



European Union  
Election Follow-up Mission

**GUYANA 2023**

Final Report



June 2023



## **FINAL REPORT**

**1 June 2023**

## **EUROPEAN UNION ELECTION FOLLOW-UP MISSION**

**GUYANA**

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## I. Executive Summary

An EU Election Follow-up Mission (EFM) was deployed to Guyana from 7 May to 1 June 2023 to assess the progress made in electoral reform and the implementation status of the 2020 EU Election Observation Mission (EOM) recommendations. The EFM was led by Mr. Javier Nart, Member of the European Parliament. The Mission met representatives of the Guyana Elections Commission (GECOM), members of government, members of parliament, representatives of political parties, the media, civil society, domestic observers, development partners, and members of the diplomatic community. The EFM also convened a roundtable gathering, attended by 28 stakeholders, where electoral reform and the recommendations of the EOM were discussed.

The final report of the EU EOM, published in June 2020, offered 26 recommendations, eight of which were accorded priority, for the consideration of national authorities and electoral stakeholders. The EFM noted progress towards implementation of some of these recommendations, as well as areas where more political will is needed to move forward.

Importantly, and positively, two priority recommendations, relating to the credibility of the tabulation process and the transparency of the declaration of results have been implemented in full. These measures were contained in the Representation of the People (Amendment) Act, which became law in December 2022. The new legal rules were introduced as a specific response to the wrongdoing which occurred during the elections in 2020, in an attempt to ensure that such events could not be repeated. Deterrence measures were also introduced throughout the law.

Provisions in the National Registration (Amendment) Act, 2022, have extended significantly the period for voter registration. While previously registration was only possible for a short period of time, it is now continuous throughout the year. This development amounts to partial implementation of a recommendation which, in addressing voter registration more broadly, called for improved access to voter registration.

On the other side, nineteen recommendations remain without any advancement. Among these is a priority recommendation on electoral dispute resolution, where limited administrative remedies drive disputes to the courts, after elections, where delays may last for years. There has also not been any move to promote the public service obligations of state media, another priority recommendation, leaving them to continue to operate as agents of government. Neither has there been any move to impose identification requirements on political advertising on social media, again a priority of the EOM.

The implementation of two other priority recommendations is apparently underway. One addressed the fragmented and contradictory nature of electoral law. A technical review to consolidate and harmonise the legal framework governing elections has begun and is due to be completed by the end of 2023. Legislation was passed in November 2022 to establish a Constitution Reform Commission (CRC). The terms of reference include electoral reform, with a specific focus on the composition of GECOM. This represents some progress towards implementation of a priority recommendation to reform GECOM, but the CRC has yet to be set up.

A priority recommendation was offered proposing to revitalise and extend campaign finance regulation, to introduce a robust regulatory framework to manage fundraising and campaign

expenditure, and to promote transparency and equity in campaigning. While no concrete steps have yet been taken to achieve this, the government publicly re-committed itself to implementing campaign financing reforms while the EFM was in country. This has the potential lead to the implementation of another priority recommendation.

The overall implementation status of the 26 recommendations is that there has not been any change in the case of 19 of them. Two recommendations have been implemented in full, while there is partial implementation of one recommendation. Action or activity is ongoing, but implementation has not yet been confirmed, in respect of three recommendations. It is still too early in the electoral cycle to determine the implementation status of just one recommendation.

The political context for electoral reform is one of sharp polarisation between the government and the opposition. It has proven almost impossible for any consensus to be reached on issues of electoral reform, or, more broadly, on any governance issues since the elections in 2020. The shared governance notions present in the Constitution are unfortunately not being implemented and the legislative role of the National Assembly is limited.

More than two years remain before the next elections, expected in November 2025. This period offers enough time to address some of the recurring problems of the electoral process in Guyana. There are several recommendations that could be implemented through administrative and procedural changes, not requiring legislative change.

The recommendations, implementation of which has the highest potential to enhance the quality of electoral processes, both from short-term and long-term perspectives, include prohibition of the use of state resources for political campaigning (recommendation 11), development of effective legislation to regulate political finance (recommendation 12), transformation of state-owned media into a genuine public service broadcaster (recommendation 13), and establishment of a comprehensive election dispute resolution system (recommendation 23). These areas should be therefore prioritised when deciding on any potential future electoral technical assistance.

## **II. Mission Information**

An EU Election Follow-up Mission (EFM) was deployed to Guyana from 7 May to 1 June 2023. The EFM was led by Mr. Javier Nart, Member of the European Parliament. The EFM was further composed of two independent experts, electoral and legal. The main objective of the EFM was to assess the progress made in electoral reform and the status of implementation of the 2020 EU Election Observation Mission (EOM) recommendations since the delivery of the final report. The Mission met representatives of the Guyana Elections Commission (GECOM), political parties, government, media, civil society, domestic observers, development partners and diplomatic community. This report reflects the situation up to 1 June 2023.

## **III. Context**

The EU deployed the first-ever fully-fledged Election Observation Mission (EOM) to Guyana between 25 January and 20 March 2020 to observe the general and regional elections (GRE). The EU EOM was able to observe and report on all aspects of the election process until 20 March when, due

to the Covid-19 pandemic, it was repatriated to Europe. At the time of departure of the EU EOM, essential parts of the election process were not concluded, namely the nationwide recount and the declaration of the election results.

The 2020 EU EOM concluded that *“the 2 March general and regional elections took place in a deeply polarised environment. Legal uncertainty, unregulated political finance, biased state media and lack of transparency in the administration of elections characterised the pre-election context, but overall the elections were competitive and contestants could campaign freely. Voting, counting and the tabulation of results in nine of Guyana’s ten regions were generally well managed. However, the integrity of the entire electoral process was seriously compromised by the non-transparent and non-credible tabulation of results in the largest and decisive Region 4 by senior GECOM officials, acting in blatant violation of the law and High Court orders issued in this regard.”*

The final report of the EU EOM 2020, with 26 recommendations, was issued and made available online on 5 June 2020. Subsequently, it was officially presented by the EU Ambassador to the GECOM Chairperson and Minister of Foreign Affairs and International Cooperation.

## ***A. Election-Related Developments***

### Recount and Declaration of Results

The nationwide recount of the 2020 GRE ballots, scrutinised by a CARICOM team, ended after 33 days on 7 June. On 2 August, after judicial adjudication of several legal challenges, candidate Irfaan Ali was declared President of Guyana and assumed office the following day. The election results were published in the *Official Gazette* on 24 August as follows: A Partnership for National Unity + Alliance for Change (APNU+AFC) won 31 seats, People’s Progressive Party (PPP/C) won 33 seats, and the Joinder of Lists consisting of A New United Guyana (ANUG), Liberty and Justice Party (LJP) and The New Movement (TNM) won one seat.

### Election Petitions

Two election petitions were filed, on behalf of the APNU+AFC coalition, which challenged the validity of the results of the elections of 2020. Both petitions sought either a fresh election or, alternatively, a declaration of former president David Granger as the elected president. Both petitions were dismissed. One has been concluded completely, while an appeal hearing in the second took place before the Court of Appeal on 23 March 2023, with a reserved judgment awaited.

One of the petitions,<sup>1</sup> filed on 15 September 2020, sought an order that the elections be deemed unconstitutional, null, void and of no legal effect. On 18 January 2021, this petition was dismissed by the Chief Justice on technical grounds, based on a finding that documents were served late upon former president Granger. The rules of service, contained in the National Assembly (Validity of Elections) Act and the National Assembly (Validity of Elections) Rules, required service within five days, but nine days were taken. The petition was deemed to be a nullity.

The petitioners appealed against the decision of the Chief Justice to the Court of Appeal. The Attorney General and Mr. Bharrat Jagdo of the PPP/C objected to the appeal, asserting that the Court of Appeal did not have jurisdiction to hear the case. A majority of the Court of Appeal decided that they did

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<sup>1</sup> 99P/2020, petitioners Monica Thomas and Brennan Joette Natasha Nurse

indeed have jurisdiction to hear the case. This decision was then appealed to the Caribbean Court of Justice (CCJ)<sup>2</sup> by the Attorney General and Mr. Jagdeo. The CCJ determined, on 19 October 2022, that the Court of Appeal lacked jurisdiction in the matter, and instead upheld the decision of the Chief Justice. The dismissal of the petition was therefore determinative of the matter, without any consideration of the merits of the petition.

The other election petition,<sup>3</sup> filed on 31 August 2020, satisfied the technicalities to proceed to a court hearing. The petitioners requested a determination of whether the elections were conducted lawfully or whether the results were, or might have been, affected by any unlawful act or omission, and whether the seats in the National Assembly had been lawfully allocated. The grounds cited included allegations that the recount process had been conducted in violation of election law. It was contended that Section 22 of the Election Laws (Amendment) Act was unconstitutional and that Order No. 60 of 2020, made by GECOM to facilitate the recount, was invalid. On 26 April 2021 the Chief Justice dismissed the petition and ruled that the elections of March 2020 had been conducted in accordance with the law.

