



PRELIMINARY STATEMENT Presidential Election - Second Round

The second round of the presidential election was generally well administered and organized in a transparent manner despite some minor incidents and irregularities

Bissau, 28 July 2009

The European Union Election Observation Mission (EU EOM) has been in the country since 6 June 2009 by invitation of the National Election Commission (Comissão Nacional de Eleições, CNE) and the government of Guinea Bissau. The EU EOM is headed by Johan Van Hecke, Chief Observer, and is composed of 21 observers from 12 EU member countries. The observers covered all nine regions of the country during the first and second rounds of the election to assess the electoral process in accordance with international principles for democratic elections and laws of Guinea Bissau. On 26 July, the second round election day, the observers visited 107 polling stations in 23 of the 27 constituencies (círculos eleitorais) to observe voting and counting. The EU EOM is currently observing the consolidation process and will remain in the country to follow post-election activities. A final report containing an overall assessment and recommendations will be issued within two months after the completion of the electoral process. 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, New York, in October 2005.

Preliminary Conclusions

- The second round of the presidential election on 26 July 2009 was generally well administered and organized in a transparent and inclusive manner, and met essential international principles for democratic elections. The National Election Commission (CNE) and the Regional Election Commissions (CREs) ran the election process successfully in a professional, impartial and transparent manner.
- Although results are still being processed, voter turnout seemed to be at the same level or slightly higher than the 60 percent of the first round. Election day was largely peaceful and orderly and voters were able to exercise their franchise freely.
- As in the first round, the second round election was conducted under a legal framework that provided for democratic elections. The EU EOM considers, however, that the legal framework can be improved, harmonized and simplified in advance of future elections. Essential improvements already recommended by past EU EOMs include, among others, the implementation of the vote of the Guinean Diaspora, a provision for election monitoring by non-partisans groups of domestic observers and to attribute *de facto* normative powers and/or interpretative powers to the National Election Commission.
- The two-week electoral campaign for the second round was held in a quiet and orderly manner. Regretfully, candidates resorted to persistent serious, inflammatory accusations, without evidence, and to the continuous open use of state resources to support electoral

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- objectives. The use of the media for personal attacks did not contribute to the expected commitment to a national reconciliation. Also, the absence of a public debate between the two candidates diminished the opportunities for voters to be informed about the candidates programs and ideas. Candidates, however, were able to move freely across the country and to express their opinions without interference or intimidation. Fundamental freedoms of expression, assembly and association were generally respected, and citizens were able to participate freely in the process.
- The EU EOM takes note of the efforts of the CNE and of the Bolama-Bijagos CRE to allow the highly mobile electoral population of the archipelago to vote in any island and in any polling station. Although not fully complying with the law, the decision is, however, in line with international good practices to promote voter participation and to eschew impediments to voting.
 - The unexpected issuing of replacement voters' cards in the regions of Bafatá and Quinara prompted the CNE to warn voters that only those whose names were in the electoral register could vote. The explanation by the Ministry of Territorial Administration, responsible for voter's registration activities under supervision of the CNE, clarifying that local registration commissions were in fact issuing replacement cards, came late and should have been publicized beforehand to avoid a situation of suspicion and disorientation among the several actors involved in the electoral process. Such activities should have been carried out under surveillance of the political parties.
 - The non-interference in the electoral process by the armed forces should be praised as a sign of commitment to the strengthening of democracy and national reconciliation.
 - The strong presence of women, in many cases as head official, among the members of the polling stations, was a positive development during the two rounds. Despite a still modest presence in government and in the electoral administration, women were, however, majority in almost all rallies observed by the EU EOM.
 - Civil society played an active role in the electoral process, despite its financial and legal limitations to following it properly. Despite the restrictions on domestic observation, civil society organizations developed a positive and pro-active attitude supporting actions to reduce instances of violence or of lack of material during the election period.
 - The media continued to enjoy freedom and there were no incidents reported or observed by the EU EOM affecting its freedom to report on the electoral campaign and process in general. Despite facing serious technical and financial difficulties, the public and private media provided a fair coverage. The printed media kept readers, mainly in the capital, informed about the electoral process. The state-owned newspaper, *Nô Pintcha*, maintained a balanced reporting and a neutral tone in its coverage of the two candidates.
 - The electronic public media offered free and generally equal airtime to both candidates. However, it showed a clear bias toward the official party candidate in the coverage of the electoral campaign, a tendency that was not seen during the first round, according to the EU EOM media monitoring. *Rádiodifusão Nacional* (RDN) and *Televisão da Guiné-Bissau* (TGB) gave the official party candidate an average of twice as much time than to his PRS rival, in a violation of the legal requirement of equal treatment to all candidates. The main private electronic media showed in general a balanced and most of time neutral coverage, although in some cases devoting more space or time to a candidate.
 - The electronic media, according to the EU EOM monitoring, seemed to have generally accepted the recommendation of the press regulatory agency *Conselho Nacional de*

