



**EUROPEAN UNION
ELECTION OBSERVATION MISSION
ZAMBIA, GENERAL ELECTIONS, 2011**

PRELIMINARY STATEMENT

A generally well administered election day and highly competitive campaign, despite the lack of a level playing field

Lusaka, 22 September 2011

Executive Summary

- The general elections held on 20 September 2011 have, so far, been organised in a transparent and credible manner. Election day was generally calm and well managed. The enthusiasm shown by the Zambian public for the elections demonstrated their desire to further consolidate democracy in the country. The election campaign has taken place in a highly competitive environment with key freedoms including those of assembly, expression and speech respected throughout the country during the campaign period. However, unequal access to resources has meant there has not been a level playing field for candidates or political parties to campaign.
- Regional principles and international commitments for periodic and genuine elections have been mostly respected, but reform of key aspects of the electoral framework is required for future elections. The European Union Election Observation Mission (EU EOM) continues to observe the aggregation of results. This statement is preliminary and the EU EOM will not draw final conclusions until the completion of the results process, their certification and acceptance.
- Overall, legal provisions in Zambia provide an adequate framework for the conduct of democratic elections. The constitution reflects the separation of powers and provides for an independent judiciary. Fundamental rights and freedoms including the freedoms of conscience, expression, movement, assembly, association and participation in elections are guaranteed in the constitution, and Zambia has signed all the relevant international and regional instruments related to holding periodic and genuine elections.
- The Electoral Commission has, so far, acted with impartiality organising these elections in a transparent and professional manner. It has demonstrated a high degree of competence in planning for key stages of the electoral process and this has been reflected in its delivery and organisational preparations. Although there were some glitches in the delivery of material on election day which led to some isolated incidents, nationally the process went well. Despite a degree of mistrust from opposition parties, and allegations in the media at times questioning the integrity of the Electoral Commission, key confidence building measures such as stakeholder meetings promoted a more inclusive environment for the administration of elections.

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- Criteria for qualification as a candidate for the presidential and parliamentary elections set out in the constitution and Electoral Act are generally in line with Zambia's international commitments except in respect of the presidential election and the requirements of Zambian parentage and an absence of provisions for independent candidates to stand in these elections. A wide range of candidates stood for presidential and parliamentary elections giving voters real choice of who to vote for.
 - Candidates and political parties enjoyed the rights of freedom of assembly, expression and movement during the campaign period with candidates and parties at liberty to move around the country without any major restrictions on their activities. Although the election campaign environment was highly competitive, unequal access to funding was clearly evident and there was not a level playing field. The president and officials attending inaugurations of large-scale public works, roads or hospitals, widely reported in the mass media, blurred the boundaries between official functions of the presidential office and campaigning. The use of state resources for campaign purposes has also at times been overt in support of the Movement for Multi-party Democracy (MMD).
 - Freedom of expression in the media was respected during the campaign period. However, a highly polarised media environment led to highly selective campaign coverage. The state-owned television and radio stations failed to meet even their minimal obligations as public broadcasters and did not provide balance in key programmes such as news coverage that was dominated by the MMD. Newspapers' content demonstrated similar trends with entrenched editorial lines and highly selective news coverage. In contrast, the commercial television and radio stations provided balanced and impartial coverage of the campaign.
 - The low number of women candidates that contested elections means that the next parliament will almost certainly fall well below international and regional targets for the representation of women in public life.
 - Civil society organisations played an important role in providing increased transparency during election day and then during counting and aggregation processes. The Civil Society Election Coalition 2011 deployed over 9,000 monitors to all the 6,456 polling stations to observe the polling and results management process.
 - There are clear channels for complaints and appeals related to electoral matters. The conflict management committees have been very active in places where the electoral contests were particularly hard fought, and they served a valuable role in resolving matters such as disputes about posters, insults traded between candidates, and threats of violence. There have been a considerable number of electoral related cases in the High Court during the campaign period.