An appeal was submitted to the Court of Appeal by the petitioners, against the decision of the Chief Justice to dismiss their case, eighteen months after the decision. In December 2022, the Court of Appeal, in a majority decision, accepted the application to consider the appeal. Hearing of the case commenced on 8 February 2023 and concluded on 23 March 2023. The decision has been reserved and is awaited.

#### Legislative Changes

There have been small, but important, measures of electoral reform undertaken since the last elections. Enactment of the Representation of the People (Amendment) Act, 2022, and the National Registration (Amendment) Act, 2022, was intended to address issues arising from the elections of 2020, particularly the tabulation process in Region 4, in an effort to ensure that such events could not be repeated.

The amendments to the Representation of the People address, in great detail, the relationship between the board of GECOM and the staff, clarifying repeatedly the authority of the Chairperson over the CEO and the Secretariat. The process for the tabulation of results is also clarified and made more transparent, with immediate publication of the results (statements of poll), physically, at polling stations, and digitally, on the GECOM website, made mandatory. The effect of the amendments to the National Registration Act is principally to provide for a continuous process of voter registration, as well as improving procedures for the removal of the deceased from the voter register.

The Constitution Reform Commission Act, 2022, which became law last November, provides for a review of the Constitution. The terms of reference require consideration of electoral reform, including specific consideration of the composition of GECOM and of the method of appointment of the members. Establishment of the Commission has not yet been initiated. The Data Protection Bill, 2023, was published on 15 April last. While not specifically addressing elections, the legislation, as and when enacted, will apply to GECOM in the processing of personal data for voter registration, enhancing individual privacy rights.

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<sup>2</sup> [2022] CCJ 15 (AJ) GY

<sup>3</sup> 88P/2020, petitioners Claudette Thorne and Heston Bostwick

### Local Government Elections 2023

The GECOM conducted long-overdue Local Government Elections (LGE) on 12 June 2023. All electoral preparations for the LGE were reported to be on track. The preparations were somehow simplified by the fact that there was no polling in 13 out of 80 Local Authority Areas (LAAs), nor in the Amerindian indigenous villages which fall under a different system of local government.

### ***B. Political Context***

Guyana's economy grew by an unparalleled 62.3 per cent in 2022. The GDP growth was very high also in the previous two years – 43 per cent in 2020 and 20 per cent in 2021. The IMF future growth predictions are again rather optimistic, expecting the economy to grow by 37 per cent in 2023 and 45 per cent in 2024. The oil and gas sector is by far the largest contributor to this economic boom.

The stakes are therefore high for the 2025 general elections, as, whichever party wins, it will have at its disposal unprecedented financial resources to implement its development policies. The next general and regional elections are likely to be held in November 2025.

The ruling PPP/C assumed power after a protracted period of post-election political uncertainty in August 2020. Since then, it maintains a slim majority of 33 seats in the 65-seat National Assembly and it is able to ensure smooth passage of all proposed legislation. However, any constitutional amendment without referendum requires a two-thirds majority of 44 votes, which is currently unlikely to be achieved given the highly polarised political environment, the absence of dialogue and lack of consensus between the government and the opposition.

The opposition coalition, APNU + AFC, holds 31 seats in the National Assembly (22 and 9 respectively). The APNU position somehow weakened ahead of the 12 June LGE as several well-known members left the party and joined the ruling PPP/C, and the AFC formally ended the coalition with APNU in December 2022 and boycotted the LGE. The long overdue LGE were to be the first real test of voters' support for the government and the opposition since March 2020. While the ruling PPP/C submitted lists of candidates in all 80 LAAs where the LGE were held, the APNU fielded candidates in only 55 LAAs and even in these it did not field candidates in all constituencies. There was to be no voting on 12 June in 13 LAAs, since only the PPP/C submitted lists of candidates in these areas and therefore, being unopposed, they were declared winners. In total the LGE were contested by 46 parties, voluntary groups and individuals.

### ***C. Institutional Context***

#### Guyana Elections Commission

The GECOM remains deeply divided along party lines. Three government-nominated and three opposition-nominated commissioners are unable to agree on any important issue and the Chair, as during the 2020 elections, has to act as a tiebreaker whenever an important decision has to be taken. This was the case when, in August 2021, the GECOM voted to dismiss the Chief Elections Officer (CEO), his Deputy and the Returning Officer for Region 4 who were charged with multiple criminal charges after the 2020 elections. The other cases when the Chair used her casting vote were for the selection and appointment of the new CEO in December 2021 and the new Deputy CEO in April 2023. In all the above cases the Chair voted with the government-nominated commissioners.



The extended period of time during which the GECOM Secretariat was left without a functioning institutional leadership (August 2020 – December 2021) paralysed the work of the Secretariat and, as a consequence, the LGE, originally planned to be held at the end of 2021, were postponed until June 2023.

#### Commission of Inquiry

In September 2022, the Commission of Inquiry (CoI), comprising three senior judges, was formally appointed and sworn in by the president. It was mandated to “*inquire into and report on attempts, and by whom, to undermine and frustrate the legally prescribed process for the counting, ascertaining and tabulation of votes in the General and Regional Elections of 2nd March, 2020 and on attempts to prevent a true declaration of the results of that election.*” The CoI report was released in April 2023. It concluded that: “*there were, in fact, shockingly brazen attempts by ... [three top GECOM Secretariat officials] ... to derail and corrupt the statutorily prescribed procedure for the counting, ascertaining and tabulation of votes of the March 2nd election, as well as the true declaration of the results of that election, and that they did so ... for the purpose of stealing the election.*” Three former GECOM Secretariat officials were charged with multiple criminal charges in 2020 and 2021, with their court cases still pending.

#### Civil Society

There is, generally, freedom of operation of civil society in Guyana. Civil society activity in the field of electoral reform, however, is sparse, with non-governmental organisations (NGOs) most active in service provision and advocacy on welfare rights. A few NGOs operate in the governance sphere, advocating protection and fulfilment of political rights. The highly polarised political environment, however, creates suspicion on part of the authorities as to the political neutrality of civil society activism, making such human rights work very difficult to fund and to undertake. Authorities offer little support to groups working in advocacy of political rights and good governance.

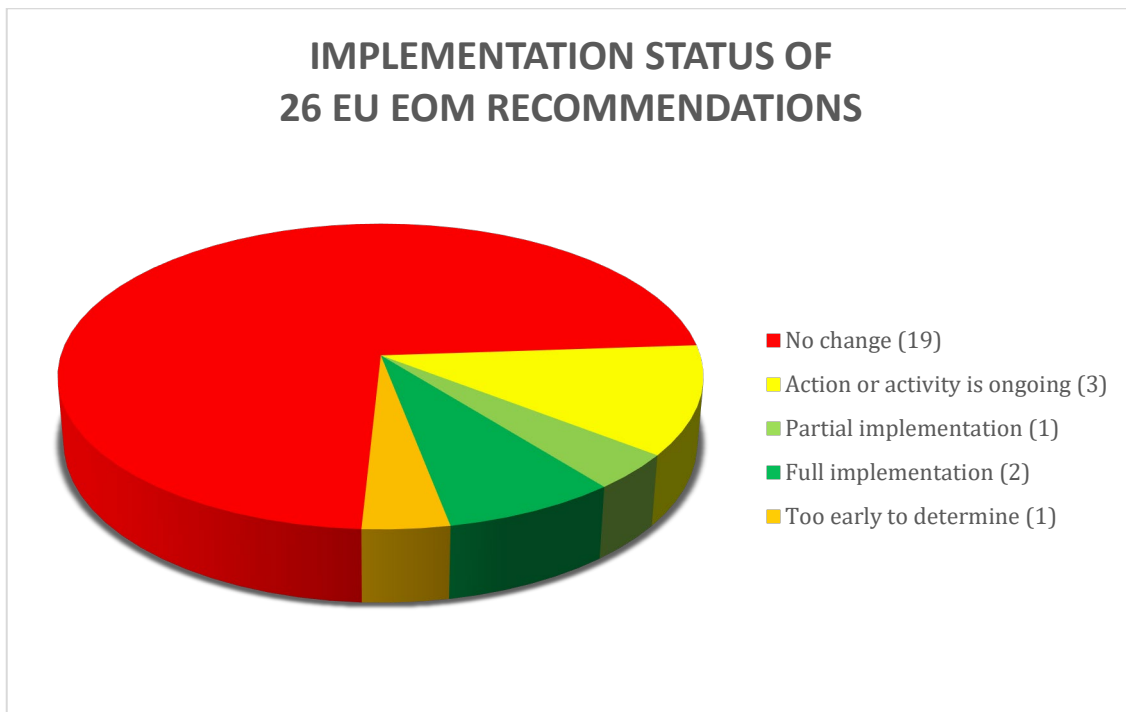
Civil society stakeholders were invited to participate in consultations on the amendments proposed to the Representation of the People Act and the National Registration Act. There was a public call for the submission of comments. A few civil society actors, including the Electoral Reform Group, the Guyana Bar Association and the Private Sector Commission, made submissions on the bills and had subsequent discussions with the Minister of Legal Affairs. A broader group of civil society stakeholders attended a public consultation on the amendments in October 2022. This event was generally characterised as a presentation of information by government, with a brief opportunity for questions.

