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FINAL REPORT

**GENERAL ELECTIONS
OCTOBER 2010**

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

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This report is available in English and Swahili, only the English version is official

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I. SUMMARY

- On 31 October 2010, Tanzania held its fourth general elections since the re-introduction of the multi-party system in 1992. The European Union Election Observation Mission (EU EOM) was present in Tanzania from 29 September to 28 November 2010, following an invitation from the Tanzanian Ministry of Foreign Affairs and International Cooperation. The EU EOM was headed by David Martin, Member of the European Parliament (MEP). The Mission deployed 103 observers¹ from all 27 European Union Member States as well as Canada, Norway and Switzerland to all 26 regions² of the country to assess the electoral process against international and regional principles and commitments for democratic elections and the laws of Tanzania. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation commemorated at the United Nations in October 2005.
- The ruling party (CCM) elected both the Union and the Zanzibar presidents, and maintained its comfortable control of the National Assembly and of the Zanzibar House of Representatives. It also continued to control most of the 3,705 councilors in the country. In Zanzibar, the acceptance of the election results by the competing parties and the will of each one to engage in practical talks to form a Government of National Unity (GNU), approved by the Zanzibaris in July 2010, led to a joint popular celebration of the elections and was enthusiastically celebrated after its formation.
- However, the general elections turnout in the mainland was surprisingly low with only 43 percent of registered voters showing up on polling day, against an average of more than 80 percent in past elections. The low participation could be explained by a combination of factors: apathy and strong belief among the population that CCM was going to win regardless of voters turnout, lack of capacity of the opposition to convince voters, lack of interests in a country historically dominated by one party, long campaign period dominated by the ruling party and inadequate voter education. Zanzibar maintained its traditional high voter participation with 89 percent of voters exercising their right in the island of Unguja, and 85 percent in Pemba.
- Election day was peaceful and generally orderly. Overall, polling stations procedures were applied evenly across the country and voting was conducted in a calm manner with only a few incidents of minor nature in over 549 observed polling stations. Unfortunately, the secrecy of the vote was compromised in 12 percent of observed polling stations and EU observers reported that in 20 percent of cases the layout of the polling station did not guarantee the secrecy of the vote.
- Several improvements to the Union electoral process, like new regulations to control party finances and a code of conduct for political parties contributed to increasing transparency, which was, however, tainted by the procedures in the electoral decision-making and

¹ Seven Core Team (CT) members, 22 Long Term Observers (LTOs), 42 Short Term Observers (STOs). In addition, the Mission had six members of the European Parliament (MEPs) and 26 Local Short Term Observers (LSTOs).

² In fact, there are currently 30 administrative regions in the country after the addition of four others (Katavi, Njoluma, Geita and Smiyu) last June. However, the National Electoral Commission (NEC) worked with the old division of 26 regions.

aggregation of results processes that excluded observers and political parties' agents. The election expenses act offered an opportunity to increase transparency and curtail corruption and malpractices, despite the difficulties to implement its provisions.

- The European Union Election Observation Mission (EU EOM) also observed the elections for the National Assembly held on 14 November 2010 in six of the seven constituencies where the polls had to be postponed for lack of ballots and misspelled names of candidates. The elections in the mainland and in Zanzibar were peaceful and generally orderly with voter turnouts similar to those registered during the general elections of 31 October, high in Zanzibar and low in the mainland. The key stages of the process observed showed a well administered election day, and contrary to the general elections, observers and political parties' agents had access to the counting and aggregation processes.
- The legal framework both for the Union and Zanzibar elections generally provides a reasonable basis for the conduct of democratic elections in line with international and regional principles ratified and agreed to by the United Republic of Tanzania. However, there are a number of provisions that raise concerns regarding conformity with international and regional principles, namely the exclusion of independent candidates, the voting rights of prisoners, and the absence of a right to challenge the presidential elections results as well as decisions of the National Electoral Commission (NEC) and of the Zanzibar Electoral Commission (ZEC).
- The fact that election commissioners both in the mainland and Zanzibar are presidential appointees and other electoral officials at lower levels are civil servants, raised concerns among stakeholders and in some cases led to doubts about the impartiality of the electoral administration. Further, the NEC and the ZEC enjoy far-reaching executive powers of decision-making outside the scrutiny of the judiciary, therefore undermining the original competence and supervisory role of judicial authorities over all administrative management body decisions.
- The control exerted by the Union government at grass-roots level through the placement of party cadres in key positions in the national administrative structure –all the way down to the so-called “ten-households cells”– allows it to influence practically all social and political activities throughout the country, thereby fostering a system where advantages can be awarded in exchange for political loyalty.
- Despite the logistical challenges due to the size of the country and the high number of registered voters, both electoral commissions managed efficiently the preparations for the election and largely guaranteed the universal suffrage. The EU EOM observers assessed the performance of the election administration at local level to be efficient, organized and well prepared. In Zanzibar, the ZEC generally conducted the elections in a professional manner similar to what was successfully put in place for the referendum in July 2010.
- However, in spite of the NEC receiving significant technical assistance from the United Nations Development Program (UNDP), funded by the international community, including the European Union, it did not always use it to its own advantage. Fundamental areas such as effective communication within the different levels of the electoral commission and public information which could enhance transparency –namely the registration of voters and transmission of results– were not effectively conveyed to stakeholders and the general public thus creating unnecessary mistrust in the process.

- During the final stage of aggregation and validation of the Union and Zanzibar presidential elections results, both electoral commissions' proceedings were not transparent since political party agents or observers were prohibited from monitoring the process. The NEC also showed a poor degree of transparency by not authorizing the EU EOM to attend the meetings at national level of the Ethics Committee where electoral complaints were discussed. The NEC demonstrated no interest in having observers present for the distribution of election materials, for meetings with political parties or for the training of election officials. Moreover, the NEC's and the ZEC's policy of only providing information on demand does not promote transparency or contribute to dispelling stakeholders' mistrust in the commissions' procedures.
- The EU EOM noted different requirements for voter registration between the mainland and Zanzibar, where, in the latter case, a person must have permanent residency and have lived in a particular constituency for a continuous period of 36 months before Election Day. There was also the prerequisite of an identification card (Zanzibar ID) in order to obtain or renew the voter card. In all, the islands residents had to comply with stricter registration conditions, with payment of procedural costs and the discretionary authority of the community leaders, or *shehas*.
- The current electoral map of Tanzania has 239 constituencies after seven were added to the 2010 electoral process in a redrawing of boundaries by the National Electoral Commission. According to a projection made by the EU EOM there are constituencies where the weight of vote is ten times that of another constituency with extremes from around 1,000 to 100,000. The national average of voters per constituency is 84,294, meaning that this element of the electoral framework, according to the Mission's projections, falls short of the requirement that all votes be equal, as established in Article 25 of the International Covenant on Civil and Political Rights (ICCPR).
- The legal provisions for the registration of political parties are reasonable and in line with international and regional commitments regarding the freedom of association. However, the right of political parties to assemble in a coalition is unclear, which might hamper the capacity and ability of the opposition to strengthen its role and to present joint candidates. The requirements for registration as a presidential candidate for the Union and Zanzibar elections are reasonable and non-discriminatory according to international common practices. The requirement that candidates must be members of, and proposed by, a registered political party in order to be eligible to stand for the general elections does not conform to international principles. In practice, such a requirement restricts the right and opportunity of individuals to stand for elections as independent candidates and, consequently, limits the voter's choice of candidates.
- The campaign started on 20 August on the mainland and lasted for more than two months ending on the day preceding election day. New regulations to control party finances, the presence of a code of conduct for political parties and the overall calm campaign environment contributed to the conduct of peaceful elections. Presidential candidates addressed the electorate with similar messages, promising to tackle corruption, and address needs of peace, economic prosperity, employment and empowerment of the less privileged. Promises of roads, medical infrastructures, education services and access to basic needs such as water and food were the most listened by voters and raised concerns about the capacity of the new government to finance them. Such promises were also a clear violation of the Code of Conduct

for the Presidential, Parliamentary and Councilors' Elections signed by the political parties.

- During the campaign period, the media was generally free from overt government censorship, except when a leading Swahili-language newspaper, *Mwananchi*, was threatened with closure and deregistration for allegedly offering a negative coverage of the administration and of tarnishing the government's image. The legal framework governing the media consists of a number of laws and regulations widely perceived as outdated and inadequate. Despite the liberalization policies in the 1990s, the state-owned media continued to have predominance in both the mainland and Zanzibar. The electoral period was governed by Media Codes of Conduct to ensure a fair campaign coverage.
- Women represent a slight majority of the electorate: 50.03 percent of Tanzanian voters. Women's participation in the parliamentary elections was guaranteed by a quota system both in the Union and Zanzibar. Although highly controversial, electoral gender quotas are empirically the most effective way of achieving a better gender balance. In total, 1,036 candidates, among whom 191 were women, competed for the 239 seats in the National Assembly. The number of reserved seats for women in the National Assembly increased from 75 in the last elections to 102 in 2010.
- Women were appointed for special seats according to the proportion of votes obtained by each party in the parliamentary elections in the mainland, and to the proportion of seats obtained in the House of Representatives by the different parties in Zanzibar. Women were appointed for special seats according to the proportion of votes obtained by each party in the parliamentary elections in the mainland, and to the proportion of seats obtained in the House of Representatives by the different parties in Zanzibar.
- The NEC recognizes that funding was not an obstacle for the 2010 elections' voter education program, which allowed the increase of the NGOs involved in these activities. However, the EU EOM observers reported that in many parts of the country, especially in rural areas, the outreach of these activities was limited. In general, throughout the country, voter education was mainly conducted by political parties during rallies. However, the opportunity for voters to make a free and informed choice was in general not compromised by the limited outreach of the voter education programs. In Zanzibar, voter education was mainly conducted by political parties during rallies while little else was visible in terms of public posting of information.

A comprehensive list of suggestions and recommendations is included at the end of this report for consideration by the authorities in order to promote further improvements in certain areas of the electoral process. Key recommendations include:

- The right to challenge presidential elections results should be established by law in accordance with international principles for the conduct of democratic elections.
- The right to stand for election should not be limited to party-nominated candidates. Independent candidates should have the right to stand for office as established by the 1966 International Covenant on Civil and Political Rights.
- The NEC and ZEC must address the wide variation in the number of voters registered in each constituency by redrawing electoral boundaries and possibly creating new constituencies to

ensure that boundary demarcation reflect population intensity and weighting in parliamentary representation.

- An extensive review of the voters' register should be undertaken to ensure better quality, greater reliability and accuracy.
- The NEC and ZEC should take measures to enhance transparency at all levels of the electoral administration to guarantee its accountability. The development of an independence structure of the NEC and ZEC should be envisaged diminishing its independence on local material and human administrative resources.
- The period of campaigning is excessively long and could be reduced to a period of four to six weeks to better optimize the resources available for political parties to engage in campaign activities.

II. INTRODUCTION

On 31 October 2010, the United Republic of Tanzania held its fourth general elections since the abolition of the one-party system. The multiparty democracy was reestablished³ in 1992 and the first elections under the new system were held in 1995. At the time of the establishment of the Union between Tanganyika and Zanzibar, the country was governed by the Tanganyika African National Union (TANU), while Zanzibar was ruled by the Afro Shiraz Party (ASP). In 1977, TANU and ASP merged to form the *Chama Cha Mapinduzi* (CCM), or party of the revolution. Tanzania has held elections under the multi-party system in 1995, 2000 and 2005, with a constitutional two-term presidency rule since 1985, when President Julius Nyerere left office after leading the country since independence.⁴

The Constitution defines the United Republic of Tanzania as a democratic, secular and socialist state, which adheres to multi-party democracy. The same principle applies to the Revolutionary Government of Zanzibar since it is an integral part of the Republic. Zanzibar enjoys an autonomous status with its own Constitution pledging to uphold the rule of law, human rights, peace and justice. A dual principle of power is in place with two parallel sets of institutions vested with legislative, executive and judicial powers, one applicable to mainland Tanzania and the other to Zanzibar. It is a widely shared perception that the separation of state and the incumbent party is blurred, giving the CCM significant institutional advantages.

Tanzania is composed of 26 regions, or *mikoas*. Since 1996, the official capital of the country is Dodoma, in the central area of the country, where the National Assembly and some government offices are

³ When, in 1961, Tanzania became independent, the Constitution provided for a multi-party system. In the first elections, the Tanganyika African National Union (TANU) won all seats in parliament except one won by an independent candidate. The country was theoretically a multi-party system but there was *de facto* no opposition to the ruling party. The one-party state was formally introduced in the interim Constitution of 1965, adopted despite strong opposition from the army and unions. In 1977, the Tanzanian Constitution was promulgated, reinforcing the one-party state by making the supremacy of one party the central element of the text. In 1992, the multi-party system was reestablished after 27 years as a single party state.

⁴ Julius Nyerere was succeeded by Ali Hassan Mwinyi (1985-1995), Benjamin Mkapa (1995-2005) and Jakaya Kikwete (2005-present).

located. Before that, the major coastal city of Dar es Salaam was the political capital and remains to this day the principal commercial city of Tanzania and the *de facto* seat of most governmental institutions. Zanzibar is an autonomous part of the republic and made up of two main coastal islands, Unguja and Pemba, in the Indian Ocean, and home for around three percent of the 41 million population of the country.

III. POLITICAL BACKGROUND

A. *Political Context*

The 2010 general elections were held simultaneously for the Union and Zanzibar. A total of 20,146,119 Tanzanians –19,694,055 in the mainland and 452,064 in Zanzibar– were eligible to elect the president of the Union, the president of Zanzibar, the 239 directly elected members of the National Assembly and 50 members of the House of Representatives in the islands, and 3,705 representatives of local councils. The incumbent candidate, the President of Tanzania, Jakaya Kikwete, is from the CCM party, which has ruled the country since independence in 1961.⁵ CCM has always won comfortable majorities both in the Union and Zanzibar elections. However, Zanzibar’s popular opposition, the Civic United Front (CUF) party, resulted in contentious elections since 1995, all won by the ruling party despite claims of voting irregularities and widespread violence.

The electoral environment in 2010 was different from past elections. The general situation in the country, both in the mainland and in Zanzibar, was peaceful and orderly, with only localized incidents reported during the electoral campaign that started on 20 August in the mainland. However, the strong control of state organs by the ruling party, inherited from the country’s past as a one-party state, remained a concern particularly as regards the use of such structures to influence voters at grassroots level. On the positive side, new regulations to control party finances, the presence of a code of conduct for political parties and the overall calm campaign environment were encouraging elements for the conduct of peaceful elections. The Election Expenses Act offered an opportunity to increase transparency and curtail corruption and malpractices, despite the difficulties to implement its provisions.

The tenth amendment to the Constitution of Zanzibar, approved by referendum in July 2010 and which introduced a power-sharing government formula between the CCM and the main opposition party, the Civic United Front (CUF), significantly changed the political landscape on the islands. Pre-election tension, that has been a common feature in past elections, was not observed this time around. The quick acceptance of the election results by CUF and the will of each party to engage in practical talks to form a working cabinet were paramount to the success of a government of national unity, as approved by the Zanzibaris last July and enthusiastically celebrated after its formation on 15 November 2010. The July referendum was organized by the Zanzibar Electoral Commission (ZEC) in a peaceful atmosphere. The result showed 66.4 percent support for the reconciliation process and the formation of a GNU after the 2010 general elections.

