



## **PRELIMINARY STATEMENT**

### **High turnout on a peaceful and orderly Election Day marred by a narrowing of political space and an uneven playing field**

**Addis Ababa, 25 May 2010**

*Following an invitation from the Government of the Federal Democratic Republic of Ethiopia and the National Electoral Board of Ethiopia (NEBE) and the signing of respective Memoranda of Understanding, a European Union Election Observation Mission (EU EOM) was deployed to observe the 23 May 2010 elections to the House of Peoples' Representatives and State Councils in Ethiopia. The EU EOM is headed by Mr. Thijs Berman, Member of the European Parliament and includes a Core Team of analysts based in Addis Ababa who arrived in the country on 14 April. A group of 90 Long Term Observers joined the Mission on 24 April and were deployed to all the country's regions. The Mission's mandate is to observe the electoral process in its entirety, including the legal framework, the work of the electoral authorities, the political environment, election campaigning, electoral preparations, complaints and appeals, together with the polling, counting and aggregation procedures. The Mission assesses the electoral process against the Ethiopian Constitution and laws, as well as international and regional commitments for democratic elections. 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, including its Code of Conduct for International Election Observers. On Election Day, the Mission deployed 170 observers from 23 Member States, as well as Canada, Norway and Switzerland, who visited 815 polling stations in every region of Ethiopia, to observe voting and counting. The EU EOM will remain in the country to observe the aggregation process, post-election developments and the final announcement of results. This statement is preliminary, the EU EOM will not draw final conclusions until the completion of the aggregation process and the announcement of results. A final report will be published approximately two months after the end of the electoral process.*

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### **Executive Summary**

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- The fourth elections to the House of People's Representatives and State Councils have so far been held in a generally peaceful environment, as unanimously called for by all stakeholders. The relatively quiet election campaign by the opposition parties and the incumbent, the Ethiopian Peoples' Revolutionary Democratic Front, grew in intensity at the very last stage. The National Electoral Board of Ethiopia administered the electoral process in an efficient and competent manner, but failed to dispel opposition parties' lack of trust in its independence. While several positive improvements have been introduced, the electoral process fell short of certain international commitments, notably regarding the transparency of the process and the lack of a level playing field for all contesting parties.
- Election Day unfolded in a peaceful manner, with a high voter turnout. Overall, the secrecy of the vote was respected despite isolated irregularities and an inconsistent application of procedures. Party agents and domestic observers were present in the majority of observed polling stations.
- The general political environment in the country has been relatively calm, although the level of localised tension in numerous constituencies rose as Election Day approached. Similarly, the election campaign was essentially peaceful, if somewhat low-key and discreet until the last days of campaigning.
- The separation between the ruling party and the public administration was blurred at the local level in many constituencies. The EU EOM directly observed some cases of use of state resources for ruling party campaign activities. Even taking into account the inherent

advantages of the incumbency, the EU EOM considers that the playing field for the 2010 elections was not sufficiently balanced, leaning in favour of the ruling party in many areas.