### **IV. Implementation Status of the EOM Recommendations**

There has been some limited progress made in the implementation of the 2020 EU EOM recommendations, with two recommendations being fully and one partially implemented. In case of several other recommendations some action or activity is ongoing, or it is too early in electoral cycle to determine the implementation status. However, there are also many recommendations related primarily to legal framework, election administration, campaign environment and finance, media and electoral disputes where more political will is needed to move forward. Positively, both fully implemented recommendations belong to the group of eight priority recommendations.

Implementation status of the 26 recommendations:

- 19 No change
- 3 Action or activity is ongoing but implementation has not yet been confirmed
- 1 Partial implementation
- 2 Full implementation
- 1 Too early in electoral cycle to determine



The detailed overview of the implementation status of each recommendation is provided in Annex 4 – Matrix on the implementation status of EOM recommendations. This assessment reflects the status as of June 2023 and it is based on the information gathered by the EFM.

#### ***A. Legal Framework (Recommendations 1 to 3)***

Three recommendations were offered in the context of the legal framework. The first addressed one of the most fundamental aspects of the assessment of elections, namely, compliance with the regional and international standards for democratic elections which are applicable to a state.

Guyana has ratified a wide range of human rights instruments which have a bearing upon the electoral process. The Constitution, however, establishes a dualist legal system, which means that international treaties do not have any direct effect within the national legal system until they have been incorporated by an act of the National Assembly. Furthermore, treaties which have been ratified must, according to Article 154 (A) of the Constitution, be inserted into the Fourth Schedule to the Constitution prior to their incorporation into domestic law. Only then will there be legal obligations upon the legislature and the judiciary to respect the rights set out in these instruments.

Guyana ratified the UN Convention on the Rights of Persons with Disabilities in September 2014; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families on 7 July 2010; the Inter-American Convention against Corruption on 11 December 2000; and the UN Convention against Corruption on 16 April 2008. None of these treaties has yet been added to Schedule Four to the Constitution and none has been fully incorporated into domestic law. There has not been any change in this position since 2020, without any preparatory work yet commenced. Neither has there been ratification of any additional human rights instruments by Guyana since then. Additionally, the Human Rights Commission, provided for in the Constitution since 2001, has still not been established, allowing a continued absence of dedicated national machinery to receive complaints based on international human rights law.

The second recommendation addressing the legal framework suggests that election legislation should be reviewed and consolidated. This would enhance the clarity of the content of the law and promote legal certainty. This is needed as, at present, a plethora of instruments must be read together to establish the law. There are instances where there are conflicts between laws, with the presumption being that the most recent in time prevails. This situation is unsatisfactory for electoral stakeholders as certainty is a fundamental requirement to ensure that behaviour is ordered in accordance with the law.

Amendments were made, in December 2022, to two of the principal laws governing the electoral process, the Representation of the People Act and the National Registration Act. The changes clarify several matters which were formerly governed by oral instructions, such as the tabulation process. There has not, however, been any comprehensive review of election legislation, as the focus of the amendments was on the rectification of specific deficiencies revealed during the 2020 elections. The Election Laws (Amendment) Act 2002 was repealed.

The need to harmonise electoral law is mirrored in many other areas of Guyanese law, where there has been a history of extensive amendment over time. As a result, the Attorney General and Minister of Legal Affairs has concluded a contract with a foreign commercial enterprise which has expertise in consolidation of laws in the region. They will undertake the considerable task of consolidation of Guyanese law and will supply electronic versions of consolidated laws. It is intended that these laws will be available, both electronically and in printed versions, by the end of 2023. This indicates that activity which will implement the second recommendation has begun. This is particularly important as this is a priority recommendation.

The third recommendation in the legal framework sphere addresses the operation of the closed list system and the impact which it has upon the rights of voters. At present, under the Representation of the People Act, political parties have total freedom as to how to allocate any seats they win among candidates on their list. There is no fixed place within the list, or ranking of any kind and hence voters, in casting their votes for a list of candidates, do not have any information as to who exactly will represent them.

This is clearly contrary to the intention of Article 160 of the Constitution which provides that, in drawing up lists of candidates, the manner in which the lists are prepared “shall allow voters to be sure which individuals they are electing to the National Assembly”. This recommendation could have been effected through an amendment to the Representation of the People Act, but was not considered for inclusion. This recommendation is also important for promotion of the membership of women in

the National Assembly, as new rules on fixing the order of candidates to be allocated seats in advance of elections could include a quota for women (*see recommendation 19 below*).

### ***B. Election Administration (Recommendations 4 to 7)***

Activity is ongoing towards the implementation of priority recommendation 4, suggesting the launch of a national consultation process to overhaul the composition and functioning of the GECOM, particularly to ensure a more inclusive representation of the various components of the Guyanese society and political spectrum.

The Constitution Reform Commission Act 2022, passed in November 2022, paves the way for nationwide consultations on constitutional reforms, including on the composition of the GECOM. The terms of reference explicitly stipulate that while reviewing the Constitution, the Constitution Reform Commission (CRC) shall take into account, *inter alia*, the following: “*implementing reforms relating to elections and the Elections Commission, taking into consideration its composition, the method of electing its chairman and members and its jurisdiction over national registration and the electoral process.*”

Any change in the composition of GECOM would require a constitutional amendment for which a compromise is needed between the government and opposition. To date, there were some limited stakeholder consultations within a technical assistance programme, but so far no consensus has been reached about how to move forward in this matter.

Except for the ruling PPP/C, all stakeholders generally agree that the composition of the GECOM, based on 3+3+1 formula, should be changed, by including additional independent representatives of civil society and/or professional bodies. The Electoral Commission of Jamaica is often presented as a model in this regard.<sup>4</sup>

The PPP/C takes a more cautious approach, maintaining that it was the Secretariat technical staff who attempted to manipulate the results of the 2020 GRE and the GECOM in its current composition saved the situation. In addition, they claim that in a small and polarised society like Guyana, it is extremely difficult, if not impossible, to find truly independent people without any past political linkages. The party will wait for the outcome of the national consultation process by the CRC before making the final decision in this matter.

There has been no progress on the three recommendations relating to the selection of election officials, GECOM transparency and engagement with stakeholders.

Recommendation 5 suggests the provision of avenues for electoral contenders to challenge the selection of election officials, either through administrative review or effective oversight by an inclusive GECOM. The Commissioners nominated by the two main parties have access to the list of recruited polling staff, and therefore they have an opportunity to scrutinise the list and challenge

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<sup>4</sup> The Electoral Commission of Jamaica comprises nine members: four selected commissioners (jointly agreed upon by the prime minister and the leader of the opposition), four nominated commissioners (two nominated by the prime minister and two by the leader of the opposition) and director of elections heading the administrative electoral office (unanimously nominated by the eight commissioners).

appointment of any staff, if deemed necessary. However, other contesting political parties do not have this opportunity.

Recommendation 6 proposes to incorporate into law the mandatory publication of all GECOM decisions, regulatory instruments and instructions, as well as all relevant data pertaining to the electoral process. The Representation of the People (Amendment) Act 2022 did not address this issue, however, it should be noted that the quality of the GECOM website, as well as the quantity of published data has improved. Positively, it is now mandatory to publish any election manual on the GECOM's website.

Recommendation 7 urges the GECOM to engage regularly with all electoral contenders, both at national and regional level, through all phases of the electoral process. However, the GECOM still does not have any communication strategy to ensure regular engagement with stakeholders, even during the immediate pre-election period. There are no regular press conferences or stakeholder meetings and the only sources of information for the general public and electoral stakeholders are sporadic press releases, the GECOM website and social media, and media interviews with individual partisan Commissioners. Several interlocutors acknowledged that the accessibility of the Secretariat for bilateral ad-hoc consultations has improved under the leadership of the new CEO.