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Comunicação Social (CNCS) and abstained from publicizing results. Although not forbidden by law, the CNCS made the recommendation based on what it called the fragility of democracy and social peace prevailing in the country. However, one community radio in Bissau, *Radio Voz de Quelelé*, allegedly broadcasted the results as they were being posted at the polling stations in the capital.

Preliminary Findings

BACKGROUND

The presidential election was called after the assassination of President João Bernardo “Nino” Vieira on 2 March 2009, and it was held less than six months after the election of the new members of the Popular National Assembly (ANP). In the Guinean semi-presidential system, with no vice-president, ANP’s president, Raimundo Pereira, became the interim president of Guinea Bissau. During the first round, a total of 11 candidates, out of 20 who originally requested their nomination, went after the votes of 593,557 citizens registered in the nine regions of the country on 28 June 2009. The two most voted, Malam Bacai Sanhá and Kumba Yalá, faced each other in a second round on 26 July 2009. Guineans went to the polls to elect their sixth president since the end of the civil conflict in May 1999, and the two contenders had already served their country as president, Malam Bacai as interim president and Kumba Yalá as elected president, although deposed before the end of his mandate. There is no elected president in the history of Guinea Bissau who served his full mandate.

The country, already shocked by the death of president “Nino” Vieira, hours after the killing of the chief of staff of the armed forces, general Tagme Na Waie, was again shaken by a series of events that brought, especially for the first round, a climate of insecurity, intimidation and fear to the country in general and to the electoral process in particular. On 5 June, one of the presidential candidates, a former minister for territorial administration, Major Baciro Dabó, was killed after what was officially explained by the State Intelligence Services (*Serviços de Informação do Estado, SIE*) as an attempt to resist a detention order. The same night, Helder Proença, an ex-defense minister and close to another presidential candidate, was also killed for the same reason. Both were members of the ANP representing the African Party for the Independence of Guinea Bissau and Cape Verde (PAIGC), currently in power. A former prime minister, Faustino Imbalí, was also arrested by persons in military uniform on the same day; the SIE director, Antero Correia, had the same fate after refusing to sign a statement on the reasons for the 5 June deaths and arrests. Imbalí and a musician, Domingos Brosca, were still detained at the writing of this statement. Another presidential candidate, Pedro Infanda, withdrew from the race alleging a lack of security conditions. The president of the Supreme Court of Justice (*Supremo Tribunal de Justiça, STJ*) and the Attorney General were also blank of threats and intimidation forcing them to leave their residences for security reasons, and just recently resumed their normal activities.

When the main governmental and legislative functions are being fulfilled on a provisional basis (the president of the republic, the chief of the armed forces and the president of the legislature are all interims), the presidential election is fundamental to bring continuity, institutional normalization and legitimization to the leadership of the country.

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This is the third electoral process observed by the European Union in Guinea Bissau, after the presidential election in 2005 and the legislative election in 2008.