- The fragmentation of the main opposition forces in the aftermath of the 2005 elections, together with the departure of important opposition figures from the Ethiopian political scene, in conjunction with changes to the legal framework have resulted in a cumulative narrowing of the political space within the country.
- The Ethiopian legal framework appears to provide an adequate basis for the conduct of genuine elections in line with regional and international commitments subscribed to by Ethiopia. However, the practical implementation of the laws regulating elections deviates in certain cases from the spirit of these commitments, thereby constraining the electoral process and more particularly the full, non-discriminatory enjoyment of fundamental rights.
- Overall, the National Electoral Board of Ethiopia (NEBE) administered the elections in a competent and professional manner, overcoming significant technical challenges. However, shortcomings were noted, notably in terms of the consistency and coherence of technical information received and aggregated by the electoral authority, such as complete polling station lists, which has affected the transparency of the process. Insufficient measures were taken to increase the level of trust of some opposition parties in the impartiality of the NEBE, especially at the constituency level. At the national and in most cases constituency level, the electoral authorities have been very cooperative with the EU EOM.
- The voter register for the 2010 elections is relatively inclusive on the basis of NEBE projections, with around 32 million registered voters out of 37 million eligible citizens. Notwithstanding, the lack of a national voters list does not allow for the purging of multiple registrations.
- The provisions for complaints and appeals related to voting, counting and tabulation have been significantly strengthened in the last five years. Nonetheless, the EU EOM considers that further measures must be implemented to ensure that they provide the opportunity for effective legal remedy on election-related complaints, in light of opposition parties' lack of confidence in the independence and neutrality of the judiciary and the police.
- The number of complaints of campaign violations, harassment and intimidation, including cases of violence, voiced both by the opposition and the ruling party rose in the last weeks. The sheer volume and consistency of these complaints is a matter of concern and has to be taken into consideration in the overall appreciation of the electoral process. The EU EOM recalls the importance for the representatives of all parties to be able to campaign in an environment free from intimidation and threats and for all dissenting views to be respected.
- Generally, the media ensured a neutral coverage of the main political campaign events. The state-owned media gave the ruling party more than 50% of its total coverage on news programmes. A generous amount of free airtime was distributed proportionately to the different parties. Overall, the media were cautious in their reporting. The jamming of Voice of America Amharic Service during the last weeks of the campaign contributed to reduce the possibility for voters to receive information from a wider range of sources.
- Overall, women are under-represented in the electoral authorities, although their participation among polling station staff was higher than at other levels of the NEBE. Women are also under-represented in most political parties, with the exception of the EPRDF who is fielding women candidates in line with its 30% quota. The number of women candidates as a whole has decreased compared to the 2005 elections.

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## Statement of Preliminary Findings

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### BACKGROUND

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On 23 May 2010, the Federal Democratic Republic of Ethiopia held its fourth elections to the House of People's Representatives (HPR) since the ousting of the Derg regime in 1991. Elections were held simultaneously for the country's Regional State Councils.<sup>1</sup> There was a general consensus in the run-up to the 2010 elections among all stakeholders of the importance that these elections be held in a peaceful environment, with frequent references to the regrettable violent aftermath of the 2005 elections.

The political scene has seen significant changes since the previous elections, following splits, mergers, and the emergence of new parties, as well as the departure of important opposition figures from Ethiopia. Out of the 79 political parties registered at the NEBE, 63 presented candidates for the 2010 elections. The incumbent, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), fielded 501 candidates for the HPR elections. Among the opposition parties, the Forum for Democratic Dialogue coalition (Medrek), presented the largest number of candidates - 421, followed by the All Ethiopian Unity Organisation (AEUO) with 319 and the Ethiopian Democratic Party (EDP) with 230 candidates to the HPR.<sup>2</sup>

### LEGAL AND ELECTORAL FRAMEWORK

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The HPR and State Council elections are governed by the Ethiopian Constitution, the amended Electoral Law of 2007 and a series of election-related regulations adopted in the last few years,<sup>3</sup> aimed at increasing the potential for holding peaceful elections. The National Electoral Board of Ethiopia (NEBE) has also issued a number of specific directives and regulations covering relevant aspects of the process.

In electoral terms, Ethiopia is divided into 547 single-member constituencies for the HPR, the members of which are elected according to a “first-past-the-post” majority system. The same constituencies and majority system apply for the multi-member State Council elections, in accordance with specific regional laws. Twenty-two seats are reserved for certain ethnic minority groups, as established by the Constitution and the Electoral Law. Although commendable in terms of ensuring the representation of minority groups in parliament, there is a lack of clear legal or procedural documents regarding these special constituencies.

Constituency delimitations have not been substantially reviewed since they were first determined in 1995. On the basis of figures obtained from the NEBE, the national average of voters per constituency is around 53,500. There are large regional differences: just over 40,000 in the Beneshangul-Gumuz Region and nearly 130,000 in the Afar Region. Such disparities are contrary to the principle of the equality of the vote.<sup>4</sup>

The Ethiopian legal framework appears to provide an adequate basis for the conduct of genuine elections in line with regional and international principles and commitments subscribed to by Ethiopia.<sup>5</sup> Nevertheless, the implementation of the laws regulating elections deviates in certain cases

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<sup>1</sup> Addis Ababa and Dire Dawa held their City Council elections in 2008.

<sup>2</sup> According to official data from the NEBE.

<sup>3</sup> Notably, the amended Electoral Law Proclamation 532/2007, the Political Parties Registration Proclamation 573/2008, the Electoral Code of Conduct for Political Parties Proclamation 662/2009, the Anti-terrorism Law Proclamation 652/2009, the Freedom of the Mass Media and Access to Information Proclamation 590/2008, the Charities and Societies Proclamation 621/2009 as well as certain provisions of the 2004 Criminal Code.