### ***C. Voter Education (Recommendation 8)***

It is too early in the electoral cycle to determine the implementation status of recommendation 8, suggesting extension of the reach of voter education across the country, particularly in rural and indigenous communities. Some stakeholders reported that, like in 2020, GECOM's voter education ahead of the 2023 LGE is focusing primarily on broadcast and social media, with limited visibility on the ground in rural areas. It should be noted that the Amerindian communities living in indigenous villages are not part of the 2023 LGE. The CEO of the GECOM Secretariat informed the EFM that there are plans to conduct a robust civic and voter education campaign ahead of the 2025 GRE including at the grassroots level.

### ***D. Voter Registration (Recommendation 9)***

Recommendation 9, calling for a thorough update of the decade-old register, well ahead of the next electoral cycle, as well as for greater effectiveness of the "continuous" registration system by improving access, has been partially implemented. Due to a lack of political consensus, to date no thorough update of the old register was undertaken. However, the National Registration (Amendment) Act 2022 has significantly extended the period for registration of eligible persons. While previously they could only apply for new registration, changes and corrections during specific periods, they can now do so continuously throughout the year, with two one-month long breaks, in July and December, for finalisation and publication of the official list of electors. The Act now also stipulates detailed procedures for cancellation of the registration of deceased persons, while previously this was regulated by a GECOM regulation.

The voter register remains a major point of contention between the government and the opposition. The current voter register is based on the 2008 house-to-house registration exercise, during which the biometric data of each voter were captured – a photograph and fingerprints. The mechanically captured fingerprints were scanned and stored in the database which is used for de-duplication

purposes. Since then, this system has been periodically updated.

The opposition is advocating that a new voter register be compiled through house-to-house registration combined with electronic capture of fingerprints, as well as advocating the introduction of biometric (fingerprint) verification of voters at polling places. This would in their view solve the problem of a “bloated” register and prevent voter impersonation, which they allege was widespread in the 2020 GRE. The PPP/C government, on the other hand, prefers to improve the existing voter register through extended continuous registration and somewhat improved procedures for the removal of deceased registrants. As for the biometric verification of voters on election day, the PPP/C declared that it would agree with it providing that it would be based on the existing fingerprint database and that it would not be the only way to identify a voter, i.e. if fingerprint verification, for whatever reason, fails, there would always be a possibility of manual verification by polling staff and party agents. However, it is questionable whether the quality and resolution of fingerprints in the existing database would be sufficient for an effective verification of voters.

Unless the Constitution is amended, the existing legal framework does not allow removal of non-resident registrants, who are currently legally entitled to be included in the voter register. In order to harmonise the law with the Constitution, the National Registration (Amendment) Act 2022 removed references to residency and house-to-house registration. Instead, any person eligible to register should provide an address at the date of application in the given district. For the purpose of verification of the address claimed by a first-time registrant, a registration officer shall visit the address claimed. There is a general consensus among stakeholders that the existing mechanism for the removal of deceased persons is working quite well. However, there is currently no mechanism in place for the removal of deceased non-residents.

The opposition maintains that the idea behind the new voter register is not to remove the non-resident Guyanese registrants who are mostly residing in the US and Canada, as they would be able to register anew when they visit Guyana. However, it is clear that they would be removed, at least temporarily, until the time of their next visit. It is likely that many of them would not make an effort to travel to Guyana to register anew.

Although ahead of the 2023 LGE the GECOM published the full register of voters for all 80 LAAs, the information about the total number of registered voters nationwide is not publicly available and it can be obtained only upon request. According to the information provided by the GECOM there are 629,032 registrants included in the register of voters for the LGE. In addition, there are some 64,000 registrants residing in the Amerindian villages which are not participating in the LGE. Therefore, the National Register of Registrants currently include some 693,000 registrants. The total voting age population of Guyana is estimated to be around 535,000 which means that the total estimated number non-residents included in the register is close to 160,000.

### ***E. Registration of Candidates and Political Parties (Recommendation 10)***

Recommendation 10 addresses the harmonisation of the legal status of political parties. The legal framework addresses political parties from the important perspective of the freedom of association and political rights in this regard are protected in the Constitution. The law, however, has limited provisions concerning the registration and the operation of political parties, including the legal personality of political parties. Parties currently existing have been created under a variety of legal

regimes and, in consequence, have different legal personalities. Some are registered as trusts, others are not-for-profit associations, and others lack any formal legal status. Implementation of the recommendation could facilitate greater accountability of political parties to their members and to society, and could also enhance the internal democracy of political parties. It would also be an important contribution towards introduction of greater regulation of political finance broadly, and of campaign finance in particular (*see recommendation 12 below*). There has not yet been any progress towards implementation of this recommendation.

#### ***F. Campaign Environment and Finance (Recommendations 11 and 12)***

There has been no progress on the two recommendations relating to the campaign environment and finance. Recommendation 11 suggests prohibition of the use of state resources for political campaigning in order to create a more level playing field, as well as regulation of the conduct and timeframe of the campaign, based on consultations with all relevant stakeholders. To date, there is no legal prohibition of the use of state resources for political campaigning and the campaign period remains unregulated. There appears to be no initiative from the government or opposition to propose amendments to the legislation in this regard and these topics do not feature prominently in the ongoing political debate in the country.

Priority recommendation 12 urges development, in a consultative process, of effective legislation to regulate political finance, taking into account the principles of equality, transparency and accountability. So far, no new legislation has been developed to regulate political finance. However, during the EFM, the ruling PPP/C re-committed itself to implementing campaign financing reforms, in line with the party's manifesto published ahead of the 2020 elections. The PPP/C Secretary General and incumbent Vice President informed the EFM that the party is looking at possibilities for the publication of the names of donors and the limitation of financing, while preventing victimisation of donors, which is likely to occur in a small and polarised society.

In December 2022, Guyana joined with 187 member states to the UN Convention against Corruption to observe the International Anti-Corruption Day. By doing so the government acknowledged that corruption, among other things, undermines the foundation of democratic institutions by distorting electoral processes.

#### ***G. Media (Recommendations 13 to 16)***

Four recommendations were offered towards reform of different aspects of media regulation. One of these addressed a specific point of criminal law, namely defamation, while the other three recommendations addressed provisions of the media regulatory framework and the operation of the state media. Three of the four recommendations on the media require legislative change for implementation. The recommendation to decriminalise defamation would require amendment of the Criminal Law (Offences) Act, but there has not been any change made to this law. The other two legal changes proposed were introduction of a new law to regulate state-owned media, a priority recommendation, and amendment of the existing Broadcasting Act. New guidelines to strengthen the supervision of the broadcast media during elections were also proposed. None of changes recommended has been made.

The Guyana Broadcasting Authority has, however, increased its capacity to conduct media

monitoring, as there is now a facility to record content twenty-four hours a day, which was not in place previously. The focus of monitoring at present is principally on obscene or offensive content, with scope remaining to introduce specific guidelines for broadcasters on the provision of fair and balanced coverage of national politics. There is also a loophole in the Broadcasting Act in this sphere that needs to be addressed. The law does not confer any power on the Broadcasting Authority to supervise the content disseminated by licence holders through their social media platforms associated with their broadcast media. This lacuna merits review.

#### ***H. Social Media (Recommendations 17 and 18)***

Activity is ongoing towards the implementation of recommendation 17, calling for adoption of a data protection law. The Ministry of Legal Affairs published online the draft of the Data Protection Bill, 2023, on 15 April, and invited any comments to be submitted by 6 May, i.e. within a rather short period of 21 days. Specifically, the bill aims to protect the privacy of individuals and regulate the collection, keeping, processing, use, and dissemination of personal data. According to the Attorney General, only a few comments were received by the given deadline, and they are currently being processed.

There has been no progress on priority recommendation 18, which suggests fostering transparency and accountability in online and offline campaigning by introducing detailed reporting requirements for those who paid for sponsored materials, as well as for those who received payments. Some aspects of this recommendation may be implemented if the government embarks on the announced campaign financing reforms.

#### ***I. Participation of Women (Recommendations 19 and 20)***

Women are active and visible in public life in Guyana. The Chancellor of the Judiciary and the Chief Justice are both women, while the “chairman” of GECOM is also a woman. Women at present comprise 36 per cent of the membership of the National Assembly, an increase from 32 per cent in the previous parliament.

Two recommendations address the participation of women in political life. There is at present one measure in the law to promote the candidature of women for the National Assembly. The Representation of the People Act provides, in section 11B, that one-third of the total number of candidates nominated by political parties in their regional and national candidate lists must be women. Political parties are not, however, bound to choose any of these women from their lists when allocating the seats they have won (*see recommendation 3 above*).

The Constitution expressed a vision of an electoral system which includes women in parliament in numbers “reflective of their proportions among the electorate”. This vision has not been reflected in the provisions of the Representation of the People Act and, while the proportion of women in parliament has improved, it does not reflect their approximate fifty per cent proportion of the population. The EU EOM recommended that there should be a legal obligation introduced to compel parties to allocate a certain number of their seats to women. This is permitted, as a temporary special measure, under the Convention on the Elimination of all Forms of Discrimination against Women, to which Guyana is a party.