Statement of Preliminary Findings

BACKGROUND

The elections held on 20 September 2011 for presidential office, parliamentary seats in 150 constituencies and local government were the fifth general elections in Zambia following the reintroduction of a multiparty system in 1991. These elections were competitive with 10 candidates contesting for presidential office and a total of 768 candidates competing for 150 parliamentary seats in the National Assembly. Parliamentary elections in two constituencies were postponed following the deaths of candidates. In respect of the presidential election the leading candidates included the incumbent president, Rupiah Banda of the Movement for Multi-party Democracy (MMD) and Michael Sata, of the Patriotic Front (PF). Another significant challenge to the incumbent came from Hakainde Hichilema of the United Party for National Development (UPND). Michael Sata has contested presidential elections in 2001, 2006 and 2008 and Hakainde Hichilema in 2006 and 2008. All three leading presidential candidates' parties fielded parliamentary candidates across the country and a total of 20 parties' candidates contested seats in parliamentary constituencies.

LEGAL FRAMEWORK

Overall, legal provisions provide an adequate framework for the conduct of democratic elections. The constitution reflects the separation of powers and provides for an independent judiciary with the courts having power to strike down laws incompatible with the constitution. Fundamental rights and freedoms including the freedoms of conscience, expression, movement, assembly, association and participation in elections are guaranteed in the constitution, and Zambia has signed all the relevant international and regional instruments related to holding periodic and genuine elections. The elections are governed by the same provisions in the Constitution of Zambia and the Electoral Act 2006 as applied in 2006 and 2008, continuing the shortcomings pointed out by previous election observation missions. Some of these would have been addressed had the draft constitution of March 2011 been adopted.

ELECTION ADMINISTRATION

The Electoral Commission has, so far, acted with impartiality organising these elections in a transparent and professional manner. It has demonstrated competence in planning for key stages of the electoral process and this has been reflected in its delivery and organisational preparations. A well designed electoral calendar ensured that logistic and technical deployment of material into district centres was carried out in advance of election day without major incident. Although there were some glitches in the delivery of material on election day, nationwide the process went well. Despite a degree of mistrust from opposition parties, and allegations in the media, at times questioning the integrity of the Electoral Commission, key confidence building measures such as stakeholder meetings and an open media and public relations policy promoted a more inclusive environment for the administration of elections. These measures, however, did not reach all parts of the country and there was a lack of confidence amongst stakeholders in remoter areas which were not fully included by these initiatives. Throughout the country the Electoral Commission's

supervisory and polling staff also acted professionally and with impartiality and prepared for elections in a competent manner. Domestic monitors and party agents had access to observe all areas involving the delivery and collection of polling material adding to the transparency of the process at all stages.

VOTER REGISTER

A mobile voter registration update was organised by the Electoral Commission in three phases from June 2010 until March 2011 (183 days in total). During this update the Electoral Commission introduced a new system for voter registration, using digital registration kits with the ability to capture and store biometric details. The final register was certified on 31 July 2011 and has 5,167,174 registrants, or 85 per cent, of the eligible population. The number of first time voters is significant, up to 24.5 per cent of all registered voters. The majority of registered voters (53.8 per cent) are between 18 and 35 years old. In general, the mobile voter registration exercise was well prepared and managed although there were some early delays regarding the issuance of national identity cards and a lack of timely public information.

Whilst there appears to be broad confidence in the integrity of the voter register, there remain some anomalies. There are estimated to be details of approximately 250,000 deceased persons on the register that have been carried over from the 2005 database which the new register has been built upon. Clerical mistakes in data recording and entries, such as name spellings and minor errors have also been identified. To militate against these being a problem at polling station level the Electoral Commission issued clear and concise instructions on how to handle these matters to ensure voters who produced the required documents could vote. The Electoral Commission's responses to all these issues were appropriate and in line with best practice and the security measures put in place to ensure the integrity of the voter register were adequate.

REGISTRATION OF CANDIDATES

Criteria for qualification as a candidate for the presidential and parliamentary elections set out in the constitution and Electoral Act are generally in line with international commitments except in respect of the presidential election and the requirements of Zambian parentage and an absence of provisions for independent candidates. Presidential candidates submitted nominations during the week of 7-12 August 2011 at the Supreme Court in Lusaka. Nominations for candidacy for the parliamentary elections had to be registered in the respective constituency on 12 August 2011 with the returning officers during a one day nomination period. There have been no complaints from political parties on candidate registration, although with the short time window, challenges in the case of errors or against any rejected nominations were without remedy short of an election petition after the poll.