<sup>4</sup> International Covenant on Civil and Political Rights (ICCPR), United Nations Human Rights Commission, General Comment no. 25 of the ICCPR, Paragraph 21, emphasizes the principle that “the vote of one elector should be equal to another”.

<sup>5</sup> ICCPR, Convention on the Elimination of all Forms of Discrimination Against Women, Convention on the Elimination of

from the spirit of these commitments, creating constraints on the electoral process, and more particularly on the full, non-discriminatory enjoyment of fundamental rights such as the freedom to campaign and other fundamental freedoms.

The Electoral Code of Conduct for Political Parties (ECCPP), was initially signed by the Prime Minister and the leaders of three opposition parties on 30 October 2009 and was subsequently signed by most political parties. The EU EOM considers that the Code of Conduct is a positive initiative as it establishes certain minimum rules for the election campaign as well as creating Joint Councils for Political Parties (JCPPs) which promote dialogue between contesting parties and foster the resolution of disputes and complaints through discussion and consensus.<sup>6</sup> However, the enactment of the Code as law makes it compulsory even for parties who did not sign it, thereby weakening its originally consensual and voluntary nature.

#### **ELECTION ADMINISTRATION**

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The NEBE, as established in the Constitution and 2007 Electoral Law, is mandated to provide the legal, regulatory and operational framework for the conduct of elections.<sup>7</sup> The NEBE is headed by a nine-member Board appointed by the HPR, upon recommendation of the Prime Minister, and includes regional, zone and constituency offices, as well as approximately 43,500 polling stations.

Overall, the NEBE administered the elections in a competent and professional manner, overcoming significant technical challenges. In most cases the NEBE officials in the field were familiar with procedures and were relatively well-organised, despite an evident lack of resources. The fact that NEBE staff at all levels are primarily civil servants and other government employees contributes to a lack of trust in the electoral authority by opposition parties which mistrust any government involvement. The EU EOM has observed a degree of overlap between electoral authorities, local authorities and the ruling party in certain areas.<sup>8</sup> Furthermore, the fact that a NEBE board member is also the President of the Federal Supreme Court, the ultimate body of appeal against NEBE decisions, damages the credibility of impartial decision making on appeals.

The training programmes organised for all stakeholders (press, judiciary, police and domestic observers) are a positive aspect of the NEBE's work. However, the cascade training system for electoral officials was weak beyond the constituency level and the training of polling station staff was considered by EU EOM observers to be insufficient. The Mission was also concerned about the security and adequacy of the few available locations where polling materials, including sensitive materials, were stored before Election Day.

In a positive development, in line with the larger number of registered voters and a new limit of 1,000 registered voters per polling station, the number of polling stations increased by over 30% as compared to 2005, to approximately 43,500. However, the lack of a public, accurate and complete list of polling stations produced by the NEBE damaged the transparency of the process.

According to the Electoral Law, five public observers<sup>9</sup> must be present in each polling station and three in each Constituency Election Office. Procedures for the election of public observers require that all political parties be notified of the process, but there were widespread reports from the opposition that this did not occur, fuelling inadequately dispelled suspicions regarding the independence of public observers. Although public observers received training, the level of training was considered insufficient for the effective and impartial discharge of their duties. Overall, the presence of public

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All Forms of Racial Discrimination, African Charter on Human and Peoples' Rights, African Charter on Democracy, Elections and Governance, among others.

<sup>6</sup> In accordance with Article 17 of the African Charter on Democracy, Elections and Governance.

<sup>7</sup> Article 103, Constitution of the Federal Democratic Republic of Ethiopia, 1995.

<sup>8</sup> Notably in parts of Beneshangul-Gumuz, Gambela and Oromia regions.

<sup>9</sup> Public observers are community members, mandated to observe and if necessary comment or intervene in a number of phases of the electoral process. They also participate in the Grievance Hearing Committees.

observers does not contribute significantly to the transparency and confidence in the process.

The level of cooperation of the NEBE structures with the EU EOM has so far been very positive, especially at the national level.