B. *Main Political Actors*

⁵ Tanganyika became independent in 1961 and Zanzibar in 1963. Tanganyika united with Zanzibar on 26 April 1964.

Of the 18 political parties registered for the 2010 general elections, only three in fact had a substantial and countrywide support and audience: the CCM, the *Chama Cha Demokrasia ya Maendeleo* (CHADEMA) and CUF. Four other parties submitted presidential candidates for the Union: the African Progressive Party of Tanzania (APPT), the National Convention for Construction and Reform (NCCR), the Tanzania Labor Party (TLP) and the United Peoples Democratic Party (UPDP). Individual candidates were not allowed to stand for the elections and only those affiliated to a registered political organization were eligible for candidacy.

The National Assembly dissolved last July⁶ was dominated by the CCM with a majority of 264 seats out of 324; the opposition CHADEMA and CUF had 11 and 30 seats, respectively. Besides the seven candidates running for Union president, along with their running mates for vice-president, another 1,036 candidates (including 191 women) contested the 239 constituency's seats for the National Assembly. Only CCM presented candidates in all constituencies. Party loyalty is strict in Tanzanian politics and members of the national legislature cannot "cross the floor" or change party affiliation.

The candidate for CCM was the incumbent one-term President Jakaya Mrisho Kikwete. During his time in the military, President Kikwete served as the Chief Political Instructor and Political Commissar at the Monduli Military Academy before he retired with the rank of lieutenant-colonel and entered politics. He occupied several cabinet positions under President Ali Hassan Mwinyi. In 2005, he was endorsed by the party to be the CCM presidential candidate and won a landslide with 80.7 percent of the total votes. Though widely criticized by the opposition as having failed to develop the economy, and raised corruption and inflation in his first term, he is highly commended for promoting freedom of speech and media independence.

Willibrod Slaa, CHADEMA's presidential candidate, is an outspoken opposition leader, a former catholic priest who left the ruling party in the early days of the re-introduction of the multi-party system. The vocal lawmaker and CHADEMA's secretary general is known for his hard line stance against corruption. He became a national public figure in 2007 when he disclosed the so called "list of shame" of allegedly corrupt ministers and ruling party officials earning him the reputation of an anti-graft crusader. Dr. Slaa, as he is popularly called, enjoyed the support of youth groups, particularly university students, the middle and lower classes and was seen as a voice for change attracting new voters to his vision of a new country.

Ibrahim Lipumba is one of the prominent opposition politicians in Tanzanian politics, chairman and presidential candidate of the CUF; he participated in all presidential elections since 1995. Professor in Economics with a doctorate from Stanford University, he served as an advisor to the former President Ali Hassan Mwinyi. His political life started as a youth leader in a Tabora High School and, later, in the youth wing of TANU before becoming one of the founding members of CUF. Historically, the party emerged from the island of Pemba where it still retains the support of the majority of the population but it still struggles to compete in the mainland against the deep rooted CCM and CHADEMA.

In Zanzibar, the dissolved House of Representatives had a similar composition as the National Assembly with CCM occupying 31 seats of the 50 elected seats and a majority among the 81 members, which included 20 reserved seats for women, 10 named by the Zanzibari president and one occupied by the attorney-general of the islands; CUF was the only opposition party represented with 19 seats. Seven

⁶There were legal discussions about the constitutionality of such act being taken in July since the constitutional five-year mandate for the members of the National Assembly should have expired in December 2010.

political parties filed candidates for the presidency. In total, 273 House of Representatives' candidates were competing for the 18 constituencies of Pemba and 32 of Unguja.

The 2010 elections were not different from past ones and the top contenders for the presidency of Zanzibar were from the two traditional rival parties: CCM's Ali Mohammed Shein and CUF's Seif Sharif Hamad, both having their origins in Pemba. Sharif Hamad is a former member of the National Executive Committee and the Central Committee of the ruling party CCM. He was once a Zanzibar Chief Minister before being finally expelled from the ruling CCM, along with six other colleagues, in 1988, and imprisoned for 30 months. In 1992, when Tanzania amended its constitution to allow the multi-party system, Sharif Hamad, formed CUF and was elected as its first national vice-chairman. In 1999, he was elected secretary general of the party, a position he still retains. As a prominent opposition figure, he participated in all Zanzibari presidential elections since 1995.

Before being presented as CCM's candidate, Ali Mohammed Shein was the Union vice-president. After being surprisingly picked in 2001 by the former Union President Mkapa as his vice-president, filling the vacant post left by the sudden death of Omar Ali Juma, Dr. Shein, as he is called, was previously unknown in Tanzanian politics. He was a presidential appointee for the House of Representatives and Deputy Minister for Health in the revolutionary government of Zanzibar. He was Zanzibar Minister of State, President's Office, Constitution and Good Governance before leaving in 2001 to become the Union vice-president for nine years in both Mkapa's and Kikwete's governments. Other candidates included Said Soud Said from the Association of Farmers Party (AFP), Kassim Bakar Aliy from *Jahazi Asilia*, Ambar Haji Khamis from NCCR, Haji Khamis Haji from the National Redemption Alliance (NRA) and Juma Ali Khatib of the Tanzania Democratic Alliance (TADEA).

IV. LEGAL AND ELECTORAL FRAMEWORK

A. *Legal Framework*

In general, the legal framework both for the Union and Zanzibar provides a reasonable basis for the conduct of democratic elections in line with international and regional principles ratified and agreed to by the United Republic of Tanzania. The Constitution and the election-related legislation ensure the protection of political rights of Tanzanians and guarantee genuine elections through the respect of freedoms of association, assembly, expression and movement. The right to vote and to be elected in periodic elections through universal suffrage is also entrenched in the constitutions of Tanzania and of Zanzibar as well as the right to access justice and legal remedies. However, there are a number of provisions that raise concerns regarding conformity with international and regional principles, namely the limitation of the right to stand that excludes independent candidates, the voting rights of prisoners, and the absence of a timely and effective remedy in face of the impossibility of challenging the presidential elections results as well as decisions of the National Electoral Commission (NEC) and of the Zanzibar Electoral Commission (ZEC).

B. *Universal and Regional Principles and Commitments*

Tanzania is a signatory of, or has ratified, all major international and regional human rights instruments related to elections. These include the 1966 'International Covenant on Civil and Political Rights' (ICCPR), the 1979 'Convention on the Elimination of All Forms of Discrimination against Women' (CEDAW), the 1966 'International Convention on the Elimination of All Forms of Racial Discrimination' (ICERD), the 2006 'Convention on the Rights of Persons with Disabilities' (CRPD) and the 1952 'Convention of the Political Rights of Women' (CPRW). As a member of the African Union (AU), the Commonwealth and the

Southern African Development Community (SADC), Tanzania has also obligations to meet the standards established in the 2002 AU Declaration of Principles Governing Democratic Elections in Africa, the 2004 SADC Principles and Guidelines Governing Democratic Elections and the 2007 African Charter on Democracy, Elections and Governance.

C. Electoral Legislation

The presidential, National Assembly and councilors' elections are governed by a number of legal documents that comprise laws and regulations issued by the National Electoral Commission, including the amended 1977 Constitution of the United Republic of Tanzania, the amended 1985 Elections Act, the amended 1979 Local Authorities (Elections) Act, the amended 1992 Political Parties Act and the 2010 Election Expenses Act. The regulations issued by the NEC for the 2010 elections are the Elections (presidential and parliamentary elections) Regulations, the Local Authorities (councilors' elections) Regulations, Guidelines for Local and International Observers and the Code of Ethics for the presidential, parliamentary and councilors' elections. The legal framework for the elections of the Zanzibar president, the House of Representatives and local councilors includes the Constitution of Zanzibar 1984 (as amended), the Election Act No.11 of 1984 (as amended), the Political Parties Act No.5 of 1992 (as amended in 2009), the ZEC regulations as per section 130 of the Election Act no.11 of 1984, Guidelines for Local and International Observers by the Zanzibar Electoral Commission, and the Code of Ethics for Political Parties.

The amendments contributed to the harmonization of the Tanzanian electoral legislation with international and regional principles for the conduct of democratic elections, and to a higher degree of transparency of the funding of political parties and the disclosure of financial sources for their campaigns for the Union presidential and National Assembly elections through the introduction of the Election Expenses Act. The new legislation and the amendments entered into force in June and July 2010, not providing sufficient time for political parties to be fully familiar with its contents. The Election Expenses Act is not applicable to the Zanzibari elections.

D. The Electoral System

The Union president and the 239 members of the National Assembly are elected for a five-year term through the "first-past-the-post" system. The presidential office is limited to two terms. For the National Assembly elections, each constituency elects its representative while every ward, the smallest administrative unit, elects a councilor. A system of proportional representation further allocates 102 reserved seats for women to the National Assembly. Besides the 239 directly elected seats and the 102 reserved seats for women, the president appoints ten members and two *ex-officio*⁷ members. Also, five members are elected among the Zanzibar House of Representatives for a total of 358 members.

Similarly to mainland Tanzania, the Zanzibar president is elected through direct popular vote. The House of Representatives (HoR), with a total of 81 members, elects 50 seats directly through the "first-past-the-post system" for a five year term. Another 11 seats are filled by presidential appointees, including two from the opposition party and the Zanzibar Attorney General in *ex-officio*. The tenth amendment⁸ to the Constitution of Zanzibar introduced a new provision for women's quota, raising their reserved seats

⁷ The attorney-general and the speaker of the National Assembly, if not elected among the members.

⁸ 10th Amendment of the Constitution of Zanzibar of 1984, section 64, c): "Women members of the House of Representatives...have been increased from 30 percent to 40 percent."

from 30 to 40 percent, which are distributed proportionally among parties that obtain more than 10 percent of the directly elected seats. In addition to these three concurrent polls, Zanzibaris also voted for the Union president as well as for 50 seats of the National Assembly.

Zanzibar, with a population share of three percent of the republic, is overrepresented in the National Assembly. The islands are represented in the National Assembly by 55 members, the equivalent of 15.3 percent of the total number of its members. Out of the 55 members who are elected from Zanzibar, 50 are directly elected in single mandate constituencies, and five are appointed by the Zanzibar House of Representatives, three from the ruling party and two from the opposition. The presidential candidates run alone, without a vice-presidential candidate. After elections and for the formation of the Government of National Unity⁹, two vice-presidents were appointed by the Zanzibar president, the first vice-president from the opposition and the second from the most voted party. The president and vice-presidents must be Zanzibaris by birth.

The newly-elected Zanzibar president, Ali Mohamed Shein, was sworn in on 3 November while the two vice-presidents, CUF's Seif Sherif Hamad and CCM's Bakori Seif Ali Iddi, took office on 9 November¹⁰. The new cabinet of the Government of National Unity (GNU), comprises 17 ministers, six deputy ministers and three members of the Revolutionary Council, and was announced by President Shein on 16 November. The ruling CCM party holds nine ministries while the opposition was given seven¹¹. CUF designated one female for the Ministry for Community, Women and Children. A second woman was appointed as Minister of State for the first vice-president office. As for the CCM, one minister is a woman and another three hold deputy ministry positions.

E. Delimitation of Constituency Boundaries

The current electoral map of Tanzania has 239 constituencies; seven new constituencies were added to the 2010 electoral process in a redrawing of boundaries by the National Electoral Commission. Despite requests made to the NEC, the EU EOM Mission had not received as of the writing of this report the official number of voters per constituency requested from NEC. However, according to projections made by the EU EOM based on official population data and total number of voters, there is a profound imbalance among certain constituencies. Differences in the number of votes needed to be elected to the National Assembly showed variations ranging from less than 1,000, as in the Zwani constituency, to more than 100,000 in Njombe Magharibi. This means that the weight of the vote in Zwani is 100 times that of Njombe Magharibi. In 61 constituencies (or 26 percent), a candidate would need less than 10,000 votes to be elected while in other constituencies it would be necessary to have more than 100,000. The national average is 84,294 voters per constituency. This component of the electoral framework,

⁹ 10th Amendment of the Constitution of Zanzibar of 1984, section 39 (1): "there shall be two vice-presidents who shall be known as first vice-president and second vice-president."

¹⁰ For a full list of the ministries with name, party and gender see Annexes. The Constitution of Zanzibar, Section 39 (2) amended, 1984, "... within seven days immediately after assuming office, the president shall appoint the first and second vice-presidents".

¹¹ Constitution of Zanzibar, 1984, Section 42 (2) amended. "... the president, within 14 days after the appointment of the first and second vice-presidents, (shall), in consultation with the first and second vice-presidents, appoint ministers among the members of the House of Representatives, in consideration of the proportion of the electoral seats of political parties in the... (HoRs)".

according to the Mission projections, falls seriously short of the requirement that all votes be equal, as established in Article 25 of the International Covenant on Civil and Political Rights (ICCPR).¹²

V. ELECTION ADMINISTRATION

A. *Structure and Composition*

The National Electoral Commission (NEC) was established in 1993 under article 74(1) of the Constitution and is an autonomous government institution, composed of seven members appointed by the president for a five-year mandate. The mandate of the NEC includes the supervision and coordination of the registration of voters for presidential, parliamentary and councilors' elections, registration of presidential candidates, supervision and coordination of elections and review and demarcation of parliamentary constituency boundaries. The NEC has the power to issue regulations, directions and notices governing various aspects of the electoral process.

The NEC's Director of Elections, appointed by the president among senior civil servants recommended by the Commission, is also the Secretary to the Commission and its Chief Executive. All state bodies are bound by law to act on requests from all levels of the electoral administration to provide assistance. For the lower levels of the election administration, the NEC and the ZEC appoint a number of regional election officers from among regional or district executive officials. At constituency and ward levels, both electoral commissions appoint Returning Officers (ROs) and Assistant Returning Officers (AROs). ROs are appointed for each electoral cycle from among heads of the executives of cities, municipalities and towns, or, alternatively, from among public officers following a public selection process. ROs and AROs are in charge of appointing the Presiding Officers (POs) and Polling Assistants (PAs) for polling stations (one PO and two PAs per polling station).

The Zanzibar Electoral Commission, first established in 1993 and appointed in 2008 in accordance with the Election Act 1984, is also composed of seven members with a five-year mandate¹³. The president of Zanzibar appoints all its members, which include two members on the recommendation of the House of Representatives, two others on the recommendation of the opposition leader in the House of Representatives, one from among the judges of the High Court, and one as the president sees fit. The seventh member, the Chairman, comes from the High Court or Court of Appeals or from any member country of the Commonwealth.¹⁴ A Vice-Chairman is appointed among its members. The president can only remove a member of the ZEC for failure to perform his/her functions.

Under the Constitution, the ZEC is an autonomous department and is not bound to follow orders or directions from any governmental department or political party. The executive power of the ZEC is vested in the Secretariat, namely in the Director of Elections who is appointed by the president from at least two names recommended by the Commission. The Commission's mandate includes the overall supervision of the conduct of the presidential, House of Representatives' and local authority elections.