The second recommendation on the participation of women is addressed to GECOM, suggesting that they publish data, disaggregated by gender, on the lists of candidates and of voters. The circulation of such information in the public domain will assist in verification of political party compliance with the requirement to nominate one-third women. While GECOM has the technical capacity to readily generate such information, it is not compelled to do so by law and has not done so to date. Neither of the two recommendations has yet been addressed.

#### ***J. Participation of Persons with Disabilities (Recommendation 21)***

The Convention on the Rights of Persons with Disabilities has been ratified by Guyana, but not yet incorporated into domestic law (*see recommendation 1 above*). The EU EOM 2020 identified deficiencies in access to polling stations and in the polling process which violated the right of persons with disabilities to vote independently, as provided for in the Convention. A recommendation was made that both legal and practical measures should be taken to improve the situation.

Amendments are required to the Representation of the People Act and to the Persons with Disabilities Act to implement this recommendation. The amendments to the Representation of the People Act included a new provision that, when a decision is being made about the location of polling stations, accessibility of the polling place for persons with disabilities should be taken into consideration. This is not, however, a mandatory requirement that polling stations be accessible, only one factor among a list of factors to be considered. There has not yet been any implementation of this recommendation.

#### ***K. Participation of Minorities (Recommendation 22)***

Indigenous communities comprise around eleven per cent of the population of Guyana. Village and community councils are elected within their communities to govern themselves. They do not, therefore, participate in local government elections, but they do participate in general and regional elections. The EU EOM in 2020 found that indigenous people “were strikingly absent” from the election administration. A recommendation was made that representatives of indigenous communities be included in all levels of the election administration, including the board of GECOM.

The amendments to the Representation of the People Act did not address the issue of inclusion of Amerindians in the election administration. Constitutional change is required to change the composition of the board of GECOM (*see recommendation 4 above*). The CRC will include a representative of the National Toshias’ Council among its twenty members. The tasks of the CRC will include reviewing the composition of GECOM, offering an opportunity for consideration of this recommendation.

A consultation process to review the Amerindian Act was launched in 2016 and has been revived intermittently, most recently in July 2022. While this process is proceeding slowly and is focused principally on relations between communities and government, there is an opportunity for the matter of equality rights and inclusion to be raised in this context.

#### ***L. Electoral Disputes (Recommendation 23)***

The Judiciary, as an institution, has not been involved in the electoral reform process. There is a political impasse impeding judicial appointments, which undermines the security of tenure of the

most senior members of the judiciary and inhibits the appointment of other judges. The situation remains, as it was in 2020, that neither the Chief Justice nor the Chancellor of the Judiciary have been confirmed in their posts. Both remain as “acting” in their respective capacities, as has been the case, successively, since 2001, when a constitutional amendment was made to require the agreement of both the president and the leader of the opposition to appointments to these offices.

A Judicial Service Commission has not been constituted since 2017, in the absence of which judges have not been appointed to the Court of Appeal or the High Court, as the president is required by the Constitution to act “in accordance with the advice” of the Judicial Service Commission when making such appointments. As a consequence of this unsatisfactory situation, the effective functioning of the courts system is undermined by a shortage of judges.

The EU EOM 2020 elaborated the difficulties in electoral dispute resolution, principally concerning the limited avenues for redress in advance of the elections, with most issues to be adjudicated by way of election petition subsequent to the election. This inherent obstacle to a timely remedy was compounded by a general problem of delays in the delivery of court rulings, due to the shortage of judges.

The National Assembly (Validity of Elections) Act provides that, as far as practicable, the hearing of an election petition shall be continued from day to day until it is concluded. Election petitions have, however, sometimes taken several years to be concluded. Disputes which arose regarding the election recount in 2020 were dealt with speedily, but there has been less expedition evident in the election petitions which were subsequently filed against the election results. There has not been any change to legislation or subsidiary instrument to address this situation.

#### ***M. Polling, Counting and Tabulation (Recommendations 24 and 25)***

Both priority recommendations 24 and 25, which called for adoption of clear written procedures for the transmission and tabulation of election results, and for the mandatory publication of detailed polling station results and digital copies of all Statements of Poll (SoPs), together with any declaration of results, were fully implemented. The implementation of both recommendations was achieved through adoption of the Representation of the People (Amendment) Act, 2022. It should be noted that the absence of written tabulation procedures and of a legal requirement to publish SoPs were among the main reasons that led to non-transparent and non-credible tabulation of results during the 2020 GRE.

With the aim of speeding up the tabulation process in the GRE in the three most populous districts – Regions 3, 4 and 6 – the Act divided them into administrative sub-districts, with each sub-district, under the management of a “supernumerary” returning officer conducting its own sub-district level tabulation for all polling places within the area. The district returning officer will then tabulate results for all sub-districts and publicly declare the district results. The Regions 3 and 6, which are traditional PPP/C strongholds were divided into three sub-districts each and the APNU stronghold, Region 4, into four sub-districts.

The Act in the new sub-sections 84 1B and 1C provides the procedure to be used for tabulation of results at district and sub-district level, which includes displaying each SoP, using an electronic mechanism, for all persons entitled to be present to clearly see the information on the SoP. The CEO

shall, immediately upon receipt, post an electronic copy of the district and sub-district tabulation forms on the GECOM website. The amended subsection 83(10) provide additional procedures for the transmission of results, namely that both the GECOM Chair and CEO are entitled to receive their own copy of the SoPs in sealed envelopes.

The new section 83B provides for the returning officer and supernumerary returning officer, upon receipt, to immediately post an electronic copy of the SoP on the GECOM website, to be publicly viewed. The SoP contains detailed polling station results including the number of valid votes cast for each party, total number of valid votes, number of rejected ballot papers, total number of votes cast, number of spoilt, destroyed and used tendered ballot papers.

#### ***N. Election Observation (Recommendation 26)***

There has been no progress made in implementation of recommendation 26, which suggests incorporation in the law the right of citizen (local) observers to unhindered access to all electoral processes and essential data at all levels.

Until the 2020 GRE, the legal basis for local observers was the recently repealed Election Laws (Amendment) Act 2000, namely section 20, which empowered the GECOM to accredit local observer organisations provided they fulfil the conditions stipulated by the Commission. This provision was inserted as the new sub-section 4E(1) into the Representation of the People (Amendment) Act 2022 and supplemented by sub-section 4E(2) which obliges the GECOM to publish in the *Gazette*, within three months of holding any elections, the conditions for accreditation of local observer organisations. Therefore, the GECOM has still absolute discretion to set conditions for accreditation of local observers for the GRE and determine what they have access to.

On the other hand, the rights of international observers are quite generously defined in the General Elections (Observers) Act 1990. Interestingly, the Local Authorities (Elections) Act, which governs the conduct of the LGE, invokes, *mutatis mutandis*, the General Elections (Observers) Act as a legal basis for accreditation of local/domestic organisations and groups willing to observe the LGE. The Attorney General informed the EFM that in the future they plan to amend the General Elections (Observers) Act, so that it would also define the rights of local observers.

#### **V. Analysis of Election-related Reforms**

Two pieces of legislation were enacted in December 2022 which comprise important measures of electoral reform. The instruments, the Representation of the People (Amendment) Act 2022 and the National Registration (Amendment) Act were conceived of as a response to both the wrongdoings perpetrated and the legislative lacunae revealed during the elections of 2020. While just two of the EU EOM recommendations were fully implemented by the amendments, there were many other positive and useful measures of reform included which addressed other aspects of the elections.

Provisions in the Representation of the People Act regulating the activities of the Secretariat of GECOM have been greatly augmented. There was no mention of the Secretariat in the law before and that situation has changed. There are rules as to recruitment and appointment of staff. All instructions as to the functioning of the Commission are to issue from the Chairperson, or their delegate, either

orally or in writing. New penalties are added for violations of the law by staff, with harsh punishments<sup>5</sup> for contravention of the law of fines of up to five or up to ten million GYD (22,000 to 44,000 EUR) and jail sentences of up to ten years.

The ten regions of Guyana operate as electoral districts for the general elections. The three most populous regions (3, 4, and 6) have been divided into sub-districts for purely administrative purposes for polling, counting and tabulation of results. There is no impact on the constituency structure. The intention of this measure is to expedite the tabulation process. The creation of the sub-districts has been mainstreamed throughout the legislation, with all steps of the process now involving additional supernumerary staff to undertake roles within the sub-district which mirror those at district level.