LEGAL FRAMEWORK

The legal framework in Guinea Bissau generally provides for democratic elections although improvements can be introduced for future elections. Governed by the Constitution of 1984 (last amended in 1996) along with a set of four main electoral laws,¹ the legal framework respects fundamental rights and provides for the conduct of democratic polls in line with international principles for democratic elections. Civil and political freedoms, such as freedom of movement, of assembly, of association and the right to vote and to stand as a candidate are guaranteed by law and widely respected by national stakeholders and parties. Access to participation in all aspects of public life, as well as equal rights and opportunities for women and men in regard to elections, is broadly reflected in the legal framework. The second round was held according to the terms of the electoral law (Article 113) and within the 21 days deadline after the announcement of the first round results.

Guinea Bissau is politically organized under a semi-presidential system with a president of the republic, a Popular National Assembly (*Assembleia Nacional Popular*, ANP) and a government headed by a prime minister. The president is directly elected by absolute majority (50 percent plus one vote) for a five-year mandate and can be reelected for one term; the 100 members of the ANP are elected for a four-year mandate under a proportional system, and the prime minister is named by the president of the republic according to the election results and party composition of the assembly². While the legal framework generally respects fundamental rights, it lacks provisions for the voting of the Diaspora (Guineans residing in Europe and Africa) in presidential elections. It is estimated that around 200,000 Guineans were eligible to vote and consequently disenfranchised. It also prohibits domestic electoral observation leaving it up to political parties the monitoring of the electoral process. Other shortcomings of the legal framework that should be addressed include the CNE's lack of normative power regarding the updating of electoral regulations and its financial dependency on governmental budgetary support. Additionally, there is a need to reconcile the electoral law with the Constitution to avoid conflicts and clarify ambiguities, like the timeframes for holding of elections. These timeframes should be adapted to the real organizational capacity of the electoral administration.

INTERNATIONAL PRINCIPLES

Democratic benchmarks for good electoral practice mainly revolve around principles as enshrined in the Universal Declaration on Human Rights (UDHR) and Article 25 of the International Covenant for Civil and Political rights (ICCPR) of 1966: *periodic elections, universal and equal suffrage; right to stand for public office; right to vote; and genuine elections allowing for the free expression of the will of the people*. Guinea Bissau has signed the ICCPR and is a party to the UDHR, the African Charter on Human Rights, the African Charter on Democracy, Elections and Governance, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of Racial Discrimination. Although the ICCPR was adopted by the Popular National

¹ Law on Voter Registration, Law on the Election of the President and the National Popular Assembly, Law on the National Election Commission and Law on International Election Observation.

² Article 68/g of the Constitution.

Assembly³ in 1989, the ratification instrument was not deposited to the United Nations since Guinea Bissau does not appear in the UN database as a party to this treaty.⁴

ELECTORAL ADMINISTRATION

The National Election Commission (CNE), as the central body of the electoral structure, continued to perform in a professional, independent and generally transparent manner. Despite logistical difficulties, and arrival one week before election day, electoral material was distributed on time to all nine regions of the country, and then to the 2,686 polling stations and mobile polling stations. The election cost of US\$4,965.709 (approximately €3.8 million, including €2.4 million from the European Union) for the two rounds was almost fully financed by international contributions and a small government funding. Portugal contributed with printing and delivery of sensitive and non-sensitive material at a cost of around €224,000. The prompt release of funds by international donors allowed the CNE to administer the process in an efficient and effective way.

The majority of the 13,420 election officials deployed across the nine regions of the country during the first round were again mobilized and trained on specific issues to overcome some shortcomings of the first round, like the proper sealing of ballot boxes and how to deal with early voting, two delicate issues brought to the attention of the electoral officials by the EU EOM in its first preliminary statement. An intense civic and voter education campaign, involved the CNE, the media, civil society and international organizations, focused on motivating Guineans to vote and to reduce the first round high abstention rate (40 percent). The campaign also reminded voters on the election procedures, the importance of voting, voting rights and, above all, to accept the results. The conduct of a peaceful and nonviolent campaign and the acceptance of election results as a sign of democratic maturity were also repeated subjects during the campaign and part of a code of conduct signed by most candidates at the beginning of the electoral process.