¹² Article 25 states that "...within the framework of each State's electoral system the vote of one elector should be equal to another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group."

¹³ There is only one woman among the seven members. Another member, a judge from the High Court, resigned from office. The position remained vacant during the general elections. The ZEC members are also heads of committees in areas such as security, observers, voter education, information and communication, ethics and procedures and procurement and logistics.

¹⁴ Section 119 (2) of the Amended Constitution of Zanzibar.

Duties further include the demarcation of constituencies, the update of the permanent voter register, the registration of candidates, the nomination of the members of the House of Representatives regarding the special seats for women, voting, counting and the announcement of election results. It is also responsible for the promotion and regulation of voter education. The ZEC has legal powers to make by-laws and issue regulations and guidelines.

The fact that election commissioners are presidential appointees and other electoral officials at lower levels are civil servants raised concerns among stakeholders and in some cases doubts about in the impartiality of the electoral administration. Further, the NEC and the ZEC enjoy far-reaching executive powers of decision-making not subject to the scrutiny of the judiciary, therefore undermining the original competence and supervisory role of judicial authorities over an administrative management body decisions.

B. The Administration of the Elections

Despite the logistical challenges due to the size of the country and the high number of registered voters (20, 146,119), both electoral commissions managed efficiently the preparations for election day and largely guaranteed the universal suffrage. The EU EOM observers assessed the performance of the election administration at local level to be efficient, organized and well prepared. In Zanzibar, the ZEC generally conducted the elections in a professional manner similar to what was successfully put in place for the referendum in July 2010.

However, in spite of the NEC receiving significant technical assistance from the United Nations Development Program (UNDP), funded by the international community, including the European Union, it did not always use such assistance to its own advantage. Fundamental areas such as effective communication within the different levels of the electoral commission and public information which could enhance transparency - namely the registration of voters and transmission of results - were not effectively conveyed to stakeholders and the general public thus creating unnecessary mistrust in the process. On the preparations of the elections, some ballot papers had to be reprinted due to alleged misspelling on the ballot for the councilors' elections in the mainland. The EU EOM visited the NEC warehouse and observed that the ballot papers for Dar es Salaam were stored in cardboard boxes that could be easily opened and closed. It was not clear, though, how ballot papers were packed inside the boxes and how they would be sorted out to be distributed to polling stations. In Zanzibar, members of the ZEC travelled to South Africa to oversee the printing of the ballots for the Zanzibari elections. The ballot papers for the Union and Zanzibar elections were distributed according to the exact number of registered voters in each station. No extra ballots were available. Further, the transparency of the transmission of results process was also compromised by the fact that the political party representatives did not always have access to the aggregation of results at district level.

Regarding the final stage of aggregation and validation of the Union and Zanzibar presidential elections results, both electoral commissions' proceedings were not transparent since political party agents and observers were prohibited from monitoring the process. Furthermore, the NEC showed a poor degree of transparency by not authorizing the EU EOM to attend the meetings at national level of the Ethics Committee where electoral complaints were discussed. Also, the EU EOM and TEMCO observers in Kilimanjaro were not allowed to attend a regional meeting between electoral officials and political parties. The NEC demonstrated no interest in having observers present for the distribution of election materials, for meetings with political parties or for the training of election officials. Moreover, the NEC's

and the ZEC's policy of only providing information on demand does not promote transparency and does not contribute to dispelling stakeholders' mistrust in the commissions' procedures.

C. Polling Stations

For the 2010 general elections, the NEC and the ZEC operated a total of 51,752 polling stations with an average of 450 voters per station in the mainland and 350 voters in Zanzibar, involving approximately 207,000 election staff and 239 returning officers. For the Zanzibar islands, voting was conducted in 1,294 polling stations, aggregated in 342 polling centers and manned by over 5,000 polling staff. The majority of polling stations were located in public buildings such as schools and in tents due to the high number of voters, and remained open from 07:00 hours to 16:00 hours. A hotline and a zip-zip system¹⁵ were made available for voters to confirm their assigned polling station on election day, however both systems performed poorly. Security forces were present at all 51,752 polling stations. As the total number of police officers in Tanzania is around 30,000 other security forces were deployed such as the peoples' militia, prison guards, and cadets from the reserves (national service). Training of polling station staff was conducted in a satisfactory way using a cascade training system that included the preparation of returning and presiding officers. Late training of polling assistants was scheduled for a few days prior to voting as relevant guidelines on procedures and training manuals in Swahili language were being distributed by the two election commissions.

D. Domestic Observers

The main domestic observation group is the Tanzania Election Monitor Committee (TEMCO), which is an umbrella organization for 152 civil society and community based organizations. TEMCO was founded in April 1994 by 24 member organizations to monitor and observe the 1995 general elections in the mainland and has monitored elections ever since. The Research and Education for Democracy of Tanzania (REDET), under the department of Political Science and Public Administration of the University of Dar es Salaam, is the leading organization. However, REDET was criticized by opposition political parties for unclear methodology in its research and opinion polls, and for being perceived to be close to the ruling party. TEMCO's Executive Committee is comprised of representatives of 12 organizations, including the National Muslim Council of Tanzania (BAKWATA), the Tanzania Episcopal Conference (TEC), the Christian Council of Tanzania (CCT), the *Chama cha Walimu* Tanzania (CWT), the Tanzania Women Lawyers Association (TAWLA), the Association of Journalists and Media Workers (AJM), *HakiElimu*, the Eastern and Southern Africa University Research Program (ESAURP), the Tanzania Private Sector Foundation, Zanzibar Civil Society Umbrella (ANGOZA), the Department of Political Science and Public Administration of the University of Dar es Salaam and REDET.

TEMCO deployed 223 long term observers, 173 in the mainland and 50 in Zanzibar, and around 7,000 short term observers (STOs). STOs were deployed to 6,650 sampled polling stations in the mainland and 700 in Zanzibar. TEMCO was funded by the Election Support Project (ESP) 2010 and the United States Agency for International Development (USAID), while the overall project was managed by the United Nations Development Programme (UNDP) in Tanzania. TEMCO was assessed by EU observers as well-organized and with high qualified observers. TEMCO domestic observers based in Zanzibar seem to be organized, knowledgeable, adequately funded and very active.

¹⁵ The zip-zip is a system to help voters find their polling station and placed in strategic locations throughout the country. However, it was not operational on election day. It was not used by the Zanzibar Electoral Commission.

In addition to TEMCO, the Tanganyika Law Society, the Legal and Human Rights Center and the Human Rights Commission also deployed observers. The Tanganyika Law Society planned to deploy 200 observers in 10 regions¹⁶ whereas the Legal and Human Rights Centre intended to deploy approximately 1,746 observers. Also the International Law and Policy Institute (ILPI) based in Zanzibar deployed long term advisers to monitor the electoral process.

However, for the postponed elections to the National Assembly in seven constituencies in the mainland and Zanzibar, held on 14 November 2010, international and domestic observer groups were not present with the exception of the EU EOM and the International Law and Policy Institute (ILPI) monitors in Zanzibar.

E. Voter Education

The Voter Education and Public Information department of the NEC comprised 11 officers. Two were government employees (one from the Tanzania Broadcasting Corporation (TBC) and another from the Ministry of Information), three were in charge of voter education and the remaining six were responsible for public information. Initially, four groups were engaged in funding and carrying out voter education activities: the UNDP's Electoral Support Program (ESP), the United States Embassy, the *Deutsche Gesellschaft für Technische Zusammenarbeit* (GTZ), and the Foundation for Civic Society (AZAKI). The organizations funded by the United States Embassy and the Foundation for Civic Society were allowed to carry out their activities while GTZ was refused by the NEC due to its joint projects with the government.

The main group carrying out voter education was the UNDP ESP, working directly with the NEC and the ZEC, financing 43 non-governmental organizations. These organizations were chosen based, among other requirements, on their legal registration and previous activities focusing on voter education. The voter education department monitored the activities of these organizations through the terms of reference such as the targeted audience, material used, means of transmission, content of messages, and by attending some of their activities. The NEC and the ZEC also organized their own activities through returning officers and assistant returning officers who sub-contracted local groups to pass voter education messages to voters.

Voter education activities in the mainland started simultaneously with the first phase of voter registration, in August 2007, and were carried out until the end of October 2010 targeting regular voters as well as voters with disabilities. A diversity of means were used to pass the messages on, such as dances, meetings, workshops and contact with traditional leaders, flyers, and loudspeakers. The NEC also used private and public media, mainly local radios and regional TV stations, to reach out to the voters. A 3-minute spot on TV at prime time cost up to 1,000,000 TSh (€ 500.00). Although the total budget allocated to the NEC voter education department was not disclosed, the department received for the last three months period prior to elections around 800 million TSh (€ 400,000.00), which was followed by another contribution before election day.

The NEC recognizes that funding was not an obstacle for the 2010 voter education program and increased the participation of NGOs. However, the EU EOM observers reported that in many parts of the country, especially in rural areas, the outreach of these activities was limited. In general, throughout the

¹⁶ Dodoma, Dar es Salaam, Arusha, Kilimanjaro, Tanga, Mwanza, Mbeya, Mtwara, Mara and Tabora.

country, voter education was mainly conducted by political parties during rallies. There was a modest activity in terms of public posting of information. However, the opportunity for voters to make a free and informed choice was in general not compromised by the limited outreach of the voter education programs.

In Zanzibar, voter education was mainly conducted by political parties during rallies while little else was visible in terms of public posting of information. CCM and CUF explained in detail how to vote in an effort to avoid spoilt ballots. According to party officials, they also conducted voter information at the grass-roots level. The ZEC received UNDP sponsored posters and leaflets which were distributed to four Unguja and Pemba based non-governmental organizations for further dissemination, yet grass-root level activities were perceived to have had little impact. The ZEC further conducted seminars in both regions for political parties, administration officials and non-governmental organizations concerning voting and counting procedures. These were well attended and informative. The French Embassy sponsored a small NGO called the “Global Network of Religious Children” (GNRC) to conduct voter education sessions for youth groups. Encompassing 27 youth clubs both on Unguja and Pemba, with 30 to 40 members each, the network’s aim was to carry out workshops at district level. Posters and leaflets were available for distribution but attendance was low and restricted to members of the youth clubs.

In Pemba, voter education was small scale, fragmented and, consequently, its impact on voters was modest. However, a number of small NGOs randomly targeted *shehas* (community leaders) and more remote island populations. Islamic religious leaders appealed for peaceful elections and to the pious feelings of the audience asking attendees to vote, to keep calm and to spread the message throughout their communities. Since April 2010, Zanzibar privately-owned cable TV ran a weekly program called “legal education.” Closer to election day, the program focused on issues pertaining to the electoral framework and procedures. This program was open to audience questions. The Zanzibar Cable TV coverage is limited to urban areas in Zanzibar and the program is not transmitted on national TV.

VI. VOTER REGISTRATION

A. *The Right to Vote*

There are no unreasonable requirements to register as a voter in the mainland. Any Tanzanian citizen 18 years old or above eligible to vote has the right to be included in the voter register. A person is disqualified to register if s/he is: a) citizen of another state; b) sentenced to death imposed by any court in Tanzania; c) sentenced to imprisonment for a term exceeding six months; d) convicted for corrupt offenses in elections, or e) declared to be of unsound mind. In total, 20,146,119 voters were registered, 19,694,055 in the mainland and 452,064 in Zanzibar. Of these 452,064 voters in Zanzibar, 44,406 failed to qualify for registration as a voter for the Zanzibari elections. These voters did not meet Zanzibar’s 36 months residency requirement and, therefore, only voted for the Union presidential elections.

The EU EOM perceived an imbalance in the requirements for voter registration between the mainland and Zanzibar, where the 2005 Registration of Zanzibari Resident Act states that a person must have permanent residency and have lived in a particular constituency for a continuous period of 36 months before election day. The Act further introduced the prerequisite of an identification card (Zanzibar ID) in order to obtain or renew the voter card. Overall, the islands citizens had to comply with stricter registration conditions, with payment of procedural costs and the discretionary authority of the *shehas*.

B. Voter Registration

Tanzania has a Permanent National Voter Register (PNVR) created for the 2005 general elections and updated during August 2007-December 2008 and October 2009-July 2010. The update did not occur simultaneously in the seven electoral zones. A six-day period was allocated to each zone, except for Dar es Salaam, where the period was eight days since more voters were registered than expected due to what the NEC considered to be migration movements. Nevertheless, there were some complaints regarding the process in the mainland, notably in Dar es Salaam, where the NEC extended for two days the registration after complaints that the time given was insufficient.

The voter registration system used Optical Mac Recognition forms. It was programmed to identify double registrations by comparing fingerprints, names and the dates of birth. After the last update, the voter register contained 256,000 double registrations detected by the system. The two entries, the original and the double, were both wrongly deleted creating a situation where a voter could hold a legally issued voter card without being on the permanent register resulting in the disenfranchisement of these voters. Further, during the nomination of candidates, the NEC disputed a number of applications for the Union presidential and National Assembly elections when verifying the identity of candidates' supporters in the Permanent National Voters Register (PNVR). The NEC claimed it could not find these voters in the register. The opposition parties claimed the rejected supporters were registered voters holding voter cards delivered by the NEC, suggesting that the PNVR was inaccurate and did not include all voters who were in possession of a voter card. Despite the NEC promises of early delivery, a copy of the PNVR was distributed only two weeks before election day to the political parties thus not allowing enough time to verify its integrity. The controversy over the number of voters, the alleged missing voters on the PNVR and the late distribution of the register to the political parties raised questions about the quality of the register and doubts about the transparency of the process. For Zanzibar, the voters register was also made available to competing political parties late in the process.

According to a population projection for 2010 published by the National Bureau of Statistics, the population over 18 years old, eligible to register as voters, was estimated to be 20,507,186. The number of registered voters in the mainland (19,694,055) corresponded to a capture of 96 percent of the total number of eligible voters. The NEC acknowledged that this figure was indeed unrealistic and that there were a number of ineligible voters found in the register. However, since there is no reliable national civil register, and the majority of citizens do not have any identification document, many citizens registered as a voter just to obtain an identification card. Thus, the voter register may reflect an inflated figure although it does not seem to be a deliberate attempt by any political party to take advantage but rather a consequence of social conditions.

In Zanzibar, registration was conducted in two stages as required by law in order to allow for newly qualified voters to register, including those who turned 18 years of age before election day. The issuing of the Zanzibar identification card is the responsibility of the Zanzibar Identity Cards Registration Office. A special application is required and the procedure costs the equivalent of € 15. The determination of the status of Zanzibaris is a complex matter and became a contested issue during the registration of voters. The ZEC suspended voter registration in Pemba in August 2009 due to controversies and clashes over issuing of identification cards. A number of residents was neither able to produce a birth certificate nor could afford to obtain a Zanzibar ID. Eventually the registration resumed after the opposition party CUF called off a boycott and started actively compiling lists of voters. Political parties and civil society

organizations, such as the International Law and Policy Institute (ILPI)¹⁷, the Tanzania Commission on Human Rights and Good Governance (TCHRGG) Zanzibar Office, the Zanzibar Legal Services Centre (ZLSC) and the Global Network of Religions for Children monitored the process.