#### **VOTER REGISTRATION**

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Eligibility requirements for voter registration are consistent with the principle of universal suffrage, and there are no unreasonable restrictions.<sup>10</sup> A new voter registration exercise is undertaken for each electoral cycle. Voter registration for the 2010 elections was carried out between 9 January and 17 February, except for the Somali Region, where it was held a month later. Voters are registered in their future polling stations and are issued with a voter's card. The final registration figures indicate that 31,926,320 voters were registered, out of approximately 37 million citizens eligible to vote, reflecting a high degree of inclusiveness.<sup>11</sup> Compared to 2005, the number of registered voters rose by around 5.5 million.

Although the identity requirements for voter registration are flexible, thus promoting inclusiveness, the registration procedures are insufficient to guarantee the accuracy and reliability of the voter register. No national voter list is compiled, beyond summaries of total registered voters. There is therefore no possibility to check for multiple registrations. The fact that in the absence of a voter's card, a person's identity can be confirmed by a member of the polling station staff, public observer, or other respected person, and therefore be allowed to vote, reduces the objective safeguards against multiple voting to the correct application of indelible ink.

Students in higher education centres as well as personnel living in military barracks vote for candidates in their constituencies of origin, but register and vote in special centres established in their barracks or centres of higher education; 231,269 persons registered according to these special arrangements. Beyond the significant logistical challenge of issuing and retrieving ballots for potentially several hundred constituencies in each institution, this system reduces the transparency of the results consolidation process, as votes are added to their respective constituencies at the NEBE headquarters, and published only if they cause changes to the result of the given constituency. In addition, for reasons of national security, the NEBE was unable to release details of polling stations located inside military barracks, raising the question of whether polling should take place in locations which cannot be freely accessed and observed.

#### **CANDIDATE REGISTRATION**

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Candidate registration started on 25 December 2009 at the Constituency Electoral Offices. Following complaints by political parties at the National Joint Council for Political Parties (NJCPP), the NEBE extended the deadline to 22 February 2010, and an additional five-day tolerance period. The flexibility showed by the NEBE in this regard ensured greater pluralism in the election process. According to NEBE figures, it registered 2,174 candidates for the HPR and 4,525 candidates for the various State Council elections. This is a significant and positive increase of approximately 15% and 19%, respectively, compared to the 2005 elections.<sup>12</sup>

The requirements for candidate registration are reasonable and generally non-discriminatory. The eleven complaints raised before Grievance Hearing Committees on candidate registration, mainly pertaining to the non-fulfilment of the language criteria or the failure to provide the required documents in due time, were resolved adequately.

In the Somali Region, candidate registration was held simultaneously to voter registration, over a

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<sup>10</sup> There are no provisions for the vote of Ethiopian citizens living outside the country.

<sup>11</sup> According to data provided by the NEBE.

<sup>12</sup> These figures do not include the candidates for the Somali Region.

period of 21 days starting on 19 March. Despite requests from some regional parties, the candidate registration period was not extended as it had been in the rest of the country. After some initial confusion and contrary to previous elections, it was decided that elections to the HPR in the Somali Region would be held on the same day as in the rest of the country, the State Council elections will be held on 30 May. However, the fact that candidate registration took place after the official beginning of the election campaign limited the length of the campaign in the Somali Region. Although this harmonisation of polling days is positive, the EU EOM considers that the principle of equality was not adequately respected for the candidate registration process and the campaign period in the Somali Region.<sup>13</sup>

According to the NEBE, 72 candidates withdrew during the election campaign alleging harassment and intimidation, as well as financial and personal motives. The capacity for voters to choose from different political alternatives and the representative nature of the process were thereby reduced in certain constituencies.

### CAMPAIGN ENVIRONMENT

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The election campaign started officially on 9 February and was generally peaceful, if somewhat discreet and subdued, although it became more intense in the last days of campaigning. Door-to-door canvassing was the main campaign method for all parties, which considered this to be the most cost-effective strategy.

There were however numerous complaints against both the opposition and the ruling party regarding campaign violations, notably campaigning in prohibited places and the destruction of campaign materials. The number of allegations of obstacles to campaigning, overwhelmingly by opposition parties against local administrators, the ruling party and the police rose in the run-up to Election Day. In some constituencies in Afar, Beneshangul-Gumuz, Oromia and the Southern Nations, Nationalities and Peoples' Region (SNNPR), opposition candidates were required to obtain local *kebele*<sup>14</sup> authorisation in order to campaign and 27 people were arrested for campaigning without permission; the Electoral Law only requires that the authorities are notified of campaign activities.<sup>15</sup> The filming of opposition rallies by film crews from the Information and Communication Bureau of the Government's Office of Communication was directly observed by EU EOM observers and is considered tantamount to intimidation in certain local contexts.