The CNE decided to allow voters in Bolama-Bijagós, one of the 27 constituencies (*círculos eleitorais*), to vote in any island or polling station; it was an adequate solution in accordance with international good practices, although not fully according to the law⁵, to avoid impediments to voting and to reduce abstention. The highly mobile electoral population of the islands had already successfully experimented with free-place-polling during the first round, with voters' names check-marked later. The original initiative for the second round to send to each polling station the full voters' list for the constituency to facilitate the control of voters at that level was later reversed by a CNE plenary session, in which the PRS representative was absent. The polling stations received the respective list of voters, and votes of those voters not on the lists were placed in envelopes and sent to the CRE to be checked against the constituency list and eventually tabulated.

VOTER REGISTRATION AND UPDATE

The unexpected issuing of replacement voters' cards in the regions of Bafatá and Quinara prompted the CNE to warn that voters could only vote if their names were in the voters' register. The reaction

³ Resolution 3/89

⁴ International Federation for Human Rights, *The Observatory*, October 2008.

⁵ Each polling station has around 400 voters, voters can only vote at the polling station were they were registered and only those voters whose names appear on the voters' list at the polling station are allowed to vote (Article 68/1).

came after the National Movement of the Civil Society for Peace, Democracy and Development cautioned in a press statement that persons linked to PRS were issuing replacement cards. The Ministry of Territorial Administration, responsible for voter's registration activities under supervision of the CNE, said that local registration commissions were in fact issuing cards but that, under no circumstances, the number of voters would be changed. EU EOM observers reported that two persons in Bafatá were arrested accused of issuing and buying voters' cards.

The same voters' lists used in the first round were distributed to the polling stations for the run-off election. For the first round, the government agency in charge of voter registration issued copies of cards to a total of 13,022 voters during approximately 30 days in April and May. A total of 593,765 Guineans were eligible to vote on 28 June and 26 July. Out-of-country registration was not conducted by the Guinean diplomatic representations. The presidential election used the same register for the 2008 legislative election, with no updates despite being required by law. The EU EOM reiterates that yearly updates of the register and a permanent voter register are a good practice in many countries. The CNE and CREs should have the property of the voters' register and be responsible for the entire process of registration.

CAMPAIGN ENVIRONMENT

The two-week electoral campaign for the second round was held in a peaceful manner despite being contaminated by persistent serious, inflammatory and unsupported accusations made by the PRS candidate against his adversary, who in turn seemed to freely capitalize on government officials and public activities and use of state resources to support his electoral objectives. During the campaign, the National Movement for the Civil Society expressed its concern with the PRS use of military issues in the campaign with the alleged objective of create fractures in the armed forces;⁶ it also called on the candidates to abstain from using state resources, especially vehicles. The use of the media for personal attacks did not obviously contribute to the expected commitment to a national reconciliation. Also, the absence of a public debate between the two candidates diminished the opportunities for voters to be informed about the candidates programs and ideas. Candidates, however, were able to move freely across the country and to express their opinions without interference or intimidation.

The military, who have traditionally exercised power beyond their constitutional mandate, limited their activities to support the electoral administration in securing the election material, after assuring publicly of the existence of sufficient security conditions for holding the elections and a peaceful environment. Voters, however, continued to show a general disinterest and lack of spontaneity during the electoral campaign; the shows of support to candidates and the parades of trucks and cars were limited and involved groups of militants of the main political parties, and rallies seemed to attract people more for the caps and t-shirts given away and musical shows than a real interest to hear the candidates. Moreover, the still tense situation stretching from the killings of 2 March and 5 June, the exchange of inflammatory accusations between the candidates and the perspective that either candidate would not easily accept defeat sent many residents out of the capital in search of safer places.

⁶ A PRS official warned that Prime Minister Carlos Gomes Jr. was planning to fire the *balanta* top brass in the military if the PAIGC candidate was elected the new president. *Balanta* is Kumba Yala's ethnic group. The armed forces reacted requesting the candidates to avoid issues that might create tensions within the military.