The proof of residency requirement to register as a voter consists of a certificate issued by Zanzibari community leaders, the *shehas*. These community leaders are appointed by the Regional Commissioner upon advice from the District Commissioner, who are both directly appointed by the Zanzibar president. Their attention to CCM interests in order to stay in office is likely. The CUF opposition alleged that there were instances of deliberate refusal of residency certificates to opposition supporters due to the broad discretionary powers of the *shehas* in issuing certificates. Although the opposition party CUF claims there were up to 20,000 disenfranchised voters due to stricter voter registration regulations and due to the influence of the *shehas*, they failed to submit a formal complaint to the ZEC while stating that the party did not want to risk the peaceful pre-election atmosphere by raising this issue.

Registration was carried out by the ZEC at registration centers staffed by a registration officer, an assistant and on average five clerks. Political parties nominated registration agents to monitor the process. The permanent voter register contains: full name of voter, her/his picture, date of birth, place of residence, registration number, gender and electoral area. The ZEC's final Voter Register totaled 407,658 voters. The number of registered voters is 20 percent lower than for the 2005 elections. The ZEC explained that this number was due to the successful deletion of double entries and removal of non-Zanzibari voters. A total of 10,180 uncollected voter cards were returned to the ZEC headquarters. The owners were expected to collect their cards before 31 October and required to explain the reason for the late recovery of the voter card. The total numbers, the whereabouts and district breakdown of the uncollected voter cards remains to be clarified by the electoral authority. The reasons for the non-collection of the voter cards range from the possibility that the most of them belonged to deceased persons to sheer indifference or migration. The ZEC informed that between the July referendum and the October election only 11 deceased voters were taken off the list, a number that is obviously unrealistic. Also, the ZEC's website does not provide information on the voters' registration numbers.

VII. REGISTRATION OF POLITICAL PARTIES AND CANDIDATES

A. *Registration of Political Parties*

Article 20 of the Constitution of the United Republic of Tanzania, together with the amended 1992 Political Parties Act, guarantees the freedom of association and the right to form political parties. The registrar of political parties, appointed by the president, is the entity responsible for the registration of political parties. The amended Political Parties Act sets out conditions and procedures for registration of political parties. Registration is barred to political parties which promote religious, tribal or regional interests, which advocate the separation of the Union or that use violence to pursue political interests. The political parties may receive contributions from foreign organizations based in Tanzania and from foreign citizens resident in the country. The decision of the registrar regarding the cancellation of the registration of a party may be appealed to the court by way of judicial review. The legal provisions for the registration of political parties are reasonable and in line with international and regional

¹⁷ The Norwegian International Law and Policy Institute (ILPI) monitored the registration of voters on Unguja and Pemba isles and assessed the voter registration as an improvement in comparison to the 2005 process and register.

commitments regarding the freedom of association¹⁸. However, the right of political parties to assemble in a coalition is not contemplated in the law, hampering the capacity and ability of the opposition to strengthen its role and to present joint candidates.

B. Registration of Candidates

The process of registration of presidential candidates for the Union and Zanzibar are regulated by constitutional and electoral instruments. The requirements are reasonable and non-discriminatory when analyzed against international common practices. However, the requirement that candidates must be members of, and proposed by, a registered political party in order to be eligible to stand for the general elections does not conform to international principles. In practice, such prerequisites restrict the effective right and opportunity of individuals to stand for elections as independent candidates and, consequently, limit the voter's choice of candidates.¹⁹

Three different primary systems were used to choose candidates. CCM and CUF opted for a fully participatory model where preferential votes of party members were considered at party meetings at district, regional and national levels, with the possibility of changes at each level. CHADEMA and NCCR-Mageuzi used a system whereby delegates gave preferential votes for candidates and the party leadership decided on the basis of delegate's votes. Smaller parties settled on an easier system of hand-picking the candidates, often on the basis of their capacity to run their campaigns by themselves. The primary systems were in some cases criticized, especially within the main parties' structures, since the candidate legitimately elected was not always the one nominated by the party. These discrepancies and disagreements over the nomination of candidates led to several defections, including of CCM candidates who later became candidates for CHADEMA.

For the Union presidency, political parties had to submit a ticket of two names, one for president and another for vice-president. If a presidential candidate is originally from the mainland of the Union, the running-mate should come from Zanzibar, and *vice-versa*. In order to qualify as a presidential candidate, a person has to: a) be a citizen of the United Republic of Tanzania by birth according to the terms of the citizenship law; b) be at least 45 years old; c) be a member of, and a candidate proposed by, a political party; d) be qualified to be a Member of Parliament or a Member of the House of Representatives; and e) not have been convicted by any court for an offense of tax evasion within a period of five years before the date of elections. Other criteria included the submission of documents signed by the candidates and supported by at least 200 registered voters from a minimum of 10 regions of the country, out of which at least two regions had to be in Zanzibar, and a financial deposit of 1,000,000 TSh (around € 500).

Similar requirements are in place for parliamentary nominations: a) to be a citizen of Tanzania; b) be at least 21 years of age; c) to be able to read and write in Swahili or English; d) to be a member of and a

¹⁸ In line with Articles 22 and 25 of the ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 26: "The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by Article 25." See also Article 10 of the ACHPR and the African Union Declaration on the Principles Governing Democratic Elections in Africa, IV. Elections: Rights and Obligations, paragraph 5: "Every citizen shall have the freedom to establish or to be a member of a political party or organization in accordance with the law."

¹⁹ ICCPR, United Nations Human Rights Commission, General Comment no. 25, paragraph 15, of the International Covenant on Civil and Political Rights.

candidate proposed by a political party; e) to have not been convicted by any court for an offense of tax evasion within a period of five years before the elections. The candidates should also submit 25 signatures of registered voters residing in the constituency where they intend to contest, make a deposit of 50,000 TSh (€ 25) and present a statutory declaration before a magistrate to confirm that s/he has the required qualifications to contest the parliamentary seat. If a parliamentary candidate receives more than 10 percent of the votes cast, the deposit is refunded.

A total of 9 political parties submitted the documentation to contest the presidential elections. However, two of the candidates were rejected by the NEC for not meeting the requirements for eligibility. Although the electoral law provides that decisions of the NEC are “final and conclusive”, one potential candidate appealed the decision to the High Court in Dar es Salaam. The case was later dropped. For the parliamentary elections in the mainland, a total of 1,036 candidates were accepted as well as around 7,000 candidates for the councilor elections. CCM competed unopposed in 16 constituencies for parliamentary and 517 constituencies for local council elections.

During this process, the NEC disputed a significant number of applications that led to the dismissal of Union presidential and National Assembly candidates from opposition parties. When verifying the identity of candidate’s supporters in the Permanent National Voters Register (PNVR), the NEC claimed it could not find the number of voters corresponding to the signatures, hence disqualified the candidates. In most cases, applicants were not given time to go back to their constituencies to gather new signatures, thus effectively denying them the possibility to collect new signatures. The EU EOM considers that the procedures for the verification of supporting signatures should be reasonable and provide for opportunities to rectify technical errors.

Seven candidates registered for the presidential race in Zanzibar. There was also no provision in the law for independent candidates or coalitions. All candidates must be proposed by a duly registered party. A political party may submit to the Commission one name for the presidential ballot. Registration requirements included the presentation of 200 signatures of registered voters from each of the five regions of the islands. A financial deposit and a statutory statement declaring that his/her qualifications to run as a candidate were met were also compulsory. Further requirements were to be a Zanzibari by birth, be at least 40 years old, be qualified to be a member of the House of Representatives and be a member of and nominated by a duly registered political party.

For the House of Representatives, and in order to be validly registered to stand as a candidate in a constituency, a person must be nominated by a minimum of 25 registered voters within the constituency for which s/he is running. A candidate must be a Zanzibari, with a minimum age of 21 years, be registered as a voter, literate or, if impaired, able to speak Swahili, be a member of and be proposed by a permanently registered political party, not to be considered mentally ill and not convicted of criminal offenses. Only the CCM and CUF nominated candidates to all 50 Zanzibari constituencies. There was no unopposed seat at any level.

VIII. ELECTION CAMPAIGN AND PRE-ELECTION ENVIRONMENT

A. Overview of the Election Campaign

The campaign started on 20 August on the mainland and lasted for more than two months, ending the day preceding election day. New regulations to control party finances, the presence of a code of conduct for political parties and the overall calm campaign environment contributed to the conduct of peaceful elections. Presidential candidates addressed the electorate with similar messages, promising to tackle corruption, and address needs of peace, economic prosperity, employment and empowerment of the

less privileged. In more general speeches, promises of roads, medical infrastructures, education services and access to basic needs such as water and food were common and raised concerns about the capacity of the new government to finance the commitments of the campaign. Such promises were also a clear violation of the Code of Conduct for the Presidential, Parliamentary and Councilors' Elections signed by the political parties.²⁰ However, the messages resonated well with the voters that generally, as observed by the EU EOM, turned up in large numbers to listen to candidates.

The general situation in the country, both in the mainland and in Zanzibar, was peaceful and generally orderly, with only localized incidents on the mainland. However, electoral disturbances increased during the final week of campaigning, when it was registered the first fatality during a rally. A joint statement made half-way through the campaign period by the Tanzania People's Defense Forces (TPDF) and the police –warning those who intended to cause violence that their forces were ready to make sure such events would never happen– raised questions about the neutrality of the security forces.²¹ Although interventions by security forces in favor of peaceful and orderly electoral process are common practice, such an unprecedented statement surprised the opposition candidates and other stakeholders who considered it unfortunate at a time when state institutions, and especially security forces, should remain neutral and not get involved in electoral affairs.

In the mainland, CCM enjoyed an almost complete domination of the electoral scene; the party had not only the advantages of the incumbency but also a large financial base that allowed it to have an overwhelming visibility over other parties. CCM was the only political organization that could finance expensive campaign advertising in public spaces, newspapers, radio and TV. No other party had the financial capacity to compete in terms of advertisement and visibility. The strong control of state organs by the ruling party was a concern regarding the use of such structures to influence voters at grass-roots levels. After being governed as a one-party state for more than 30 years, the administrative organization of the country suffers the consequences of a blurred boundary between state and party that sometimes becomes indistinct from the well-organized CCM party structure. Key administrative positions are directly or indirectly appointed by the Union president who was running for his second term.²² The control exerted by the Union government at the grass-roots level and through the placement of party cadres in key positions in the national administrative structure –and all the way down to the so-called “ten-households cells”– allowed it to supervise practically all social and political activities throughout the country. This fosters a system whereby advantages can be awarded in exchange for political loyalty. However, the opposition did not bend face what seemed to be an overall acceptance of a CCM victory in the Union elections. The main opposition party in the mainland, CHADEMA, gradually increased its support over the long campaign period.

In Zanzibar, stakes were high for the CCM. However, the power-sharing agreement reached between the two historic rivals CCM and CUF made the campaign uneventful and free of the violent rivalry seen in past elections. This situation was reinforced by public declarations from CUF's presidential candidate who stated to be ready to work as a vice-president if CUF lost the presidential elections. Meanwhile, the

²⁰ Items I and II, paragraph 3.3 of the Code.

²¹ The Inspector General of Police (IGP), Said Mwema, explained that the statement was issued based on such a scenario “but we had no intention whatsoever to threaten any person or group of people.”

²² Including the members of the National Electoral Commission (NEC), the registrar of political parties, the chairman and the director of the Prevention and Combating of Corruption Bureau (PCCB), the regional election coordinators and district commissioners who have strong influence and control of the electoral operations. The president's powers also extend to Zanzibar where the Zanzibari president appoints the regional commissioners after consultations with the Union president.

CCM machinery concentrated its party propaganda on both Unguja and Pemba, going into great efforts to try to change the political geography. The ruling party made an extra effort to campaign on Pemba during the last stages of the campaign period sending high profile party members, including the Union first lady, in an attempt to gain more ground but to no avail. Pemba's population seemed insensitive to the ruling party appeals and showed disappointment with the government's assistance to the island which forced many to leave to find work in Unguja or in the mainland. CHADEMA did not have a presidential candidate in Zanzibar though it ran candidates for the House of Representatives.

B. Withdrawal of Candidates

The Union election regulations allow candidates to withdraw their candidacies after the end of the registration period. However, the political parties cannot replace them. Several cases of candidates' withdrawal were reported during the campaign until very close to election day. The presidential candidate of the United Peoples Democratic Party (UPDP), Fahmi Nassor Dovutwa, pulled out of the race for the State House because his name had been misspelled in the list of candidates issued by the NEC. Announcing his decision in Dar Es Salaam, Nassor Dovutwa said he had complained to the NEC several times about his first name being incorrectly spelled *Yahmi Nasoro Dovutwa* instead of Fahmi Nassor Dovutwa, but was unable to get a rectification. He said that if elected, people would have grounds to object his victory because of this anomaly. He also disclosed that his party, together with *Jahazi Asilia*, TADEA and SAU, which backed him, decided to support instead the ruling party presidential candidate.

The lack of financial, logistic and human resources capacity to sustain the campaign activities drove party candidates out of the race, especially in constituencies where high profile candidates were competing. For example, in Nkenge, where the election was postponed, the CHADEMA candidate to the National Assembly withdrew from the race after recognizing he had no chances to win in a tight race against CUF and CCM. Candidates often withdrew after having signs of defeat before the first vote was cast, and the enormous differences between party's capacities to compete at local level were often enough to discourage smaller parties to participate in the long campaign. Those who remained on the campaign trail had to face on some occasions the dispersion of their rallies by the police or had their speeches interrupted for going beyond the allowed hours of campaign. Such incidents were reported by the EU EOM observers but never involving the ruling party candidates.

C. Use of State Resources

The Electoral Code of Conduct for the Presidential, Parliamentary and Councilors' Elections, implemented by the NEC, as an agreed regulation by the government and political parties, details in its Part 3 (3.3) the acts "not to be done by government officials," including the use of official human or material resources for election-related activities. Besides an overwhelming public visibility display through posters and giant outdoor billboards in the main cities, unmatched by any other political party, the ruling party benefited not only by the advantages of the incumbency but also by what seemed to be the "excessive loyalty" of certain administration officials who openly campaigned at CCM rallies, according to reports of the press and information received by the EU EOM. Also, there were reports of use of official vehicles²³ and suspicions of misuse of other public resources. However, the use of state

²³ President Jakaya Kikwete used helicopters to move around the country, as well as the CHADEMA candidate, Willbord Slaa. The Code of Conduct requires that candidates should give evidence that the (transportation) services were paid by the concerned political party or candidate.

resources was not an issue afforded too much attention and very seldom was mentioned by the political parties or even the press.