The number of allegations of harassment and intimidation, including violent cases, voiced both by the opposition and the ruling party, increased in the last weeks of the campaign. Whilst EPRDF complaints were aimed at the opposition, the complaints from opposition parties were directed against the ruling party, local administrators and the police. The sheer volume and consistency of such complaints is a matter of concern and has to be taken into consideration in the overall assessment of the electoral process. This being said, there is no evidence that these complaints are not the result of individually motivated actions of overzealous local politicians and administrators. Overall, the EU EOM considers that insufficient measures were taken to protect the right to campaign in an environment free from threats and intimidation throughout the country.<sup>16</sup>

The lack of funds has been the most commonly cited concern by opposition parties in explaining their relatively low-key campaign. Although public financing of political parties is a very welcome

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<sup>13</sup> Somali Democratic Alliance Forces, the West Somali Democratic Party, the Del Wabi People's Democratic Movement and the Dude and Degine National Democratic Party decided to boycott the elections in the Somali Region given the NEBE's refusal to extend the candidate registration period or to postpone election day. In effect the ruling party partner party, the Somali People's Democratic Party (SPDP) is running unchallenged in 16 out of 23 constituencies in the region.

<sup>14</sup> Administrative unit, comprising rural communities or urban neighbourhoods.

<sup>15</sup> In at least one of these cases, in Beneshangul-Gumuz, opposition party members are still detained without having been granted bail. This is contrary to the principles of Articles 63-75 of the Criminal Procedure Code of Ethiopia.

<sup>16</sup> In one positive initiative, following complaints of obstruction to campaigning, the electoral office and JCPP in Bedele (Oromia Region) organised joint meetings for all parties to present their programmes to the electorate.

innovation in the Ethiopian political context it is almost unanimously considered insufficient for an effective campaign.<sup>17</sup> Furthermore, alleged delays in its disbursement have been strongly criticised. Compared to other parties the EPRDF is less dependant on public financing, as it benefits greatly from contributions of its members, as well as sizeable contributions from the private sector.<sup>18</sup>

Use of state resources for campaigning by the ruling party was directly observed by EU EOM observers in a number of regions (notably in Amhara, Beneshangul-Gumuz, Oromia, Somali Region, and Tigray),<sup>19</sup> further blurring the separation between the state and the ruling party, especially in rural areas. Such misuse of state resources can give the incumbent an unfair advantage in the campaign and reflects an uneven playing field for all contenders.

## **MEDIA ENVIRONMENT**

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Despite a relatively non-eventful campaign, the media ensured the coverage of the main political campaign events throughout the country. Both private and state-owned media demonstrated their commitment to promote voter education messages. The limited outreach of print and broadcast media around the country reduces their role in providing all voters with sufficient elements to make an informed choice. The jamming of the Voice of America Amharic Service during the last few weeks of the campaign further reduced the possibility for voters to receive information from more varied sources.

The NEBE and state institutions provided a generous amount of free airtime and space to all 63 parties in the media, distributed proportionally according to their representation in the HPR and the number of registered candidates for the 2010 elections. Although most parties agreed on the adopted system, only a few took advantage of the possibility of using the media to convey their messages. In addition, nine debates were aired on nation-wide broadcast media granting a platform for the main political forces to discuss specific and current issues. The broadcasting of debates is a welcome decision, although the fact that they were not broadcast live, to avoid any inflammatory speeches, potentially reduced their impact.

Despite a generally neutral approach, state-owned print and broadcast media failed to ensure balanced coverage by extensively reporting on ruling party activities. Whilst a significant improvement in the distribution of coverage was noted in the last week of the campaign, EPRDF coverage amounted to over 50% of political party coverage on news programmes.

The private press covered a broader political spectrum. Overall, the EU EOM considers that Ethiopian media were very prudent in their reporting of the campaign and that criticism of state institutions was extremely cautious, in line with private journalists' concern about government mistrust of their reporting.