MEDIA ENVIRONMENT

Freedom of the press was generally respected in line with the international and national legal framework. However, the persistent lack of technical and financial resources remains the main obstacle to an independent and impartial media, threatening the current general climate of freedom. Radio continues to be most important source of information and has played an important role in the regions by airing CNE-produced voter and civic education programs focused mostly on an appeal to voters to vote and thus reduce the high abstention rate (40 percent) of the first round.

According to the EU EOM media monitoring results⁷ for the second round, the electronic public media reversed its balanced coverage during the first round and openly favored the official party candidate, Malam Bacai Sanhá, in a violation of the legal requirement for equal access to all candidates. *Televisão da Guiné Bissau* (TGB) devoted 33 percent of its news programming, *Telejornal*, to the PAIGC candidate while giving 16 percent to his adversary, Kumba Yalá. The same bias was recorded in the coverage by the national public radio, *Rádiodifusão Nacional* (RDN) where Bacai Sanhá received 42 percent of the total airtime of its news against 18 percent given to the PRS candidate. The two candidates, though, shared equal free airtime in the state-owned media.⁸ The state-owned newspaper *Nô Pintcha*, offered a balanced coverage of the two candidates during the entire campaign and kept its readers well informed about the electoral process. Public and private media in general provided a wide range of information, using most of the time a neutral tone, and managed to keep voters informed about the electoral process.

The press regulatory agency, *Conselho Nacional de Comunicação Social* (CNCS), issued a directive (*Directiva Genérica(No1/2009)*) on 12 June 2009 with a series of recommendations to the media outlets, including the community radios and TV stations,⁹ reminding them of the equal access and treatment to all candidates, and a balanced reporting. On 22 July, the CNCS also recommended the media to abstain from “commenting” on the provisional or partial results of the election, although there are no legal impediments except for the publication of polls or projection of results.

GENDER

A positive development during the two rounds was the strong presence of women as members of polling stations’ staff, in many cases as head of the polling officials. However, women continue to have a modest presence in the government —five women among 22 ministers—and are practically absent in the higher echelons of the electoral administration; the CNE secretariat has no female members

⁷ From 10 to 24 July, period that corresponds to the second round electoral campaign calendar, the EU EOM monitored the following media: state-owned *Rádiodifusão Nacional* – RDN, *Televisão da Guiné-Bissau* – TGB, and newspaper *Nô Pintcha*; private radios *Bombolom*, *Galáxia de Pindjiguiti*, *Sol Mansí*, community radio *Rádio Jovem*, private newspapers *Gazeta de Notícias*, *Diário de Bissau*, *Kansaré* and *Última Hora*.

⁸ *Televisão da Guiné-Bissau* (TGB) has been off air now for several weeks due to technical reasons. Thanks to the Portuguese state-owned television station for Africa (*Rádio e Televisão de Portugal – RTP África*), TGB was able to offer free airtime to the candidates and coverage of the second round of the presidential election through a daily two-hour free signal relayed by RTP África.

⁹ A network of 28 community radios and three community TV stations are not covered by the law because they were established after the publication of the 1991 Press Law and the Electoral Law; according to the *Conselho Nacional de Comunicação Social* the laws are not applicable and no penalties are applied to those community radios and TV stations.

and just one woman is among the non-permanent members of the CNE plenary. The electoral campaign rallies for the second round saw, however, the constant and active presence of the defeated presidential candidate, Francisca Vaz Turpin, who offered her support to PAIGC's candidate, Malam Bacai Sanhá, and, according to EU EOM observers, women were majority in almost all rallies.

The Guinea Bissau Women's Political Platform (*Plataforma Política das Mulheres da Guiné-Bissau*) has been active carrying out voter education activities aiming to contribute to decrease the abstention rate in the second round of the presidential election. The Women's Political Platform deployed 40 civic animators across the country to reinforce the CNE voter education messages appealing to the participation of the voters, men and women. The platform constitutes a channel for the defense and the promotion of women's rights and the encouragement of female participation in the political life of the country.

