	2021	Formalise cooperation between the IEC, civil society, and main social media platforms to develop an efficient mechanism ensuring transparency of online campaigning, including its financing, and to counter disinformation. Such cooperation should ensure that social media platforms, including Facebook, introduce good practices in The Gambia, such as regular engagement with a broad range of national stakeholders, transparency in political advertising, employment of content moderators, and prompt removal of disinformation.	Social media	1 no change	There has been no formal initiative put in place bringing together these actors, including the IEC, to formalise cooperation. Factchecking is mainly conducted by CSOs, for both the private and the public sector and there is no formal cooperation with Meta or other platforms. Therefore, no formal progress has been made in this direction, so the recommendation has not been implemented.
17	2021	Political parties should comply with the principle of gender equality and achieve fair gender representation in the	Participation of women	1 no change	There has been no change in the legal framework which promotes the increased political participation of women. The number of women in the National Assembly diminished, with

		nomination of women in party leadership positions and as candidates to help increase the level of women's participation in political life.			five members now, compared to six in the previous legislature. There are few women present in political party executive structures.
18	2021	Revise the rules for objections and appeals to the nomination of candidates; the time-period should be revised and extended in order to allow for effective scrutiny and legal remedy.	Electoral Disputes	1 no change	The recommendation addressed the timeframe issues identified and aimed to revise the rules for objections and appeals to the nomination of candidates. These issues have not been addressed in the latest Elections Bill 2022. It could be too early in the electoral cycle to assess (given that they can also be regulated by subsidiary legislation) but in this context, it is important to note that such concerns are not prioritised in the political debate outside the election period. Further, the IEC considers that time frames provided in the law are adequate and there is no need to amend them.
19	2021	<b>Priority recommendation:</b> Introduce a detailed and comprehensive complaints procedure throughout the electoral process with reasonable time limits for adjudication, regulating matters such as format and venue, including for the implementation of the Code on Election Campaign Ethics.	Electoral Disputes	1 no change	Timeframes for adjudication and other procedural matters are not addressed in the Elections Bill 2022. The only change is the streamlining of the deadline for considering an election petition in the Elections Bill and the 2024 Draft Constitution, which in fact has been shortened to 14 days. Some aspects could also be regulated by subsidiary legislation. According to information from the Supreme Court, the court rules are currently under revision, but it is unknown if, and unlikely, these will address any of the elements of the recommendation.
20	2021	<b>Priority recommendation:</b> Formalise clear and coherent procedures for polling, counting, result transfer, and collation, in conjunction with the introduction of improved security measures of result and collation forms.	Polling, Counting and Tabulation	5 too early to determine	Implementation of this recommendation is a procedural matter, which lies within the internal competence of the IEC. This matter can only be assessed in the context of the next presidential election.



### Guidance Notes

- **Column 1:** The number relates to the number of a recommendation in the EOM Final Report
- **Column 2:** Where two EOMs were deployed in a single year e.g. 2017, the first should be written as 2017(1) and the second should be written as 2017(2)
- **Column 3:** The text of the recommendation should be inserted. Priority Recommendations should be written in **bold**
- **Column 4:** ‘Electoral Themes’ are the thematic area under which the recommendation appears in the EOM Final Report e.g. Electoral/Legal Framework, Election Administration, Voter Registration, Campaign Finance, Media, Polling Procedures etc.
- **Column 5:** The implementation status of a recommendation should be selected from the following:

Category	Description	Guidance
1	No change	No action has been taken to implement this recommendation.
2	Action or activity in ongoing but implementation of the recommendation has not yet been confirmed	Examples may include the formation of a working group to review legislation, or the preparation of a legislative bill of reform, but the change has not yet been confirmed by legislative change.
3	Partial implementation of recommendation	The recommendation has been addressed/implemented in part, but other elements of the recommendation have not been addressed.
4	Full implementation of recommendation	The recommendation has been implemented in full e.g. electoral legislation has been amended and all aspects of the recommendation have been addressed.
5	Too early in electoral cycle to determine	Some recommendations may relate to administrative action/practice which can only be assessed at a later stage i.e. strengthening of civic/voter information
6	Recommendation is no longer relevant	For example, a change in the electoral system may make redundant a recommendation on candidate registration under the old electoral system.

- **Column 6:** Comments on the implementation status e.g. the government/parliamentary majority does not support the recommendation.