Safeguards have been added to proxy voting and advance voting to reduce risks of rigging. These are welcome measures which add transparency to these procedures. Proxy voting is open to persons with disabilities. Other small changes addressing persons with disabilities include the provision, in section 6 (10) that, in determining whether to divide a polling place into polling stations, one of the many factors to be taken into consideration is the accessibility of the polling place for persons with disability. While the requirement that access be taken into account is written in mandatory language, there is no mandatory language that the polling place must be accessible. This, therefore, does not amount to an effective measure of reform.

Many of the amendments enhance the position of elections agents, polling agents and counting agents, clarifying their entitlements to access to information and to scrutinise documentation throughout all stages of the electoral process. It has become an offence to obstruct agents or polling staff in the exercise of their functions. Rules on the creation of polling places and polling stations are clarified and expanded in the legislation, providing that every village or locality is to have as many polling places as needed, including in private buildings. There is to be a maximum of 400 voters per polling station, a positive measure to increase accessibility for voters.

There are many other positive measures in the legislation, among them a requirement that extensive documentation, including the official list of voters for a polling place, the registration records of the voters, the list of proxy voters, the ballot paper account, and the SoPs, are distributed to candidates and their agents. The most important amendments to the legislation add transparency measures to the dissemination of results, from the polling station to the national level, and codify procedures for the conduct of tabulation. SoPs are to be publicly displayed at a conspicuous place outside polling places, with a penalty of up to ten years imprisonment for anyone who removes them. District returning officers must post electronic copies of the SoPs online, on the GECOM website, as soon as they are received.

Section 84 of Representation of the People Act contains significant new instructions on the conduct of tabulation, detailing every single step in the transmission and transportation of results, receipt of documents at districts and sub-districts, and ascertainment of totals of votes received. Public declarations of results are required, including by electronic display of SoPs at district tabulations, visible to all present. Opportunities for candidates and their agents to seek information or object to results are mainstreamed throughout the process. Expedition is mainstreamed throughout also, with the CEO required to calculate the results within twelve hours of the tabulation of the results being completed.

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<sup>5</sup> Penalties of this measure are standard in recent Guyanese law. While severe, there are no minimum penalties in place.

One of the most controversial changes to Representation of the People Act is the removal of the requirement of residence in Guyana as a prerequisite to register to vote. The Act now requires only that someone has a “registered address” in the district to be included in the voters’ register. This cannot be characterised as a measure of reform, as it is highly unusual, globally, to accord voting rights within the country to the diaspora. Some countries facilitate out-of-country voting (as Guyana had done in the past and subsequently terminated) enabling the diaspora to vote abroad, but there is no international standard which mandates this. Voters are more usually required to reside and be domiciled in the place where they are registered to vote. This change in the law, adopted in response to a court decision,<sup>6</sup> is extremely controversial, and not perceived to be politically neutral.

The National Registration (Amendment) Act makes important changes to the process of voter registration, introducing what is effectively continuous registration. Registration will now be conducted in two phases, the first during the months of January and May, with a qualification date of 30 June; the second during the months of July to November with a qualification date of 31 December. Registration will be conducted principally at registration offices, which represents a huge change from the previous law, under which registration had been conducted by officers going from house to house to register voters. This change was required, in tandem with the removal of the residency requirement in the Representation of the People Act, due to a judicial interpretation of constitutional registration requirements. Limited home visits for registration are available to persons with physical incapacities unable to attend in person.

Political concerns have been expressed in relation to difficulties in removing deceased persons from the voter list. The list of entities required to provide death records has been increased, so that it now encompasses the Registrar General of Births and Deaths, the Commissioner of Police and the Chief Medical Officer of the Ministry of Health. The authority of GECOM over registration is reinforced and, as in the Representation of the People Act, new offences and penalties are introduced to promote observance of the law.

The Constitution Reform Commission Act, 2022, became law on 15 November last. The task of the CRC is to review the Constitution, through nation-wide consultations, focusing on issues which include “*implementing reforms relating to elections and the Elections Commission, taking into consideration its composition, the method of electing its chairman and members and its jurisdiction over national registration and the electoral process*”. This offers an opportunity to discuss electoral reform in a meaningful way. Yet to be established, the CRC legislation indicates that there will be a national consultation process on reform. The CRC model was used previously, in the 1999 to 2001 constitutional review process, which led to limited piecemeal amendment to the Constitution. It is important that the new review process be comprehensive and holistic in approach. It is somewhat unlikely that this will be completed in advance of the next elections due in 2025.

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<sup>6</sup> C. Ram v Chief Elections Officer, Commissioner of National Registration, GECOM, Attorney General and GBA 2019-HC-DEM-CIV-FDA-1151; Court of Appeal 10/02/2020

## VI. The Stakeholder Roundtable

The EFM convened a round-table gathering of electoral stakeholders on 23 May to discuss electoral reform and the implementation of the recommendations of the EU EOM 2020. A diverse group of 28 people participated, drawn from the national government, political parties, GECOM, constitutional human rights bodies, the private sector, civil society and the media.

Three members of government, including the Attorney General and Minister of Legal Affairs, participated, as well as several Members of Parliament representing the opposition. The chairpersons of two constitutional commissions attended, as well as executive members of professional and civil society bodies. Representatives of the donor community also attended. The high level of representation, from all sides, was a welcome indication of interest in electoral reform.

The discussion was divided into six thematic areas. The first issue discussed was that of the legal rules on the registration of candidates and political parties, and of the inclusion of women in party lists. There was discussion of the difficulties in balancing the proportional representation (PR) and first-past-the-post (FPTP) elections that comprise the electoral system. There was some advocacy in favour of a full-time parliament. There was disagreement as to the need for a quota for women to be allocated seats by parties in the National Assembly. Views ranged from pride in the current proportion of women in parliament to advocacy of fifty per cent of women to be mandated.

The second area discussed was the campaign environment and the need for the regulation of campaign finance. There was a great deal of agreement among participants as to the need for regulation of campaign finance, to provide a level playing field for electoral competitions. There was also a great deal of uncertainty as to what a regulatory regime should include, with questions posed as to models to be used as comparators for Guyana. The Attorney General and the Minister of Legal Affairs indicated that, drawn from the PPP/C election manifesto, campaign finance regulation will be introduced before the next election. There were also concerns expressed at the need for enforcement of controls on campaign behaviour, including respect for codes of conduct, to avoid ethnic tensions being stirred up during campaigning.

The third area addressed was the legal framework and electoral dispute resolution. There was acknowledgement that harmonisation of laws is needed, as clarity in the law is sometimes elusive, due to the fragmented and contradictory nature of the law. There was also agreement that judicial rules for election petitions require revision, as other rules of court have been revised but not those for petitions. It was suggested that this might be a task for the Law Reform Commission.

The fourth strand of discussion addressed the election administration, voter education and election observation. There was a significant focus in discussion on the reform of the composition of GECOM. Some believed that there is need for ethnic diversity to be a factor informing recruitment of secretariat staff and others criticised the staff who had engaged in wrongdoing during the last elections. Views on the composition of the board varied, with some advocating change from solely political appointments to including representatives of society at large, including youth. There was a lot of criticism of poor communication with the public on the part of GECOM.

The fifth area of discussion was on voter registration and polling, counting and tabulation, with a focus also on the participation of persons with disabilities and minorities. There was an extensive

discussion on the status of the voter register, with opposition voices strongly advocating the introduction of enhanced biometric elements to the registration process and to the identification of voters at polling stations. Fears of personation of absent or deceased voters were articulated. Electronic scanning of fingerprints was the preferred response. The counter view expressed was that there are already adequate biometric elements included in the register to defeat fraudulent attempts to vote. Views were also expressed that it was important to preserve the voting rights of Guyanese living abroad. Use of tactile ballot guides in polling stations was also advocated.

The final topics discussed were the media and social media in the context of elections. Views were expressed as to partisan bias on the part of state media during the last elections and the need for there to be greater objectivity in their reporting. While media monitoring is performed by the Guyana National Broadcasting Authority, there are no specific guidelines in place dealing with elections. There was some agreement that social media requires regulation while the recent publication of the Data Protection Bill 2023 was noted.

## **VII. Conclusions**

The EU EFM noted progress made in the implementation of some of the 2020 EU EOM recommendations, as well as areas where more political will is needed to move forward. Positively, the most significant progress, so far, was achieved in implementation of the eight priority recommendations. Two priority recommendations, relating to the credibility of the tabulation process and the transparency of the declaration of results, were implemented in full. The implementation of two other priority recommendations is underway, namely the review and consolidation of fragmented legislation, and the launch of a national consultation process within the CRC. Furthermore, the government has re-committed itself to implementing campaign financing reforms, which could potentially lead to the implementation of yet another priority recommendation.