D. Campaign Finance

For the first time in the history of Tanzanian elections, campaign spending was limited by the Election Expenses Act.²⁴ Every political party which sponsored a candidate should submit to the registrar of political parties, within five months after the elections, a financial statement of all expenses incurred together with bills and receipts or some other evidence of payment.²⁵ While candidates from the main parties did not seem to have problems to finance their campaigns, smaller parties had to choose their candidates according to their financial capacity to sustain their campaign by themselves. No public funding was allocated for the sole purpose of financing the electoral campaign, but some political parties received public money on a monthly basis for their activities in proportion to the number of seats they had in the National Assembly of the Union and the House of Representatives of Zanzibar. This allocation of resources, coupled with the first-past-the-post system, deprived small parties of the possibility to finance their campaign and to compete on a level playing field. The actual amounts distributed to parties with seats in parliament were insufficient, however, to finance a campaign on a national scale for five simultaneous elections, and proportionately tended to favor those parties already represented in the two institutions. Consequently, small parties had to reduce the number of constituencies where they presented candidates, limiting *de facto* their right to stand. This lack of resources also limited the opposition's capacity to recruit agents in all constituencies where they had presented candidates. Also, the reduced amount of financial resources they were able to allocate for the payment of party agents made these representatives in the polling stations an easy target for corruption practices, appointed out to the EU EOM by some parties' representatives.

IX. MEDIA AND ELECTIONS

A. Media environment

Tanzania's liberalization policies of the 1990s helped foster the emergence of a private media sector. There was an increase in the number of journalists and privately-owned media outlets and there was especially an increase in the number of print media. Today, there are more than 50 nation-wide and regional TV stations and 60 radio stations. However, the state-owned media continues to maintain a dominant position. On the mainland, the media is dominated by the state-owned Tanzania Broadcasting Corporation (TBC) Radio and TV, while on Zanzibar it is dominated by the state-owned TV Zanzibar (TVZ), Zanzibar Radio (STZ) and *Zanzibar Leo*, the only island-produced newspaper. In 2007, TBC started the conversion process into a public service broadcaster. However, the director general and its board of directors are still appointed by the President and the Minister of Information, Culture and Sport, raising concerns about TBC's independence from the government. In Zanzibar, where the main radio and TV stations (Zanzibar Radio and TVZ) are state-owned, the population receives much of their mass media information from government-controlled outlets. This is particularly relevant in the case of Pemba which, unlike its sister island Unguja, does not receive signals from a number of mainland private radio

²⁴ Maximum spending (in Tanzanian Shillings TSh): 5,000,000,000 for presidential campaign; between 30,000,000 and 80,000,000 for a legislative seat; 10,000,000 for a reserved seat; between 2,500,000 and 7,000,000 for local councilor; with an overall maximum of 15,000,000,000 per political party.

²⁵ Article 18-1 and 18-2 of the Election Expenses Act, 2010.

and TV stations. The higher comparative quality of mainland programs ensures a wider following in Unguja.

The Tanzanian media is tightly-regulated. Presidential decrees and draconian laws give the Minister of Information and Culture and governmental agencies discretionary power to deregister newspapers. In general, the Tanzanian media is free from overt government censorship. However, the concentration of private media ownership may be a concern as several leading media outlets, both electronic and print, are owned by individual politicians and businessmen linked to the ruling party²⁶.

While freedom of speech was generally respected during the campaign period, a leading Swahili-language newspaper, *Mwananchi*, was threatened with closure and deregistration by the Director of the Tanzania Information Services (Maelezo), a government agency. The newspaper was accused of allegedly offering a negative coverage of the administration and of tarnishing the government's image²⁷. This warning attracted much criticism from media stakeholders and the general public. The Media Institute of Southern Africa (MISA) described the episode as a serious infringement to press freedom. A similar statement was issued by the World Association of Press Councils which called upon the government to exercise restraint by encouraging rather than curtailing press freedom in the country. *Mwananchi* requested the Media Council of Tanzania (MCT) to investigate the allegations. The MCT's Board of Directors formed a special committee to investigate and deliberate on the issue; at the time of writing, the decision of this body was pending. The EU EOM considers such threats against the media as an attempt to limit the freedom of expression as enshrined in Article 18 of the Constitution of the United Republic of Tanzania as well as in the international treaties and principles protecting freedom of expression, including the International Covenant on Civil and Political Rights, the African Charter on Human and People's Rights, and the SADC Principles and Guidelines Governing Democratic Elections.

B. Legal Framework

Freedom of expression is guaranteed by the Constitution, which also bans censorship. However, the legal framework governing the media consists of a number of laws and regulations widely perceived as outdated and inadequate and that if enforced could create a hostile environment for media freedom. The Newspapers Act of 1976 provides for the establishment and regulation of print media through the Registrar of the Tanzania Information Services (Maelezo). However, the Act also provides discretionary powers to the President who can prohibit any publication for reasons of national interest. The Act gives similar discretionary powers to the minister responsible for information. The Broadcasting Service Act of 1993 and the Tanzania Communications Regulatory Authority Act of 2003 established the Broadcasting Services Commission, which issues broadcasting licenses and regulates and supervises broadcasting activities by media outlets in the country. The National Security Act of 1970 prohibits the publication of any confidential government material. The Civil Service Act of 1989 prohibits any commissioners or civil servants from disclosing information received during the course of government employment without prior consent from the relevant ministry.

²⁶ Leading newspapers and electronic media: IPP owned by Reginald Mengi, active CCM member; Shara Communication Group owned by M. Diallo, active CCM member and former Cabinet Minister; Habari Media Group owned by Rostam Aziz, active CCM member.

²⁷ The Newspaper Act of 1976 might be applied to ban *Mwananchi* on grounds of publishing "seditious stories that incite dissatisfaction against the government," as provided under Section 31(1) (a). The Act is among the laws that the Law Reform Commission, under the Ministry of Justice and Constitutional Affairs, proposed to repeal because of what it called obsolete content and authoritarian provisions.

Proposals to reform or repeal these laws in order to ensure greater media freedom are currently underway. In 2006, the government drafted the Freedom of Information Act with the aim of reforming the media legal framework. However, the bill was strongly criticized by media stakeholders for its unsatisfactory media provisions; stakeholders subsequently proposed a new drafting of the Freedom of Information and Media Services Act (Draft Media Services Act 2008 for Mainland and Media Services Act 2010 in Zanzibar). These laws have not been promulgated.

The electoral period was governed by Media Codes of Conduct to ensure fair campaign coverage. The Codes of Conduct established rights and responsibilities of political parties, electoral bodies and all media in campaign reporting; they also included the requirements for an objective reporting and obligations for state media to give equal access to all candidates and political parties. In collaboration with the NEC and the ZEC, political parties and media stakeholders signed up to these Codes of Conduct which constituted part of the National Election Act, the Tanzania Mainland Election Expenses Act and the Zanzibar Election Act. In order to maintain balance and equal access for all candidates and political parties, the ZEC allocated through a lottery system free air time slots to presidential candidates during prime time hours²⁸. The ZEC have the competence to assess complaints received in relation to media coverage.

The MCT is a self-regulating body, established to promote media freedom, equality and accountability; it receives and settles disputes in relation to the Media Codes of Conduct. For the most part, this body is perceived as highly credible, with the exception of its Zanzibar branch which is alleged to be weak and less efficient. During the campaign period, the MCT received five media-related complaints. Among these complaints are those from *Mwananchi* newspaper and the NCCR-Mageuzi political party; this latter complaint, in relation to ITV's unfair coverage, was promptly settled.

C. *Monitoring of the Media Coverage of the Elections*

The EU EOM monitored a sample of 17 state-owned and private media outlets between 7 October and 31 October 2010, applying international methodological standards of quantitative and qualitative analysis developed by the *Osservatoria di Pavia* and the European Institute for the Media. The sample included state-owned broadcast media: TBC TV, TV Zanzibar, TBC Radio and STZ Radio Zanzibar; as well as private broadcast media: Channel 10, Star TV, ITV, Radio Free Africa, Radio One and Zenj Radio Zanzibar. The mission also monitored seven newspapers, two state-owned (*Daily News* and *Zanzibar Leo*), and five privately-owned (*The Guardian*, *The Citizen*, *Nipashe*, *Mwananchi*, *Mtanzania*).

The electronic media played an important role in covering the elections, with their broadcasting of a variety of programs, including special news editions, interviews with the main presidential candidates, debates with parliamentary and councilor candidates and interactive programs with TV and radio listeners. For the most part of the campaign period, CCM candidates did not take part in TBC debates following a formal participation ban imposed by the CCM General Secretary. Political coverage in the electronic media increased both in volume and frequency during the last weeks of the campaign.

28 The ZEC informed the EU EOM that each presidential candidate and his party were entitled to receive 30 minutes in state electronic media and an amount of free space in state print media.

TBC and TVZ complied with both the legal requirements and the Media Codes of Conduct guidelines for the equal allocation of free airtime to presidential candidates.²⁹ In the case of TVZ, some political parties did not take advantage of this provision or ignored the schedule as established by the ZEC. CCM took full advantage of the allocated airtime provided by TVZ. The party also paid for four 45 minute blocks of airtime during the last two weeks of the campaign. This paid airtime was immediately following the free airtime schedule for political parties and was used to broadcast CCM party propaganda. This practice intensified during the last weeks of the campaign and was strongly criticized by CUF who argued that it gave an unfair advantage to the ruling party. State and privately-owned media gave extensive coverage to the three main political parties, CCM, CUF and CHADEMA, and their presidential candidates. The smaller political parties received negligible coverage.

In a positive development, TBC TV and Radio established an Election desk to implement the NEC Election Guidelines. This provided the electorate a new forum for exchange of views and access to information about the activities of minor political parties. During the campaign period, regular pro-government TV and radio programs were temporarily suspended and all parties received the same live coverage during their campaign opening and closing ceremonies. The state-owned TBC dedicated 33 percent of its political reporting to CCM, 23 percent to Chadema, 21 percent to CUF and 23 percent to other political parties; the state-owned TVZ dedicated most of the political and electoral news coverage to CCM and CUF (40 percent and 29 percent, respectively). Chadema received insignificant coverage in the Zanzibari media; the party did not have a presidential candidate for Zanzibar and historically never had a strong presence in the archipelago.

Privately-owned TV channels on mainland Tanzania dedicated a large part of their political reporting to the ruling party, with 60 percent to CCM, 13 percent to CHADEMA, 16 percent to CUF and 11 percent to other political parties, respectively. Privately-owned TV channels often portrayed CCM and the incumbent president in a positive tone, while other parties were presented in a neutral tone. The only privately-owned TV channel in Zanzibar, Zanzibar Cable Television, had little influence as it only recently started providing service through subscription. Privately-owned radio stations acted similarly, giving the ruling party a clear advantage. In Zanzibar, the state-owned STZ dedicated the majority of election reporting in news slots and political programs to the ruling party, with 77 percent to CCM, 20 percent to CUF and less than two percent to CHADEMA.

Print media provided a wide range of views and covered the major political events organized by the parties. Although, and as was the case with TV and radio broadcasters, newspapers coverage focused on the three main political parties. Overall, state-owned newspapers did not provide a balanced allocation of space as they dedicated 66 percent of their political space to CCM, 17 percent to CUF, 10 percent to CHADEMA and 7 percent to other parties. A similar imbalance in space allocation was observed in privately-owned newspapers which dedicated 55 percent of the political and electoral space to CCM, 29 percent to CHADEMA, 10 percent to CUF and 7 percent to other parties. The private dailies, the *Guardian* and *Mtanzania*, gave almost 70 percent of political and electoral coverage to CCM; in fact, *Mtanzania* not only displayed a clear bias in favor of the ruling party, but also gave persistent negative reporting on CHADEMA. On the other hand, the privately-owned *Mwananchi* and *The Citizen*, both belonging to the Nation Media Group, provided a wide range of news views and covered the major

²⁹ According to the ZEC Media Code of Conduct, all presidential candidates were entitled to 30 minutes once a week in TVZ, while in mainland the NEC required the media to give fair access to all candidates and political parties.

events organized by all the political parties. Newspaper distribution is mostly limited to main urban centers, and political parties preferred paid TV airtime over radio or newspaper advertising.

Both state and privately-owned media showed a reasonable level of commitment to promote voter education. TV and radio programs produced by the NEC and civil society organizations were aired with increasing regularity during the final weeks of the campaign. Programming was mostly aimed at voter participation and had a special focus on women and the physically-challenged. The campaign silence period, to be observed after 18:00 hours on 30 October, was ignored by both the electronic and print media, which extended coverage of candidate and party platforms all the way through election day.³⁰

X. HUMAN RIGHTS AND WOMEN'S PARTICIPATION

A. Human Rights

Tanzania has signed a number of binding international commitments with respect to human rights, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR). Both the Union and Zanzibar Constitutions guarantee the essential civil and political rights enshrined in the relevant international instruments³¹. The establishment of the Tanzania Commission on Human Rights and Good Governance (TCHRGG), and the presence of a number of national and international NGOs, facilitated the effective exercise of these fundamental freedoms. However, there are still some areas for improvement. It is regrettable, for example, that although detainees benefit from the presumption of innocence, they are not able when in remand to vote. This breaches their civil and political rights. Freedom of expression, assembly, association and movement were generally respected during the campaign period. Rallies were conducted in a peaceful manner with the support of security forces. However, there were instances of candidates being briefly arrested and detained, cuts of live campaign TV coverage, denials of access to campaign venues by local administrators and forced dispersion of gatherings by the police. In general, the EU EOM observed that CCM-affiliation tended to facilitate access to public services and limit police intervention.

B. Women's Participation

Women's civil and political rights are enshrined in both the Union and Zanzibar Constitutions, which stress the equality of all citizens and, also, explicitly provide for the respect of international instruments ratified by Tanzania, including the 1979 Convention for the Elimination of All Discrimination against Women (CEDAW) and the 1966 International Covenant on Civil and Political Rights (ICCPR).

According to the NEC, women represent a slight majority of the electorate, 50.03 percent of Tanzanian voters. Women's participation in both parliamentary elections was guaranteed by a quota system both in the Union and Zanzibar. Although highly controversial, electoral gender quotas are empirically the most effective way of achieving a better gender balance. In total, 1,036 candidates, among whom 191 were women, competed for the 239 seats in the National Assembly. The number of reserved seats for women in the National Assembly increased from 75 in the last elections to 102. The 30 percent minimum share of seats assigned to women complies with the benchmark recommended by the Southern African Development Community (SADC) Declaration on Gender and Development of 1997.

³⁰ On 31 October, the state-owned Daily News ran a front page headline under the banner, "Vote for CCM, vote for unity." On the same day, the privately-owned ITV re-ran during its news program several campaign rallies.

³¹ See Legal and Electoral Framework.

Women were allocated special seats according to the proportion of votes obtained by each party in the parliamentary elections in the mainland, and to the proportion of seats obtained in the House of Representatives by the different parties in Zanzibar. To gain access to reserved seats, parties needed to obtain a minimum of 5 percent of the valid votes for the National Assembly elections, and 10 percent of the constituency seats for Zanzibar. This made it more difficult for women in small parties to gain access to reserved seats in the islands.