Although there are no clear regulations regarding the role of the media in the 48 hour campaign silence period, political party messages were broadcast and coverage was given to a limited number of political parties in this period, both in state-owned and private media. This is contrary to the balanced coverage that is required of the media according to Ethiopian media laws. A period of media silence prior to Election Day provides voters with time to reflect on their choices.

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<sup>17</sup> According to NEBE sources, the total allocated for political party financing is just over 13 million birr, distributed according to a formula that proportionately favours parties represented in the outgoing HPR.

<sup>18</sup> According to media reports it would have received up to 20 million birr from the business community.

<sup>19</sup> Cases of ruling party posters on public administration buildings, civil servants wearing ruling party propaganda material and campaigning while on duty, loading of EPRDF campaign posters in local administration vehicles, use of local administration offices to coordinate ruling party campaign activities, housing of ruling party offices in local administration compounds (often housing NEBE offices as well), use of state-owned vehicles for campaign purposes, and stockpiling of EPRDF posters in local administration installations have all been directly observed by the EU EOM throughout the country.

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## HUMAN RIGHTS AND CIVIL SOCIETY

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The protection of political rights and respect for fundamental freedoms are essential conditions for holding democratic elections. The Ethiopian Constitution guarantees essential civil and political rights enshrined in a number of internationally binding Human Rights commitments ratified by Ethiopia. However, a number of recent laws, including the Anti-terrorism Law, the Freedom of the Mass Media and Access to Information Law, as well as the Charities and Societies Law raise concerns as to the effective exercise of these fundamental freedoms.

The EU EOM considers that the climate of apprehension and insecurity observed in some local, especially rural communities, where certain local administrative bodies are responsible for essential services such as the distribution of food aid, is not conducive to the full enjoyment of individual civil and political rights. In some of these communities the freedom to campaign, and other fundamental freedoms, such as the freedoms of assembly, movement and speech were not always consistently respected in the run-up to the elections, thereby compromising the right of all political parties and candidates to campaign in equal conditions.

Despite candidates enjoying immunity from arrest until the official announcement of results, barring cases of *flagrante delicto* for serious offences, the EU EOM is aware of six opposition candidates whose arrest does not comply with these provisions. Several detentions without charges brought against opposition party supporters by the police or *kebele* militias have been reported to the EU EOM. The recently re-elected chairperson of the Unity for Democracy and Justice Party (UDJ), Birtukan Mideksa is still serving a life sentence. Her party called for her release during the campaign, and has used her image on campaign materials. Birtukan Mideksa, was arrested in 2005 together with other opposition leaders, and sentenced to life imprisonment for attempting to overthrow the constitutional order. After being granted a pardon in 2007, she was rearrested in December 2008 and had her pardon revoked on the grounds that she denied having requested a pardon. The legality of this revocation is disputed.<sup>20</sup>

The new Ethiopian Charities and Societies Law limits the role that civil society organisations could play in the electoral process, and more generally in the context of human rights advocacy, by reducing the possibility of foreign funding to 10% of their total revenue. Beyond this amount organisations are no longer considered to be Ethiopian organisations, and are prohibited from working in the fields of human rights and democratisation. This limits the scope and capacity for Ethiopian civil society organisations to carry out voter education programmes and domestic observation.

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## WOMEN'S PARTICIPATION

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According to the NEBE, women represent 48.22% of the total number of registered voters, which indicates a slight disproportion in terms of the total population figures. Moreover, women are largely under-represented in the electoral administration, although their participation is considerably greater among polling station staff. The participation of women in political parties is similarly reduced. With its 30% quota for women candidates the EPRDF has distinguished itself in promoting women's participation.

The decision to provide greater funding to women candidates within the public financing of political campaigning is a very positive step, although it does not seem to have spurred a significantly larger number of women to be candidates. According to NEBE sources just over 11% of the 2,174 candidates for the HPR are women, and 15% of the 4,525 candidates to the different State Councils. These figures represent a decrease in women's participation as compared to 2005, where women represented around 15% of candidates for the HPR and around 23% for the State Councils. On the basis of official data from the NEBE there are important regional variations, with just over 8% of

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<sup>20</sup> The United Nations Working Group on Arbitrary Detention defines her detention as “arbitrary”.

women candidates to the HPR in Beneshangul-Gumuz and up to 20% in Addis Ababa.