CIVIL SOCIETY

Civil society had an active role in the electoral process, despite its financial and legal limitations to following it properly. The election law on observation only provides for international observers and political parties and candidates' delegates to observe the election process but does not allow domestic observation. Despite this restriction on domestic observation, civil society organizations have developed a positive and pro-active attitude towards supporting actions to reduce instances of violence or of lack of material during the election period. Also, different groups organized informal monitoring teams in support of the election administration by voluntarily offering to pass on information regarding potential shortcomings involving distribution of materials or instances of tension or disturbances during Election Day. Civil society groups, in cooperation with local authorities and the CNE, organized civic education programs, which undoubtedly facilitated the dissemination of a message of tranquility, order and peace regarding the campaign period, the poll and the post electoral period.

VOTING

Election day was largely peaceful and orderly. No cases of intimidation were reported and all polling stations observed were operational within an hour of opening time. Electoral material was delivered on time to polling stations in all nine regions and was complete in 97 percent of the polling stations observed by the EU EOM, against 92 percent in the first round, reflecting the efforts by the CNE and CREs to improve the distribution and delivery of materials. There were no campaign activities inside or outside the polling stations, although some statements by the candidates and other party officials during the day might be interpreted as directed to encourage people to vote for a specific candidate. Candidates' representatives were present in all 107 polling stations visited by the EU observers during the different stages of the election, and no complaints were submitted at those polling stations.

Another positive indication of the CNE and CREs efforts to improve the election administration was the assessment by the EU EOM observers of the overall process on election day as good in 75 percent of the cases, against 52 percent in the first round,¹⁰ and satisfactory in 22 percent (44 percent) of the polling stations visited. Also, the problems with sealing of ballot boxes as stressed by the EU EOM

¹⁰ Ratings were poor, satisfactory and good.

during the first round seemed to have been adequately addressed if measured by the 90 per cent (53 percent in the first round) of boxes properly sealed during the second round. There were no problems observed or reported in relation to the conduct of the security forces, police and military, although in 30 percent of the polling stations visited by the EU observers there were no security agents (*agente de protecção*) present.

The voting cycle, from the arrival of voters at the polling stations through the return of his/her punched voting card, was carried out without incidents in the polling stations observed. However, there were some minor incidents and irregularities: in Bissau (constituency 27) a person tried to vote with someone else's voter card;¹¹ in Quinara, the president of a polling station was harassed by some people; a voter with a voter card without number tried to vote in constituency 29, Bissau; two persons voted with voters' cards belonging to other voters in Bambadinca, Bafatá, and were taken by the police, and a polling station in Fulacunda, Quinara, closed two hours earlier, at 15:00 hours, with the agreement of the candidates' representative and the local CRE. The PRS representative to the CNE also complained that two voters in constituencies 24 and 25, Bissau, tried to vote but were told that someone had already voted for them; the EU EOM confirmed both cases at the polling stations.

COUNTING

Counting was assessed as "good" or "satisfactory" in all polling stations visited by the EU EOM and all complied with closing and counting procedures. No major problems in the counting and reconciliation in the polling stations visited were reported or observed, although in one of them the total of ballots didn't match the number of voters in the manual list, where each voter is check-marked. There were no complaints filed, and candidates' representatives were present during closing and counting at all polling stations visited by the EU EOM. The results were signed by all candidates' representatives in the polling stations observed, and all were given a copy of the results (*acta síntese*). The sensitive materials were properly packaged for transport to the CREs in 88 percent of the polling stations observed, where the results were immediately publicly posted once the count had been completed.

The EU EOM wishes to express its appreciation to the National Election Commission of Guinea Bissau and the Guinean authorities for their cooperation and assistance during the course of the observation. The mission is also grateful to the International Organization for Migration (IOM) and the Delegation of the European Commission in Guinea Bissau for their support.

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¹¹ Voting was halted for some time until the CNE president ordered to resume it and the person turned to the police.