The NEC has two women among the seven commissioners; the ZEC has one woman only among the seven commissioners. As for female candidates running for the three largest political parties, it was noted that CCM, CUF and CHADEMA had the lowest percentage of women's candidates with, respectively, 10 percent, 7.7 percent and 13.9 percent of their total candidates to the National Assembly and the House of Representatives. Despite efforts to ensure their representation at parliamentary level, the absence of women in the presidential race both in the Union and Zanzibar illustrated the need to encourage political parties to give more space to their female members. However, CCM's choice of three women aspirants and the election of Ms. Anne Makinda as the first woman speaker of the National Assembly, replacing Samuel Sitta, a popular powerful figure and speaker for the last five years, set a good precedent for the empowerment of women. In total, 21 women were elected for the National Assembly and 3 for the House of Representatives in Zanzibar. Therefore, the new 358-member National Assembly will have 128 female representatives, including the 102 reserved seats and the five women appointed by the president of the Union. In Zanzibar, three women were elected for the 50 directly elected members House of Representatives, and these will be joined by another 23 (20 reserved seats for women and three appointed by the president of the islands).

XI. INTERNATIONAL ELECTION OBSERVATION

Several international observer groups arrived in the country during the week preceding the elections, including around 100 observers from the South African Development Community (SADC) and the Secretariat and Electoral Commissions Forum (ECF), 15 from the Commonwealth, 12 from the African Union, 18 from the East African Community and a group from the International Conference for the Great Lakes Region. The EU EOM held a meeting with the heads of the international observation missions to exchange information on their activities and to coordinate the deployment of the observers on election day. The EU EOM, however, was the only international group to observe the postponed elections on 14 November.

XII. COMPLAINTS AND APPEALS

A. The Judiciary

The judiciary is constitutionally independent of other branches of government. Under Tanzania's two-tier constitutional structure, the mainland and Zanzibar have separate judicial systems except for the Court of Appeal which serves both. The judiciary's apex is the Court of Appeal, under which two separate High Courts function, one for the mainland and another for Zanzibar. Lower courts include the resident magistrate courts, district and primary courts. The Court of Appeal handles all appeals from the two High Courts, these in turn exercise original jurisdiction over matters of a constitutional nature and have powers to deal with election petitions and appeals from subordinate courts. Judges are appointed to the Court of Appeal and the High Courts by the presidents of the Union and of Zanzibar on advice of the Chief Justice. The legal system is largely based on the English common law.

In preparation for the general elections, the UNDP Electoral Support Program (ESP) organized a three-day seminar (15-18 September) for the judiciary in Tanzania. Four judges of the Court of Appeal and judges from the High Courts and resident magistrate courts were trained on the main shortcomings of the adjudication of election petitions process.

B. Complaints and Appeals

The Union and Zanzibar electoral commissions are responsible for the settlement of complaints and appeals in relation to civil matters at all levels of the electoral administration. Criminal matters are dealt with through the normal judicial channels. The legal offices of the NEC and the ZEC advise the commissions on all legal matters, represent the commissions before the court of law and prepare legal documents, including review of the election law and drafting of election regulations and contracts. The offices also analyze complaints brought before the electoral commissions.

Objections or complaints related to the provisional voter register are submitted to the Registration Officer. The decisions of the Registration Officer may be appealed to the district court within 14 days. The district court decides on the appeal within 14 days and its decision is final and may not be subject to appeal to a higher court. Objections or complaints regarding the nomination of National Assembly and House of Representatives candidates are submitted to the Returning Officer whose decision may be appealed to the respective electoral commission. The decisions of the NEC and the ZEC are considered to be final and may only be appealed to the High Court by way of petition within 30 days of the declaration of results. This provision neither provides for a timely remedy for aggrieved parties nor respects the power of judicial review and supervisory jurisdiction of the judiciary over public bodies and over the legality of their decisions.

As for the presidential candidates, according to the electoral laws, rejected nominees do not have the right to appeal the decisions of the commissions, since such decisions are final and conclusive. Likewise, and clearly contrary to international and regional principles³², the union and Zanzibar constitutions states that presidential election results cannot be challenged. The Constitution of Tanzania, however, provides for the possibility of judicial review before the courts and the right to a “legal remedy against the decision of the court or of the other agency concerned”.³³ In the face of this contradiction, a petition was filed at the High Court in Dar es Salaam by the Centre for Justice and Democracy challenging the constitutionality of article 41(7)³⁴ of the Constitution. Said article limits the jurisdiction of the courts in adjudicating petitions regarding presidential elections and violating article 13 (6.a) that provides the right for a legal remedy against the decision of any court or other body. It was further claimed in the petition that the dissolution of the National Assembly on 17 July 2010 was also unconstitutional since it has a five-year term³⁵ and, therefore, should have been dissolved not earlier than 5 December 2010. At the time of writing, the case was pending.

³² ICCPR, United Nations Human Rights Commission, General Comment no. 25 of the International Covenant on Civil and Political Rights, paragraph 20, states that “there should be an independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of votes,” and African Union Declaration on the Principles governing Democratic Elections in Africa, section IV.7, stating that “Individuals or political parties shall have the right to appeal and to obtain a timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country”.

³³ Articles 30 (3) and 13(6.a).

³⁴ It reads: “When a candidate is declared by the Electoral Commission to have been duly elected in accordance with this Article, then no court of law shall have any jurisdiction to inquire into the election of that candidate.”

³⁵ Article 65(1) of the Constitution of Tanzania.

Another petition filed at the Dar es Salaam High Court related to the students' vote. Around 60,000 students registered at Tanzanian state universities expected to be in class by the time of the 31 October elections. The government, however, postponed the start of classes until November which meant that many students were not at their respective universities on election day. The NEC warned that it would not allow students to vote in polling stations where they were not registered. The Tanzanian Higher Learning Students Organization, consequently, filed a petition at the High Court seeking a decision to open the universities before November, claiming the illegality of voting rules which compelled voters to vote at the place of registration. However, the hearing of the case was scheduled for 5 November, resulting in a high number of students not being able to afford the travel expenses to cast a ballot. The case was later dropped.

Zanzibar election related petitions and complaints are rare due to the prevailing political culture. Nevertheless, four complaints regarding the voter registration process reached the courts. In Pemba, the regional court decided that two persons who were initially denied registration by the ZEC officer could register because appropriate requisites were fulfilled. In another case, three human rights activists claimed that the legal pre-requisite of holding a Zanzibar identification card to be able to register as a voter was unconstitutional. This case was sent to the Court of Appeal and a decision was still pending at the time of writing. A fourth case concerned a woman trying to register to vote in a different area than her residence.

For National Assembly nominees, at least nine objections were submitted to the returning officers: two in Mkuranga, three in Bahi, one in Nyamagana, three in Songwe, Rungwe West and Rungwe East. Of these, eight nominees were rejected due to lack of statutory declaration, ineligibility to stand as a candidate, falsification of signatures and false information. For councilor nominees, 17 objections were submitted: 13 in Dar es Salaam and four in Mtwara. Of these, five nominees were rejected due to ineligibility to stand as a candidate and residency criteria.

Regarding the nomination of candidates for the House of Representatives, five cases were referred to the ZEC and subsequently taken to court. One dismissed case involved the former Zanzibar Chief Minister accused of not respecting the campaign period. In two cases challenged by the CCM party in Pemba, the court upheld the ZEC's decision regarding the nomination of CUF candidates. In another case in Pemba's Chake Chake district, the CCM objected to the nomination of a CUF candidate for the House of Representatives; the CUF candidate failed to fulfill the nomination requirement of 25 registered nominators and was therefore not accepted. Again in Chake Chake, Ziwani constituency, the CCM objected the nomination of House of Representatives candidates for CUF and Jahazi Asilia party, claiming that both candidates had failed the requirement of taking an oath before the magistrate court. The electoral law is silent on this issue, not expressly designating the competent court for oath-taking. The ZEC, in an effort to open the contest to more than one candidate, decided that any court (regional, magistrate or primary) could accept a candidate's oath.

Concerning the recruitment of the ZEC staff, a further three complaints reached the ZEC office, and these were all related to the appointment of returning officers. Two similar cases occurred in Pemba, in Mgogoni and Kiwani constituencies, where an assistant returning officer and a returning officer contested the CCM internal party nomination. These CCM cadres, not winning a party ticket, were later appointed to the ZEC positions. CUF objected the appointments and the ZEC subsequently dismissed both staff. In Unguja, the CUF secretary for West district objected to the appointment of a person whose brother was contesting as a CCM candidate. The ZEC decided to keep the appointment.

At lower levels the NEC also received, during the period before election day, at least 11 official complaints related to destruction of campaign materials and disruption of campaign activities. Also, some objections were submitted regarding NEC polling station staff members who were allegedly affiliated to the ruling party. In general, these objections were accepted and individuals were replaced. Complaints regarding irregularities during voting and counting should be submitted to the presiding officer at the polling station. There were four complaints filed in the 549 polling stations observed by the EU EOM. The complaints regarding aggregation should be submitted to the returning officer at the time of the alleged irregularity.

Finally, the Registrar of political parties in Dar es Salaam received a complaint from CHADEMA requesting the disqualification of the CCM presidential candidate, who is also the president of Tanzania, on grounds that his promises during campaign rallies and in his manifesto were unrealistic and, therefore, deceitful to voters. The Registrar dismissed the complaint saying that the programs and “promises” of every political party manifesto might be considered unrealistic.

C. The Ethics Committees

The enforcement of the Code of Conduct for Political Parties is under the responsibility of the Ethics Committees established at ward, constituency and national levels. The committees are formed by NEC officials, representatives from both the government and political parties. A complainant may file an appeal at any of these levels, and if still dissatisfied may take the matter to court. In case the party or candidate fails to implement the agreed decision of the Ethics Committee, they may be requested to take immediate corrective action or ask for forgiveness. Offenders may also be penalized with a fine or be disqualified from the election if they continue with the same acts. The Ethics Committee at national level dealt with complaints related to the presidential elections while the constituency Ethics Committees dealt with issues regarding the National Assembly elections.

At national level, the Ethics Committee received seven complaints. The first complaint was filed by CCM against CHADEMA and CUF for alleged use of defamatory language during campaigning. However, since the complaint was filed more than 48 hours after the alleged act, the committee dismissed it. A second complaint was filed by the National Convention for Construction and Reform (NCCR-Mageuzi) against the Tanzania Broadcasting Corporation (TBC). This complaint, regarding the coverage given to the NCCR campaign, was withdrawn. A third case came as an appeal from constituency level, where NCCR accused CHADEMA of using defamatory language. The complaint was referred back to the constituency Ethics Committee since it was considered that CHADEMA did not have the opportunity to reply to the accusation. CHADEMA also submitted a complaint against CCM for campaigning after hours in Shinyanga. On this account, CCM received a warning from the committee. A fifth complaint was filed by the Attorney General against CHADEMA, accusing its top leaders of using speech that incited hatred. As CHADEMA did not participate in the committee’s meeting and did not present any defense to the accusation, the committee directed CHADEMA to conduct a press conference and apologize publicly, within three days, otherwise it would not be allowed to campaign. CHADEMA appealed the decision to the Committee of Appeal, the higher level of the Ethics Committees, and it was decided that CHADEMA would apologize to the committee.

The Tanzania Labor Party (TLP) also filed a complaint to the national Ethics Committee, claiming that police forces, namely the regional police commander of Kilimanjaro, halted the party’s presidential running mate from campaigning in the Vunjo constituency. A seventh complaint was filed by CUF against both CHADEMA and CCM for allegedly interrupting its presidential candidate’s campaign meeting in

Musoma and Tarime, in the Mara region. According to the NEC Director of Elections, the EU EOM was not permitted to attend the meetings of either the national Ethics Committee or the Committee of Appeal on the grounds that only signatories of the Code of Conduct for Political Parties were authorized to attend these meetings.

The Ethics Committees at constituency level received at least 15 complaints, mainly regarding violations of campaign rules such as disruption of campaign, abusive language used during speeches, defamation, tearing down of posters and campaign activities after 18:00 hours. Most complaints received by constituency Ethics Committees concerned these types of violations; political parties and election officials privileged recourse to these committees, which seemed to be the most effective, in terms of expediency and efficiency.

D. Electoral Offenses

Offenses are set out in chapter VI of the National Elections Act and chapter VII of the Zanzibar Elections Act no.11 of 1984. Offenses include, *inter alia*, double registration, false statements regarding qualification for registration or nomination, public officials discouraging persons from seeking nomination, misconduct of election officials (nullification of election results, mishandling of the election process), forging the register of voters or voter cards, illegal possession of voter cards, destruction of ballot papers, illegal possession of ballot papers, false publication of withdrawal of candidates, provoking the withdrawal of candidates, violation of secrecy of the vote, bribery, treating, impersonation, undue influence over voters, interference in public meetings, and campaigning on election day.

Election offenses are ruled on by the courts and penalties include a fine and/or up to five years imprisonment. The police are responsible for the initiation and prosecution of election-related offenses which are heard in the district courts. An appeal against the decisions of the district courts can be made to the High Court. The police criminal investigation department created election desks at national and district levels to deal with election-related complaints. Officers received guidelines and training on investigation techniques and procedures to handle these complaints. A database with election-related offenses was created at district level for statistical purposes.

In Zanzibar, the police set up election information desks in all six Unguja districts. Very few cases were brought to prosecution during the electoral process. Alleged cases of underage registration and the use of false birth certificates were brought to Pemba's public prosecutor's office; however, the cases were later dropped due to lack of evidence. Complaints of double registration were taken to the ZEC but have not been channeled to the police for investigation. The Zanzibar Public Prosecutor's office, previously under the Attorney General's office, was created with the Eighth Constitutional Amendment in 2002. It receives funding from both the government and international donors. It employs a total of 71 lawyers, including a sub-office in Pemba. The Zanzibar public prosecutor was appointed by the Zanzibar president and is in his second term in office.

Minor cases dealt with in the mainland referred to the defacement of campaign posters and to abusive language used during campaign rallies. In the period before the elections, two candidates were detained and later released. The first was a CHADEMA National Assembly candidate for Maswa constituency in Shinyanga region. Candidate John Shibuda was accused of being responsible for the murder of a CCM driver during post-rally clashes between CHADEMA and CCM supporters. Shibuda challenged the Union president, Jakaya Kikwete, in the primaries for CCM's Union presidential candidacy and later switched his membership to CHADEMA. The second candidate was Godbless Lema, who was contesting the

National Assembly ticket in Arusha. The EU EOM observers in the region reported that, following the candidate's rally many supporters left the venue waving party flags from their vehicles. The police, considering this an unauthorized demonstration, allegedly violently charged the demonstrators causing injuries. The candidate went to the district police station to report the incident and upon her arrival was faced with an arrest order by the District Police Commander. The candidate was later released.

XIII. ELECTION DAY

A. *Opening and Voting*

Election day was peaceful and generally orderly. All observed polling stations were operational within an hour of the established opening time of 07:00 hours. In 14 percent of observed polling stations some election materials were missing, including ballot papers, electoral forms and voter lists. Most of polling stations were located in public buildings and schools and were found to be well-staffed. Voter lists were displayed outside the polling stations and security was adequately provided. Opening procedures were generally followed such as the showing of the empty ballot boxes, the securing of boxes with numbered plastic seals and the account of received ballots.