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## VOTER EDUCATION

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The NEBE's mandate includes the provision of voter education, and although it is entitled to licence such activities to other organisations it has opted, contrary to previous elections, to retain exclusive competence in this field. The Board prepared materials and distributed them through regional and zonal offices, as well as through the media, drama and posters. In practice local administrators, community leaders and to a lesser degree political parties, appear to have been the main sources of information for voters. The opportunity for voters to make a free and informed choice was in part compromised by the limited extent to which they were able to access impartial information.

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## DOMESTIC ELECTION OBSERVATION

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The main organisation carrying out domestic observation in the 2010 elections is the Coalition of Ethiopian Civil Societies for Election Observation (CECSEO), which gathers eleven organisations, the most prominent of which is the Ethiopian Teachers' Association. The CECSEO intended to deploy 40,000 observers across all the country's regions. On 24 May, CECSEO released a preliminary statement giving its full approval for the elections so far. Other organisations were accredited: the Islamic Supreme Council, the Association of Families of the Derg and the Association of Football Referees. The Ethiopian Human Rights Commission (EHRC) also carried out election monitoring. In a provision which tends to curtail the freedom and independence of electoral observation, all domestic observers are required to submit their findings to the NEBE within one month of official announcement of results. Credible and effective domestic observation is an important tool to enhance the transparency of an electoral process.<sup>21</sup>

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## COMPLAINTS AND APPEALS

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The procedures to address election-related complaints represent a significant step forward in the Ethiopian legal and electoral framework. Three channels are available to resolve election complaints: 1) the judiciary (either in first instance for electoral crimes or in appeal); 2) the electoral administration (through Grievance Hearings Committees, GHCs); and, 3) the Joint Councils for Political Parties (which can investigate but whose sanctioning power is limited to voicing their condemnation and referring matters to the courts).

Complaints relating to the voting process must be lodged at the polling station GHC which shall decide on the complaint immediately. Complaints relating to counting and results can be raised at the polling station GHC and, within 48 hours at the constituency level GHC. All GHC decisions may be appealed against to the NEBE in Addis Ababa, the decisions of which in turn can ultimately be appealed against at the Federal Supreme Court of Ethiopia. Where GHCs have not been established, cases were decided by constituency electoral offices. To date, the NEBE at all levels, has received at least 204 complaints as reported by EU EOM observers. Most complaints concern obstruction to campaigning (113 cases), together with intimidation, harassment and violence against candidates and supporters (45 cases). So far, around 90 decisions have been taken, generally calling for mediation or referring cases to the police or Joint Councils. Despite their training, the lack of legal knowledge of GHC members is considered to be a problem that must be addressed in order to enhance the credibility of the electoral administration's complaints resolution mechanism.

The very limited resort to the judiciary for the resolution of election-related complaints reflects opposition parties' lack of confidence in the independence and neutrality of the judiciary and the police and in the possibility to obtain effective legal remedy. Indeed, the number of cases before the courts is

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<sup>21</sup> Article 22 of the African Charter on Democracy, Elections and Governance calls upon State Parties to “create a conducive environment for independent and impartial national monitoring or observation mechanisms”.

fairly low, considering the number of complaints raised at the JCCPs and GHCs. The fact that some JCCPs accepted and decided cases regarding criminal offences, as if they were *ad hoc* first instance courts, and the lack of understanding as to the possibility to appeal JCCP decisions, reduced the number of cases reaching the courts. In this manner, the right to an effective remedy, the transparency and the genuine nature of the process is potentially compromised.

The expediency with which the courts often resolve cases is a positive feature in election processes where timeliness is essential, but also raises doubts as to the adequate respect for the principles of due process and the right to a fair trial. In several cases persons accused of destruction of campaign materials, and lacking legal counsel, were sentenced to up to 10 months imprisonment, without sufficient time or opportunity to prepare their defence. The EU EOM considers such penalties disproportionate, although the law contemplates up to one year imprisonment or a fine. To date, 76 cases of destruction of campaign materials (mainly EPRDF posters) have been submitted before the courts. Of these, 61 were ruled upon within a couple of days.