The two electoral reform acts passed by the parliament and gazetted in December 2022 are the result of an inclusive and consultative process, though not all electoral stakeholders used the opportunity to submit their comments on the draft bills which were published for some 13 months before being voted on. No other election-related legal reform initiative is currently underway, although there is still enough time – more than two years – available ahead of the 2025 elections to address some of the recurring problems of the electoral process in Guyana. There are also several recommendations that could be implemented through administrative and procedural changes, not requiring legislative change.

The recommendations, implementation of which has the highest potential to enhance the quality of electoral processes, both from short-term and long-term perspectives, include prohibition of the use of state resources for political campaigning (recommendation 11), development of effective legislation to regulate political finance (recommendation 12), transformation of state-owned media into a genuine public service broadcaster (recommendation 13), and establishment of a comprehensive election dispute resolution system (recommendation 23). These areas should be therefore prioritised when deciding on any potential future electoral technical assistance.

## **VIII. Annexes**

## Annex 1: Press Release

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

**Georgetown, 24 May 2023**

The European Union has deployed an Election Follow-up Mission (EU EFM) to Guyana to assess progress towards electoral reform. This EU EFM is led by Mr. Javier Nart, Member of the European Parliament. While the mission happens to take place on the eve of the local elections, this is only a co-incidence as the mandate of the EU EFM extends only to general elections, and the mission is not observing these local elections.

The mission has met a wide range of Guyanese electoral stakeholders, including members of the Government of the Cooperative Republic of Guyana, the Guyana Elections Commission, National Assembly members, and representatives of political parties and civil society. The mission organised a roundtable meeting of electoral stakeholders, on 23 May, where participants had the opportunity to discuss the current status of electoral reform.

The Chief of Mission, Javier Nart MEP, when opening the round-table meeting, identified the present opportunity for reform:

*“It is now mid-way through the electoral cycle leading to elections in 2025. Two years still remain in which electoral reform can be undertaken, particularly procedural and legislative reform. Constitutional reform will be slower, but has been initiated with the enactment of the Constitution Reform Commission Act. It is important that the momentum around legal and constitutional reform be maintained and built upon in the interest of improving future general elections.”*

The EU Election Observation Mission in 2020 offered 26 recommendations to stakeholders, addressing diverse aspects of elections, including the legal framework, election administration, the campaign and campaign finance, the media and social media, and electoral dispute resolution. Implementation of twenty-one of these recommendations would require legal change, while one (related to the composition of GECOM) requires constitutional change. Eight recommendations were identified as priority, which could have the most positive impact on the elections if implemented.

Two of these priority recommendations have been implemented in full, through provisions contained in the Representation of the People (Amendment) Act 2022. Mr. Nart MEP commented on the implementation status of the recommendations:

*“It is positive to note that two priority recommendations have been implemented in full. The Act now provides clear written procedures for the tabulation of election results and the new measures will enhance the transparency of the tabulation process, through robust publication of Statements of Poll. Implementation of the other recommendations offered by the EU EOM, particularly the remaining six priority ones, would greatly enhance the efficacy, transparency and integrity of the electoral process.”*



Mr. Nart went on to say that:

*“Electoral reform is critically important to rebuild confidence in the integrity of the administration of general elections. The EU Delegation supports continued democracy and good governance in Guyana and wishes to support stakeholders in their efforts to promote such reform.”*

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 Guyana, as well as of the extent to which the EU EOM recommendations have been addressed.

*The Final Report of the EU Election Observation Mission 2020 is available at:*  
[https://www.eas.europa.eu/sites/default/files/eu\\_eom\\_guyana\\_2020\\_-\\_final\\_report\\_0.pdf](https://www.eas.europa.eu/sites/default/files/eu_eom_guyana_2020_-_final_report_0.pdf)

## Annex 2: Roundtable Agenda

### Roundtable on the EU EOM Recommendations and Electoral Reform Process

Tuesday 23 May 2023, Georgetown, Guyana  
Pegasus Hotel, Exhibition Centre #1

#### PROGRAMME

08:30 – 09:00	Arrival and registration of participants
09:00 – 09:10	Welcome Remarks <ul style="list-style-type: none"><li>• Chief of Mission, Mr. Javier Nart M.E.P.</li><li>• EU Ambassador to Guyana, H.E. Rene van Nes</li></ul>
09:10 – 09:15	Introduction to the EU EFM and Roundtable Programme EU EFM Experts
09:15 – 10:30	Session 1 <ul style="list-style-type: none"><li>• Block 1 – Registration of Candidates &amp; Parties; Participation of Women</li><li>• Block 2 – Campaign Environment, Campaign Finance</li><li>• Block 3 – Legal Framework, Electoral Dispute Resolution</li></ul>
10:30 – 11:00	Coffee Break
11:00 – 12:50	Session 2 <ul style="list-style-type: none"><li>• Block 1 – Electoral Administration, Voter Education and Election Observation</li><li>• Block 2 – Voter Registration and Polling, Counting and Tabulation, Participation of Persons with Disabilities &amp; Minorities</li><li>• Block 3 – Media, Social Media</li></ul>
12:50 – 13:00	Closing remarks <ul style="list-style-type: none"><li>• Chief of Mission, Mr. Javier Nart M.E.P.</li><li>• EU Ambassador to Guyana, H.E. Rene van Nes</li></ul>

### Annex 3: Roundtable Participants

No.	Institution / Organisation
1.	Ministry of Legal Affairs & Attorney General
2.	People's Progressive Party/Civic (PPP/C)
3.	People's National Congress Reform (PNC/R)
4.	Alliance for Change (AFC)
5.	The New Movement (TNM)
6.	Liberty and Justice Party (LJP)
7.	Guyana Elections Commission (GECOM)
8.	GECOM Secretariat
9.	Ethnic Relations Commission
10.	Women and Gender Equality Commission
11.	Guyana National Broadcasting Association
12.	Guyana Press Association
13.	Guyana Bar Association
14.	Guyana Council of Organisations for Persons with Disabilities
15.	Inter-Religious Organisation
16.	Electoral Reform Group
17.	Transparency Institute Guyana Inc.
18.	AmCham
19.	Private Sector Commission
20.	United Nations
21.	US Embassy
22.	Canadian High Commission
23.	British High Commission
24.	IFES
25.	International Republican Institute

#### Annex 4: Matrix on the Implementation Status of the 2020 EU EOM Recommendations

Category	Description	Guidance
1	No change.	No action has been taken to implement this recommendation.
2	Action or activity is 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.

No.	Year	Recommendation	Electoral Theme	Status (1-6)	Comments and Additional information
1.	2020	Review and harmonise the legal protection of electoral and human rights, especially by incorporating international human rights treaties, which have already been ratified, such as the Convention on the Rights of Persons with Disabilities, the International Convention on the Protection of the Rights of All Migrant Workers and their Families, the Inter-American Convention against Corruption, and the UN Convention against Corruption.	Legal framework	1 No change	There has not been any legislative change to incorporate any further human rights treaties into domestic law. Neither has there been any addition to the Fourth Schedule to the Constitution to promote adherence to international human rights instruments.
2.	2020	<b>Priority recommendation:</b>	Legal framework	2	Amendments have been introduced to the two principal laws governing the electoral process, through the Representation of the People (Amendment) Act and the

		<b>Review and consolidate the fragmented election legislation to strengthen legal clarity and certainty.</b>		Action or activity ongoing.	<p>National Registration (Amendment) Act, both enacted on 13 December 2022. These instruments clarify several matters which were formerly governed by oral instructions, such as the tabulation process. They do not, however, amount to a comprehensive review of election legislation as the focus of the amendments was on the specific deficiencies revealed during the 2020 elections.</p> <p>Six months since the two acts were enacted, there has not yet been any harmonisation or consolidation of the law. A contract has been signed with a foreign company to undertake the considerable task of consolidation of Guyanese law, as fragmentation is a problem beyond the sphere of electoral law. Electronic versions of the consolidated electoral law are anticipated within six months, with printed versions to be published subsequently in Guyana.</p> <p>The Election Laws (Amendment) Act 2002 has been repealed.</p>
3.	2020	Ensure that, under the existing closed list system, parties are required to present and are bound by ranked lists to allow voters to know which candidates they are electing, as required by the Constitution.	Legal framework	1 No change	This recommendation could have been effected through an amendment to the Representation of the People Act. The amendments to the Act, however, did not include any change to the operation of the closed list system.
4.	2020	<b>Priority recommendation:</b> <b>Launch a national consultation process to overhaul the composition and functioning of the Elections Commission, notably to ensure a more inclusive representation of the various components of the Guyanese society and political spectrum.</b>	Election administration	2 Action or activity ongoing	The Constitution Reform Commission Act 2022, passed in November 2022, paves the way for nationwide consultations on constitutional reforms, including on the composition of GECOM. Any change in the composition of GECOM would require a constitutional amendment for which a compromise is needed between the government and opposition.
5.	2020	Provide avenues for electoral contenders to challenge the selection of election officials,	Election administration	1 No change	The Representation of the People (Amendment) Act 2022 did not address this issue. The GECOM