In general, polling station procedures were applied evenly across the country and voting was conducted in a calm manner with only a few incidents of a minor nature in over 549 observed polling stations. Unfortunately, the secrecy of the vote was compromised in 12 percent of observed polling stations and EU observers reported that in 20 percent of cases the layout of the polling station did not guarantee the secrecy of the vote. In 11 percent of observed polling stations EU observers noted family and or group voting. EU observers also reported a strong presence of women as polling station members and in 48 percent of cases the presiding officer was a woman. Voting safeguards were put in place and seemed to be sufficient to protect the integrity of the ballot³⁶: fingers were marked³⁷ with indelible ink, voters' photos appeared on the voter register, ballots were stamped and pre-folded and ballot boxes were transparent.

Overall, observers rated the process as either 'good' or 'satisfactory' in 95 percent of the polling stations observed, and 'poor' in five percent. Party delegates were present in 99 percent of observed polling stations, with CCM present in 98 percent, CUF in 70 percent and CHADEMA in 68 percent. Smaller political parties had few party delegates. National observers were present in 47 percent of observed polling stations.

B. *Closing and Counting*

Counting was observed in 43 polling stations: 35 in the mainland and eight in Zanzibar. Overall, observers rated the process as either 'good' or 'satisfactory' in 91 percent of the cases in the mainland and 88 percent in Zanzibar³⁸. The party agents signed a copy of Form 16 (mainland) and Form PS1A (Zanzibar) at every step of the counting process to express their satisfaction or dissatisfaction with the process in 86 percent and 100 percent of cases, respectively. They received a copy of the results in 97

³⁶ Ballots for the Union elections were printed in the United Kingdom; Zanzibar ballots were printed in South Africa and both showed name, party and the picture of the candidate.

³⁷ Voters on the mainland had their left little finger inked; on Zanzibar, voters had their left index and little finger inked, one corresponding to the three ballots cast for the ZEC, and the other for the Union elections.

³⁸ Ballots for the Zanzibar elections were counted before the ballots for the Union elections, and the presidential ballots were counted first.

percent and 100 percent of cases. This process was made more transparent with the public display of results upon completion of counting procedures at 94 percent and 88 percent of observed Polling Stations.

XIV. RESULTS AND POST ELECTION ENVIRONMENT

A. Announcement of Results

Contrary to what the NEC originally planned, election results were not released within 72 hours, triggering protests from the opposition in several parts of Tanzania. However, no major acts of violence were reported. The results for the presidential elections were announced in Dar es Salaam by the NEC on 5 November, or 120 hours after election day. The EU EOM, however, was still awaiting the official results for the National Assembly (see a summary of the parliamentary results in Annexes) and for the House of Representatives and local councils at the writing this report, although the members of the legislative had already been sworn in.³⁹ Almost one week after the swearing in of the parliament, election of its chairwoman, and appointment of the prime minister, the NEC had not published the final official results arguing they were compiling and correcting mistakes in their database.

The incumbent Union president and candidate for the *Chama cha Mapinduzi* (CCM), Jakaya Kikwete, was reelected with a comfortable 61.17 percent of the votes (5,276,827) followed by the *Chama cha Demokrasia na Maendeleo's* (CHADEMA) candidate, Willibrod Slaa, with 26.34 percent (2,271,941). The CUF candidate, Ibrahim Lipumba, received 8.06 percent of votes (695,667 votes).

| CANDIDATE | PARTY | VOTES | PERCENTAGE |
|---------------------|----------------|-----------|------------|
| Jakaya Kikwete | CCM | 5,276,827 | 61.17 |
| Willibrod Slaa | CHADEMA | 2,271,941 | 26.34 |
| Ibrahim Lipumba | CUF | 695,667 | 8.06 |
| Peter Mziray | APPT-Maendeleo | 96,933 | 1.20 |
| Hashim Rungwe | NCCR-M ageuzi | 26,388 | 0.31 |
| Muttamwega Mugahywa | TLP | 17,428 | 0.20 |
| Fahmi Dovutwa | UPDP | 13,176 | 0.15 |

³⁹ The official final elections results were not available seemingly due to a few returning officers holding back election results until they were paid by the commissions. A few presiding officers mistakenly placed the results forms in the sealed ballot boxes after counting procedures were finished at polling station level instead of handing these over to the district presiding officers. Ballot boxes containing these results forms can only be re-opened with a Court order that might take weeks. The ZEC's and the NEC's official websites only display the final presidential results. The National Assembly website, however, has a list of its elected members.

| | | |
|-------|-----------|--------|
| Total | 8,398,360 | 97.43* |
|-------|-----------|--------|

Source: National Electoral Commission (NEC) * Percentage of invalid and spoiled votes not included.

In the case of the National Assembly, the elections had to be postponed in seven constituencies due to lack of ballots and misspelled names of candidates. The EU EOM observed these elections in six of the seven constituencies on 14 November 2010. CUF won three of the constituencies in Zanzibar, two in Unguja (Mtoni and Magogoni) and one in Pemba (Wete), with the fourth (Mwanakwerekwe) going for the Chama cha Mapinduzi (CCM). In the mainland, CHADEMA won in Mpanda Urban and Mpanda Rural went to CCM. At the swearing-in ceremony, the final composition of the 239 elected members of the 358-member Union National Assembly was: CCM 188 members, CHADEMA 24, CUF 21, NCCR-Mageuzi 4, United Democratic Party (UDP) 1, and Tanzania Labor Party (TLP) 1. The rest of the 358 seats of the National Assembly are reserved for women (102), appointed by the Union president (10), seats from Zanzibar (5) and *ex-officio* (2).

The turnout in the Union elections was surprisingly low with only 43 percent of registered voters showing up on polling day, compared to 72.4 percent in 2005. This might be explained by a combination of factors: voter apathy, a strong belief among the population that CCM was going to win regardless of voter turnout, lack of capacity of the opposition to convince voters, lack of interests in a country historically dominated by one party, long campaign period dominated by the ruling party and inadequate voter education. Zanzibar maintained its traditionally high voter participation with 89 percent of voters exercising their right in the island of Unguja, and 85 percent in Pemba.

The number of invalid ballots decreased from previous elections from 4.2 percent to 2.7 percent. This might be explained by the intense efforts of political parties to inform voters how to cast their ballots and voter experience. The training of polling staff also might have been a decisive factor with presiding officers having now a better understanding and a more consistent approach in deciding between valid and invalid votes, like applying more often the principle that a vote should be considered as valid when the intention of the voter is clear.

In Zanzibar, the decision to establish a government of national unity (GNU) opened a new page in the history of the archipelago and set the stage for the first peaceful electoral process since independence. The CCM presidential candidate won the elections with a small margin of 3,471 votes over his closest competitor, CUF candidate, Seif Sharif Hamad. CUF accepted the results in the interest of participating and forming a power-sharing government. The immediate acceptance of results from CUF led to spontaneous manifestation of joy and reconciliation between CUF and CCM supporters. The other Zanzibari presidential contestants received less than 1 percent of the votes all together, which confirmed the overwhelming dominance of CCM and CUF in the archipelago. The 50 elected seats of the 81-member Zanzibari House of Representatives were distributed between CCM and CUF only, with the ruling party winning 28 seats and 22 going to CUF, including all the 18 seats in the island of Pemba. As for the remaining 31 seats, 20 were reserved seats for women (CCM 11 and CUF 9) and 11 were appointed by the president of Zanzibar. There were around 10,000 uncollected voter cards, which could have made a difference in the final results if collected and their owners have voted. However, the EU EOM could not find a plausible explanation for such high number of voter cards not being claimed. The ZEC informed that they simply were not collected and that many of them belonged to dead persons.

The ruling party elected both the Union and the Zanzibar presidents, and maintained its comfortable control of the National Assembly and of the Zanzibar House of Representatives. It also continued to control most of the 3,705 councilors in the country.

B. Consolidation and Processing of Results

For the 2010 general elections, the NEC and the ZEC established a new method for the transmission and consolidation of results. The polling station results for the councilors' elections were consolidated at ward level by the assistant returning officers. The polling station results forms for presidential and National Assembly elections were taken by the assistant returning officer to the NEC district offices, where constituency consolidation took place using a "double-blind entry" method and the forms were scanned to generate a constituency results summary. In general, the system worked in a satisfactory manner. Nevertheless, the time-consuming scanning of each polling station results form, delays due to the time taken to transport results forms from polling stations to ward and district electoral offices, inconsistencies in the implementation of procedures for tabulation at ward level⁴⁰ and pressure from the NEC and political parties for the quick release of results, led to some returning officers resorting to the manual aggregation of results. Such cases were reported by the EU EOM observers in some constituencies in Mwanza, Tabora, Mbeya and Rukwa. The EU EOM observers were present during the aggregation of 27 constituency results, or 11 percent of the 239 constituencies.

The EU EOM observers rated the aggregation process as 'good' or 'satisfactory' in 74 percent of the constituencies observed. However, the process was considered to be 'poor' in 26 percent of the constituencies observed where the procedures were not followed (e.g. use of manual aggregation) and some results forms from polling stations were corrected. In most of the district electoral offices, political party agents were present; in many cases, though, the location did not offer the conditions for a proper following and observation of the aggregation process. In 18 percent of observed constituency aggregation centers, political party agents were not allowed to be present. Furthermore, in three constituency aggregation centers, political party agents were denied the right to file a complaint. Most returning officers announced the winner of the constituency seat for the National Assembly the day after election day, but the results for all constituencies were not know at the time of writing this report.

The results for the Union presidential elections were aggregated by the NEC commissioners. The results by constituency were sent electronically by the district officers to the NEC IT department where they were received by the NEC commissioners. Political party agents and observers were not allowed to observe the presidential results aggregation. The NEC started announcing provisional presidential results by constituency on 1 November and carried out these announcements on a daily basis at the results center in Dar es Salaam. The final consolidation of results took place during the morning of 5 November, where the last three constituencies were aggregated to the results. The NEC called a meeting with political parties in order for them to sign the presidential results forms. EU EOM observers were present at this meeting. The presidential results form was signed by the *Chama Cha Mapinduzi* (CCM), Tanzania Labour Party (TLP), the National Convention for Construction and Reform (NCCR-Mageuzi) and the United Peoples' Democratic Party (UPDP). Nevertheless, due to allegations of irregularities during the aggregation process in some constituencies and an official complaint regarding the same filed at NEC the

⁴⁰ In some cases, assistant returning officers proceeded to aggregation of presidential and National Assembly elections at ward level instead of at district level. Since these results had to be entered into the system by polling station, it delayed the arrival of such results to district offices.

previous day, CHADEMA did not sign the results form for the presidential elections. The representative for the Civic United Front (CUF) did not sign the results forms either, but did not offer any explanation.

In Zanzibar, the consolidation of results for the presidential, House of Representatives and local councillors elections was conducted in a similar manner as by the NEC in the mainland. The polling station results forms were collected at district level and the constituency level consolidation started during the night of election day. The ZEC announced the presidential results 48 hours after election day, while the local legislative results were announced at district level three days after the polls.

Despite assurances of full admission to all stages of the elections, the EU EOM did not have access to crucial phases of the process of aggregation and validation of results, especially those relating to presidential elections. The ZEC introduced last minute changes to the validation of results, shifting from a public screening of incoming results at the results centre to an obscure validation process. The NEC and the ZEC commissioners received the constituency aggregated presidential results from district offices and proceeded to validate these without any political party monitoring or domestic or international observer presence.

C. Post-election Environment

The difficulties in the flow of information from the NEC to the EU EOM, marring the transparency of the process in some of its key stages, remained unchanged at the time of the release of results. The requested data on the number of votes per constituency, the break-up of gender among the elected members of the National Assembly and reserved seats for women had not been disclosed to the EU EOM at the time of its departure from the country.

Similarly, not all political parties were satisfied with the results. The main opposition group in the mainland, CHADEMA, refused to accept the Union presidential results for what its leader and presidential candidate, Willibrod Slaa, considered “a question of principle”. In a conversation with the EU EOM, Dr. Slaa denounced irregularities and an alleged rigging of the elections in some constituencies in the mainland. He believed CCM organized a systematic manipulation of the results, taking advantage of the absence of observers in district tally centers. The CHADEMA candidate made a public statement accusing several government agencies of helping the ruling party, including the intelligence services, and called for the resignation of their heads. The response from the government came through the Tanzania Intelligence and Security Services (TISS) which denied any participation in the alleged manipulation of results and accused Dr. Slaa of trying to disrupt the prevailing peace in the country.

Dr Slaa did not call for any act of violence or coordinated reaction from his supporters, but asked for a re-run of the Union presidential elections in the interest and benefit of the nation since the results released by the NEC did not reflect the will of the voters. He claimed to be satisfied with the Union legislative results. On 15 November, Dr Slaa appeared on the newspapers along with the head of the opposition in parliament, Freeman Mbowe, to declare that CHADEMA would not recognize Jakaya Kikwete as president of the Union on the allegation that he was declared winner after a flawed election. The former presidential candidate stressed that his party was aware that the presidential poll results could not be changed but it would push for the formation of an independent committee to probe the violation of electoral principals all over the country. CHADEMA members at the National Assembly also manifested their disapproval of the results by walking out of the parliament during an inaugural speech by the re-elected CCM president of the Union.

Despite losing the presidential bid and ending up as runner-up with 26.34 percent, Dr. Slaa helped CHADEMA increase its parliamentary seats from five in 2005 to 24 seats out of the 239 electoral constituencies currently represented in the National Assembly. CHADEMA also broadened its parliamentary presence by filling the positions of leader of the opposition, deputy and chief whip.

In contrast, the main opposition group in Zanzibar, the Civic United Front (CUF) quickly accepted the results announced by the Zanzibar Electoral Commission (ZEC) and its defeat by 1 percent of the votes (50.1 to 49.1 percent) for the sake of the implementation of a government of national unity (GNU). Despite the majority that CCM will continue to enjoy in both legislative bodies, the opposition parties managed to increase their presence in the new parliaments. This gradual evolution of the opposition representation is seen as a positive sign of opening of the political environment in Tanzania.

D. Electoral Petitions

The legal framework does not provide for the possibility of challenging presidential elections results. Nevertheless, CHADEMA filed a complaint to the NEC on 4 November requesting the electoral administration to stop the announcement of presidential results, and asking for a re-run of the presidential elections on grounds that in some constituencies, such as Hai, Muheza, Same East, Geita and Ubungu, several irregularities occurred during the aggregation process. The NEC stated that the alleged irregularities should have been submitted to the returning officers and, therefore, dismissed the claim and continued to announce the presidential results the following day.