Many of the political parties which participate in the JCCPs seem to privilege these forums for the resolution of election-complaints. However, these councils have not been established consistently throughout the country, leaving the mediation role in the hands of some local NEBE offices. Overall, the significance of the joint councils must be weighed against the fact that the main opposition coalition in the run-up to these elections, Medrek, is voluntarily not participating in them in accordance with its continued refusal to sign the ECCPP.<sup>22</sup> Although, the EU EOM considers that the establishment of JCCPs is a positive step, this mechanism creates a degree of unaccountability of the judicial institutions and the state itself in dealing with offences. Throughout the country EU EOM observers reported that JCCPs have received at least 74 complaints. Of these 33 referred to campaign violations, including obstruction to campaign, while 20 referred to intimidation and harassment of candidates and supporters. Only 23 cases have been resolved so far, often to the dissatisfaction of the aggrieved parties.

## **POLLING, COUNTING AND AGGREGATION**

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Election Day unfolded in a peaceful manner, with a high turnout of voters. Overall, the secrecy of the vote was respected. EU EOM observers reported isolated irregularities and an inconsistent application of procedures.

EU EOM observers rated opening procedures as either “good” or “satisfactory” in 83% of observed polling stations. However, in about a third of observed polling stations the opening procedures were not followed correctly. In 23% of observed polling stations, the number of ballots received was not checked against the figure provided by the NEBE-issued document, making it impossible to reconcile this figure with the number of ballots at the closing. In 34% of observed polling stations, the voter register was not displayed to party agents, an element of the opening procedures provided to demonstrate that the register was unchanged since it was closed. Polling station committees were sufficiently staffed and their knowledge of the procedures was reasonably good.

Overall, polling procedures were correctly followed in the polling stations visited by EU EOM observers throughout the day. The process was assessed as “good” or “satisfactory” in 87% of cases observed. Political party representatives were present in the majority of visited polling stations, with EPRDF party agents present in almost all observed polling stations, Medrek party agents in about half and AEUEO agents in about 20%. The presence of domestic observers was observed in 76% of observed polling stations, the vast majority from the CECSEO Women comprised 28% of polling committee members, but only 11% of committees were presided over by women.

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<sup>22</sup> Moreover, in a positive initiative, EU EOM observers have reported that in at least four constituencies in the SNNPR and one in the Amhara Region, an unofficial mediation body was established allowing all political parties running in the constituency to participate in a common forum.

In 21% of polling stations observed by the EU EOM, people were allowed to vote without their voter card, but in accordance with procedures. In 15% of polling stations observed, voter cards were not systematically destroyed. In such cases, the only objective safeguard against multiple voting was the correct application of indelible ink. EU EOM observers reported isolated irregularities in the voter register held at polling stations, such as names which had been written over, and others where signatures on registration did not match those given when voting. In 13% of observed polling stations, observers noted some form of monitoring, intimidation or attempts to influence voters in the vicinity of the polling stations.

Overall, closing and counting took place in a calm and undisturbed atmosphere and few complaints were registered. EU EOM observers assessed the process of closing and counting as "satisfactory" or "good" in 66% of observed polling stations, and as "poor" in 34%. Political party agents were generally present during the counting process, with EPRDF present in most cases and Medrek in almost half. Domestic observers from CECSEO were also present in 75% of cases.

In line with accepted principles for democratic elections, both the Electoral Law and the NEBE-issued Directive on Voting, Counting and Announcement of Results consider ballots where the voter's intention is unclear as invalid. However, the 2007 Electoral Law stipulates that to be valid, a voter's choice may only be made by marking a cross or a thumbprint. The EU EOM considers that greater precedence should be given to a voter's clear intention. The restrictive interpretation for determining valid ballots was not problematic, as those present at polling stations generally agreed on the interpretation.

In several observed polling stations, key elements of the counting process were not adequately adhered to. The main weakness was the failure to systematically account for all ballots and to tally the valid, invalid and unused ballots. In 25% of observed polling stations the results form was not given to all party agents and in nearly half of the polling stations observed by the EU EOM, results were not publicly posted.

According to the NEBE schedule, final results will be announced on 21 June. The EU EOM will continue to observe the counting and consolidation process.

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The EU EOM would like to express its appreciation to the National Electoral Board of Ethiopia and all national authorities, as well as political parties and the people of Ethiopia for their cooperation and assistance during the observation period. The EU EOM is also grateful to the Delegation of the European Commission to Ethiopia, the diplomatic missions in Addis Ababa and *Deutsche Gesellschaft für Technische Zusammenarbeit* (GTZ), for their support throughout the mission.

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