		either through administrative review or effective oversight by an inclusive Elections Commission.			Commissioners representing the two main parties have access to the list of recruited polling staff, so they have an opportunity to scrutinise the list and challenge appointment of any staff. Other parties do not have this opportunity.
6.	2020	Incorporate into law the mandatory publication of all GECOM decisions, regulatory instruments and instructions, as well as all relevant data pertaining to the electoral process.	Election administration	1 No change	The Representation of the People (Amendment) Act 2022 did not address this issue. However, it should be noted that the quality of the GECOM website, as well as the quantity of published data, has improved. Positively, it is now mandatory to publish any election manual on the GECOM website.
7.	2020	Engage regularly with all electoral contenders, both at national and regional level, through all phases of the electoral process.	Election administration	1 No change	There is still no regular structured engagement with electoral stakeholders, though some of them noted that the accessibility of the Secretariat for bilateral ad-hoc consultations has improved under the leadership of the new CEO.
8.	2020	Extend the reach of voter education across the country, notably in rural and indigenous communities with a field operation mobilising local election officials and CSOs.	Voter education	5 Too early to determine	Some stakeholders reported that, like in 2020, GECOM's voter education ahead of the 2023 LGE is focusing primarily on broadcast and social media, with limited visibility on the ground in rural areas. It should be noted that the Amerindian communities living in indigenous villages are not part of the 2023 LGE. For the 2025 elections the GECOM Secretariat is planning to conduct a robust civic and voter education campaign, including at the grassroots level.
9.	2020	Undertake a thorough update of the decade-old register well ahead of the next election cycle, based on inclusive consultations and political consensus. At the same time ensure greater effectiveness of the 'continuous' registration system by improving access – both in terms of geographical spread of registration offices and duration of the registration periods.	Voter registration	3 Partial implementation	Due to a lack of political consensus, no thorough update of the old register has been undertaken to date. However, the National Registration (Amendment) Act 2022 has significantly extended the period for registration of eligible persons. The Act now also stipulates procedure for cancellation of registration of deceased persons.

10.	2020	Harmonise the legal status under which political parties operate, to ensure equal protection for and accountability of political stakeholders.	Registration of candidates and political parties	1 No change	The amendments to the Representation of the People Act did not address the legal personality of political parties. Neither has there been any other legislative initiative addressing this matter.
11.	2020	Prohibit the use of state resources for political campaigning to create a more level playing field. To support this measure, regulate the conduct and timeframe of the campaign based on consultations with all relevant stakeholders.	Campaign environment	1 No change	There is still no legal prohibition of the use of state resources for political campaigning and the campaign period remains unregulated.
12.	2020	<b>Priority recommendation: Develop, in a consultative process, effective legislation to regulate political finance, taking the principles of equality, transparency and accountability into account. Such legislation could provide transparency in campaign incomes and establish reasonable limits for campaign expenditure as well as disclosure and reporting requirements and effective sanctions. Consideration may also be given to the establishment of an independent oversight body.</b>	Campaign finance	1 No change	To date no new legislation has been developed to regulate political finance. The Representation of the People (Amendment) Act 2022 did not address the issue of campaign finance (election expenses). During the EFM the ruling PPP/C re-committed itself to implementing campaign financing reforms, in line with its manifesto published ahead of the 2020 elections.
13.	2020	<b>Priority recommendation: Introduce a legal and regulatory system that transforms the state-owned media into a genuine public service broadcaster. This includes provisions granting editorial independence, financial autonomy, clear separation from any government institution, and an open and competitive selection process of its board members.</b>	Media-	1 No change	There has not been any change in the regulatory system for state-owned media. Neither has there been any proposal of legislation to effect change.
14.	2020	Decriminalise defamation, in line with international obligations regarding freedom of ex-pression.	Media	1 No change	There has not been any change in the criminal law on defamation.

15.	2020	Strengthen the independence of the broadcasting authority from political influence by amending the selection and appointment process of the chairperson and board members.	Media	1 No change	There has not been any change to the Broadcasting Act, which would be required to advance implementation of this recommendation. Nor have there been any proposals for change published.
16.	2020	Strengthen the oversight of existing media law by the supervisory authority developing further guidelines on broadcast media electoral coverage, as well as reinforcing its media monitoring capacity.	Media	1 No change	No new guidelines have been introduced governing media coverage of elections.
17.	2020	Adopt data protection law as well as other mechanisms to guarantee citizens the right to privacy of their personal data, both online and offline.	Social media	2 Action or activity is ongoing	The Ministry of Legal Affairs in April published the draft of the Data Protection Bill 2023, seeking comments on the same until 6 May. Specifically, the bill aims to protect the privacy of individuals and to regulate the collection, keeping, processing, use, and dissemination of personal data.
18.	2020	<b>Priority recommendation: To foster transparency and accountability in online and offline campaigning, policymakers could consider introducing detailed reporting requirements for those who paid for sponsored materials as well as for those who received payments. In order to enable voters to easily distinguish between paid advertising and other information, any sponsored campaign-related material should be clearly labelled to indicate who paid for it.</b>	Social media	1 No change	To date no new legislation was drafted/adopted to support transparency and accountability in online and offline campaigning.
19.	2020	Establish legal guarantees for the political participation of women, in legislation, in line with the Constitution.	Participation of women	1 No change	The amendments to the Representation of the People Act did not address the participation of women. It must be acknowledged, however, that the current, weak, quota measure for the nomination of candidates has resulted in an increase in the numbers of women in the National Assembly since it was introduced in 2000.



20.	2020	GECOM to provide gender disaggregated data on the voter list and lists of candidates.	Participation of women	1 No change	GECOM has the technical capacity to produce disaggregated data. It has not done so. A legal compulsion to do so is required.
21.	2020	Integrate the provisions of the Convention on the Rights of Persons with Disabilities fully into the electoral legal framework by, for example, introducing requirements to make polling places accessible and adequately prepared for persons with reduced mobility, and providing special measures, such as stencils, to protect the secrecy of the vote. GECOM could draw on existing information about voters with disabilities from other state institutions.	Participation of persons with disabilities	1 No change	The Convention on the Rights of Persons with Disabilities has not yet been incorporated into domestic law. Voting independently for persons with disabilities is not provided for in either the Representation of the People Act or the Persons with Disabilities Act.
22.	2020	Include representatives of indigenous communities in all levels of the election administration including GECOM.	Participation of minorities	1 No change	There has been no change to the board of GECOM. Constitutional change could enable diversity of representation in the GECOM board. The Constitution Reform Commission will include a representative of the National Tshoas' Council. The tasks of the Commission will include reviewing the composition of GECOM.
23.	2020	<b>Priority recommendation:</b> <b>Establish comprehensive election dispute resolution systems to ensure effective and timely remedies throughout all stages of the electoral process.</b>	Electoral disputes	1 No change	No change has been introduced to enhance electoral dispute resolution.
24.	2020	<b>Priority recommendation:</b> <b>Adopt clear written procedures for the transmission and tabulation of election results, notably to ensure consistency of the process in all regions, adequate traceability of handed over electoral documents, and possibility for all authorised stakeholders to examine SOPs as required by law.</b>	Polling, counting and tabulation	4 Full implementation	The Representation of the People (Amendment) Act 2022 provides the procedure to be used in the tabulation of results at district and sub-district level, which includes displaying each SoP, using an electronic mechanism, to clearly see the information on it. Also, the CEO shall immediately post an electronic copy of the district tabulation form on the GECOM website. The Act also provide additional procedures for the transmission of results.

25.	2020	<p><b>Priority recommendation:</b>  <b>Incorporate into law the obligation to accompany any declaration of results by simultaneous publication of detailed polling station results and digital copies of all Statements of Poll. In addition to the number of valid votes cast for each candidate list, these detailed results should also include all elements of electoral accounting to allow control of their coherence, such as number of registered voters; voters who voted; rejected ballots; spoiled ballots; etc.</b></p>	Polling, counting and tabulation	<p>4 Full implementation</p>	<p>The Representation of the People (Amendment) Act 2022 provides for the returning officer, upon receipt, to post an electronic copy of the SoP on the GECOM website, to be publicly viewed. The SoP contains detailed polling station results.</p>
26.	2020	<p>Incorporate into law the right of citizen observers to unhindered access to all electoral processes and essential data at all levels.</p>	Election observation	<p>1 No change</p>	<p>The Representation of the People (Amendment) Act 2022 did not address the issue of citizen observers' rights and GECOM still has full discretion to set conditions for accreditation of local observers. The Attorney General is planning to amend The General Elections (Observers) Act 1990, which stipulates the rights of international observers, so that it would also include the rights of local observers.</p>