According to chapter VII of the National Elections Act, chapter XIII of the Local Authorities (Elections) Act and Chapter VIII of the amended 1984 Zanzibar Election Act No. 11, only the validity of the National Assembly, House of Representatives and councilors elections can be challenged by way of petition presented before the High Court and, in the case of petitions regarding councilors elections, before the resident magistrates court. A petition challenging the results of National Assembly elections shall be submitted within 30 days from the date of the declaration of the results. The High Court shall decide the petition within 12 months. The decision of the court may be appealed before the Court of Appeal, which shall decide within 12 months. However, a petition challenging the results of House of Representatives elections shall be submitted to the High Court within 14 days after the declaration of results. The High Court shall decide on the petition within two years. An election petition may be presented by a voter, a nominee whose candidature was unlawfully rejected, a candidate or the Attorney General. The petition may seek the following reliefs: a declaration that the election was void, a declaration that the nomination of the person elected was invalid, a declaration that a candidate other than the one announced by the commission was elected, or a scrutiny where the seat was claimed for an unsuccessful candidate on the grounds that the candidate had a majority of lawful votes. Additionally, petitioners have to deposit a fee as security for costs not exceeding five million shillings, the equivalent to €2,500. The security for costs deposit constitutes an effective obstacle in filing petitions and is therefore an obstacle in access to justice and to a legal remedy. The Court of Appeal declared unconstitutional the legal requirement of the deposit of a 5 million shilling fee for security of costs. Unfortunately, the ruling of the Court of Appeal was not considered by the time of the electoral law amendments in 2010 and therefore not integrated in the law.

At the time of writing, eleven petitions were filed at the High Court regarding the National Assembly elections. A petition was filed by a CHADEMA candidate challenging the election results in Segera constituency on grounds that the counting, aggregation and declaration of results was marred by irregularities and that the returning officer did not include the results of all polling stations by the time

of the declaration of results. Another petition was filed by the CCM candidate in Muhambwe alleging that the NCCR-Mageuzi candidate made statements attacking his racial and religious preferences, Arabic and Islamic, affecting his reputation in a mainly Christian area and, therefore, influencing the final outcome. The CHADEMA candidate in Kigoma Urban also submitted a petition claiming vote rigging, use of force and tear gas by police forces and accusing the returning officer of favoring the CCM candidate. This case was withdrawn due to non-payment of the required security costs to the court. The remaining eight petitions were submitted by the TLP candidate in Lupa constituency, by the CCM candidate in Meatu constituency, by the CCM candidate in Mbozi West constituency, by the CUF candidate in Mtwara Urban constituency, by the CHADEMA candidate in Ludewa constituency, by CHADEMA candidates in Mwibara and Busega and by the UDP candidate in Magu. At the time of writing, the EU EOM had not received information from the political parties or the candidates in relation to the allegations for these last eight petitions.

XV. POSTPONED ELECTIONS FOR THE NATIONAL ASSEMBLY

Due to logistical shortcomings and to the lack of ballot papers on election day, the NEC postponed the National Assembly elections to 14 November 2010 in seven constituencies nationwide, three in the mainland and four in Zanzibar. The EU EOM observed the elections in six of the seven constituencies. The elections were peaceful and generally orderly with voter turnouts similar to those registered during the general elections of 31 October, high in Zanzibar and low in the mainland. The key stages of the process observed showed a well administered election day, and contrary to the general elections on 31 October, observers and political party agents had access to the counting and aggregation processes. There were no complaints filed about the process and political party agents were present in all the polling centers observed by the EU EOM in the six constituencies: Mpanda Urban and Mpanda Rural constituencies in the mainland region of Rukwa (now Katavi), and Magogoni, Mtoni, Mwanakwerekwe (Unguja) and Wete (Pemba) constituencies in the islands of Zanzibar.

A total of 29,825 voters were registered in the 109 polling stations in Zanzibar and 78,148 in the 202 polling stations in Rukwa. The Mission was not present in the mainland region of Kagera. The observers assessed the process as 'good' or 'satisfactory' in all 30 polling stations visited, where women represented more than 50 percent of the polling staff and also had a strong presence in the process of aggregation. All polling stations observed opened on time, at 07:00 hours; no essential election material was missing and procedures were adequately followed. After counting and aggregation, the results were posted for public view. In Zanzibar, the police had to intervene in a few polling centers to avoid disruption of the process when CUF supporters complained about ineligible voters being brought to vote. The EU EOM could not confirm these allegations. As in the general elections, the police in Zanzibar displayed a strong and tight security within and around the polling centers. CUF won three of the constituencies in Zanzibar, two in Unguja (Mtoni and Magogoni) and one in Pemba (Wete), with the fourth (Mwanakwerekwe) going to CCM. In the mainland, CHADEMA won in Mpanda Urban, and Mpanda Rural went to the CCM.

XVI. RECOMMENDATIONS

Further review of the Union and Zanzibar legal frameworks is required in order to meet regional and international principles for democratic elections, such review would entail amendments to both Constitutions. Political parties, civil society organizations and the public should have the opportunity to publicly debate possible amendments.

A number of recommendations submitted by the European Union Election Assessment Mission to the 2005 general elections were effectively introduced, improving the overall legal electoral framework. Nonetheless, a number of shortcomings remain. Looking towards the 2015 general elections, the EU EOM to the 2010 general elections proposes the following recommendations for analysis and consideration by the NEC, the ZEC, the National Assembly, the government of Tanzania and national and international stakeholders:

Legal framework

In order to prevent the practical implementation of the legal framework from deviating from the international commitments for democratic elections subscribed by Tanzania:

1. The right to stand for election should not be limited to party-nominated candidates. Independent candidates should have the right to stand for election as established by the 1966 International Covenant on Civil and Political Rights.
2. The electoral laws and the Political Parties Act should clearly state the right of political parties to form and register electoral coalitions and be able to field joint candidates, specifically in the case of the Union presidential elections where two candidates run in one ticket for president and vice-president.
3. Both the Constitutions of the Union and of Zanzibar currently deny the right to challenge the presidential election results. The right to petition presidential elections results should be established by law in accordance with international principles for the conduct of democratic elections.
4. Some political parties did not fulfill the requirement to submit to the NEC and the ZEC in advance to the elections the full list of female candidates for the reserved seats arguing that such action should follow the apportionment of seats according to the electoral results, which could only be known after the elections. Also, it was argued that it would be a useless exercise to present a full list when it was known in advance that they would not win all the reserved seats, which are proportionally distributed according to the results. However, the EU EOM considers that the political parties should be legally required to provide the list of candidates that are eligible to receive a mandate through the allocation of reserved seats, specifically those ascribed to women in the National Assembly and the House of Representatives. These lists should be made public before election day enabling voters to know what candidates would benefit from their vote.

Electoral Administration

To ensure equality of the vote, to enhance the independence of the electoral administration bodies and provide greater transparency to the process:

5. A review of constituency boundaries should be undertaken to ensure that constituencies better reflect actual population trends, thus contributing to greater equality of the vote. Equal suffrage requires that each vote carries the same weight. The NEC and the ZEC must address the wide

variation in the number of voters registered in each constituency by redrawing electoral boundaries and possibly creating new constituencies to ensure that boundary demarcations reflect population density and weighting in parliamentary representation.

6. The possibility of introducing some measure of proportional representation in a mixed electoral system might be considered by all political forces to promote a greater and more diversified level of representation in the National Assembly and House of Representatives. It might also be considered to allocate some seats appointed by the presidents to representatives of Tanzanians living abroad.
7. Serious efforts should be made to limit the involvement of governmental administrative structures in the organization and implementation of the electoral process. The development of an independent structure should be envisaged for the NEC and the ZEC throughout the country, diminishing its dependence on local administrative structures. The appointment of NEC commissioners should be revised in order to increase confidence in the NEC's independence among all stakeholders. Also, a multi-party appointment panel and a two term limit mandate for the commissioners should be considered.
8. The NEC and the ZEC should consider the production, publishing and implementation of a precise and detailed calendar for the organization of elections with clear deadlines for every stage of the electoral process.
9. To enhance the trust of political parties in the electoral process, the NEC and the ZEC should establish a more effective platform for dialogue and cooperation with political parties where clear and updated information is made available to all stakeholders. Decisions and regulations produced by the Electoral Commissions should be clearly explained to stakeholders.
10. The NEC and the ZEC should take measures to enhance transparency at all levels of the electoral administration to guarantee its accountability. The electoral commissions should publish and timely disseminate all of the technical tools of the electoral process: polling station lists, constituency lists, voters' lists and information on public financing of election campaigns. It is also recommended that to improve the flow of information to the public, the NEC and the ZEC further develop the effectiveness of their public information departments. Much more information could be available on the NEC and the ZEC websites, e.g., decisions and instructions (ideally these should also be sent to the registered offices of all political parties), information on the number of registered voters per constituency and election results at all levels from the polling station upwards.

Voter registration

A transparent, credible and accurate voter register is an essential and fundamental component for genuine democratic elections. To this end:

11. An extensive review of the voters' register should be undertaken to ensure better quality, greater reliability and accuracy. The development of a civil registry, the introduction of an accessible and free of charge national identification card and a larger period of time for public exhibition of the register would significantly improve the quality of the voter register for future elections.

12. In regard to the Zanzibar voters' registration process, the pre-requisite of holding a Zanzibar Identification Card, attached to a 36 month residency requirement, should be reviewed in light of the difference of treatment between Tanzanian citizens registered on the mainland and Zanzibar. The discretionary powers attributed to local authorities (the *shehas*) in the proof of residency process should also be reviewed. The voters' register should be inclusive, residency requirements should be further shortened while special attention should also be dispensed to the registration of youths and university students.
13. Political parties should receive periodic and timely information on voter register additions, corrections and deletions, and they should receive copies of the voter register well in advance of elections.

Electoral Campaign

Providing for conditions for a level playing field during the election campaign is essential in a democratic process, therefore:

14. Despite the introduction of reforms and regulations to control campaign financing establishing spending ceilings and an auditing system, which increase the transparency and accountability of elections campaigns, the period of campaigning is excessively long and could be reduced to a period of four to six weeks to better optimize the resources available for political parties to engage in campaign activities.

Election Day

To enhance the efficiency of the process and to increase the consistent application of procedures:

15. Electoral procedural safeguards have been introduced effectively improving the polling process, yet election staff is not always aware of the meaning or importance of upholding certain electoral principles. A number of shortcomings were noted and some election procedures were differently implemented as was the case of the incorrect positioning of the voting booth inside the polling station that in several instances compromised the secrecy of the ballot. Procedural details regarding the key stages of the aggregation, transmission and announcement of results should be clear and unambiguous. It is therefore advisable to strengthen training of lower level election staff while procedural manuals are made largely available to election staff and stakeholders far before election day.
16. Both Union and Zanzibar general elections ballots, three ballots in the mainland and five in Zanzibar, should be object of design review, harmonizing the layout by placing the blank voting box either under or next to the candidate or party identification in all ballots. The different placing of the voting boxes easily leads to confusion and marking mistakes, and might be one of the reasons to explain the percentage of invalid ballots.
17. The electoral commissions should introduce a system by which details of turned away voters holding a voter card but not found on the voters' register are recorded at the polling stations. The records should be forwarded to the commissions for scrutiny and further action.

18. Permission should be granted for the media to enter polling locations on election day to enhance the transparency of the process. Specific guidelines for media access could be designed by the electoral commissions in cooperation with the Media Council of Tanzania.
19. The role of security forces on election day should be revised, particularly in Zanzibar where there was an extremely high level of security display prior and during the elections. When combined with the sometimes ominous police presence at some polling stations, such presence and display of force certainly does not contribute to a tranquil atmosphere on election day.
20. The electoral commissions should make efforts to improve polling location infrastructures to better allow for counting of ballots in the best possible conditions. A high number of polling stations lacked electricity. Counting started immediately after closing at 16:00 hours when only two hours of daylight remained to count three concurrent polls posing additional challenges to election staff.

Election Results

To increase the transparency and application of procedures as well as improving the efficiency of the consolidation process, thereby increasing the confidence of all stakeholders in the process:

21. To increase transparency and confidence in the process, the NEC and the ZEC ought to allow unlimited access to political party representatives and observers during all stages of the aggregation of presidential, National Assembly, House of Representatives and councilors elections. Proper facilities should be put in place to allow for an overall monitoring of the process, especially since the presidential results declared by the NEC and the ZEC cannot be challenged in court.
22. Explicit procedural details regarding the process of aggregation, transmission and announcement of results should be made available to stakeholders. Procedures for counting and aggregation of results at the polling station, district and national levels would largely benefit from a visual device where results are clearly registered and displayed to stakeholders. This would improve the validity of the results process and the electoral commissions' transparency.

Complaints and Appeals

To implement the right to an effective remedy and the level of confidence in the process:

23. The judiciary should have a clear supervisory role over the performance and decisions of the electoral commissions. The decisions of the NEC and the ZEC should be susceptible to challenge in court by way of judicial review immediately after the nomination of candidates period and throughout the entire process. Aggrieved parties should not have to wait until the announcement of results to seek recourse to justice.
24. The costs associated with filing a petition should be drastically reduced in order to provide petitioners the effective right to access justice and a legal remedy.

Media

In order to enable the media to carry out its duties freely in providing the public with balanced information:

25. Although Tanzania started the process of reforming its media laws both in the mainland and Zanzibar, the process has been pending for several years and has not effectively taken into account stakeholders' views. The mandate and responsibilities of state-owned broadcasters need to be clearly defined in order to guarantee the broadcasters' independence from the authorities.
26. State-owned media, especially in Zanzibar, should adhere to requirements for partial and fair campaign coverage and provide impartial and balanced coverage in their news and political discussion programs to all parties and candidates. Private broadcasting media should adhere to the same requirements.
27. There were positive steps towards converting the state-owned TBC into a public service. However, a law governing the public service broadcaster should: clearly define the scope of its work and establish concrete public service requirements; require the broadcaster to provide citizens with impartial and balanced information; establish a system of appointments to the management sufficiently independent of the state authorities. As the situation stands now, director generals and directors of the board are appointed by the president of the Union and the minister of information and culture. The EU EOM considers that currently TBC is not independent in its policies and is not free from state interference. State authorities should refrain from any kind of interference in the activities of media and their representatives. Pressures, threats, lawsuits and denunciations discourage the establishment of a free media environment.
28. It should be considered the establishment of a supervisory board to monitor the conduct of the media, political parties, candidates and other participants in the electoral process. The body should be responsible for the allocation of free air time to political parties and candidates and be competent to take timely actions on media-related complaints. The codes of conduct for the media, both in the mainland and in Zanzibar, do not specify the competent body to receive complaints regarding media coverage. During the election campaign, the Media Council of Tanzania (MCT), a credible self-regulating body, demonstrated credibility, commitment and professionalism in settling a number of complaints. However, the codes of conduct do not mention MCT as the body entrusted to receive complaints in relation to violations during the campaign period.
29. If paid political advertising is permitted, the media should identify clearly the paid airtime, and the political party or candidate sponsoring the slots or programs in order to allow voters to be aware of the nature and origin of the broadcast. Unlike TBC in the mainland, the state-owned TVZ in Zanzibar, which allows parties to purchase airtime, should clearly distinguish the format from the free airtime given by the ZEC.
30. Technical assistance should be offered to strengthen professional skills and understanding of electoral processes by journalists, editors and managers from both state and privately-owned media as a means to ensure accurate coverage of elections. In particular, efforts should concentrate on the professional standards and training of regional journalists.