A total of 10 individuals registered their presidential candidacies with the Chief Justice who acts as the returning officer for the presidential election, providing real choice for voters to elect the president. The parliamentary election was equally competitive with a total of 768 candidates registering from 20 parties across the 150 parliamentary constituencies. The MMD fielded candidates in all 150 constituency seats, PF had 148 candidates contesting seats and UPND 136 candidates. A range of other political parties fielded candidates and a

large number of 140 independent candidates also contested parliamentary seats. The modal average was four candidates contesting each seat.

CAMPAIGN ENVIRONMENT

The candidates and political parties enjoyed the rights of freedom of assembly, expression and movement during the campaign period, with candidates and parties at liberty to move around the country without any major restrictions on their activities. The election campaign environment was highly competitive with the candidates of the two major parties, MMD and PF, and a lesser extent UPND, travelling to the provinces to attend organised rallies. The parties also conducted large scale door-to-door canvassing of voters and lobbied traditional leaders such as chiefs in an attempt to increase votes. Rallies have been peaceful with a festival-like atmosphere and a large range of party paraphernalia including clothing and food handed out as an inducement for people to attend. Whilst the campaign environment has been generally calm, some inflammatory and negative campaigning, at times some vitriolic rhetoric, and personalised insults have been observed at a number of MMD and PF rallies. There have also been a number of sporadic, localised and small-scale clashes between supporters of political parties in Lusaka and Livingstone. The police's response to these incidents was professional and balanced. Overall the campaign environment was not adversely affected by these clashes.

Unequal access to funding was evident throughout the campaign period. There was not a level playing field for the campaign with the advantages of incumbency exploited by the MMD. The MMD spent far greater sums of money than that of any of the other parties on their campaign and, in the absence of campaign spending provisions, this has lacked transparency. The president has also frequently attended ceremonial openings or inaugurations of large-scale public works, roads or hospitals that were widely reported in the mass media and blurred the boundaries between official functions of the presidential office and campaigning. The use of state resources for campaign purposes has also at times been overt, particularly in the use of public television, radio and newspapers. Use of government vehicles by the MMD campaign has been widely reported from the field and the publicly funded relief maize programme was also frequently observed being used by the MMD in support of its campaign.

MEDIA ENVIRONMENT

Freedom of expression in the media was respected during the campaign period. However, a highly polarised media environment led to very selective campaign coverage of the parties and their campaigns in some of the mass media. The right of voters to have access to a broad range of impartial news was not always respected. At times irresponsible and partial media reporting of events openly sought to mislead viewers, listeners and readers and this contributed to increasing suspicions of the electoral process. There was a blurring of the lines between editorial opinion and news items across state and some privately owned media. The candidate debate style programmes, many of which were sponsored by non-state actors, granted access to contestants across broadcasters. Despite this access, key programming such as news bulletins, of the state-owned radio and television channels of the Zambia National Broadcasting Corporation (ZNBC) was dominated by the MMD at the expense of the main opposition parties. These stations failed to meet even their minimal obligations as public

broadcasters. There was a lack of balance on these channels with as much as 73 per cent of news coverage of political actors afforded to the MMD and the president on its radio and television channels. The PF boycotted these radio and television stations and subsequently did not participate in any of the election related programming produced by these channels for much of the campaign period.

Newspapers' content demonstrated similar trends with entrenched editorial lines and highly selective news coverage. Commercial radio and television broadcasters provided wider and more balanced coverage of the candidates and political parties with key commercial and private broadcasters' programming demonstrating an equitable balance between the main candidates and their political parties.

PARTICIPATION OF WOMEN

Although women represent 51 per cent of the population and 2,590,821 (50.14 per cent) of the 5,167,174 registered voters are female, they account for less than 15 per cent of those participating in the political and decision making process as both candidates and elected officials in the outgoing parliament. Barriers within the political parties, lack of access to resources and opportunities, and an absence of positive measures to encourage the participation of women in public life were reflected in the low percentage of women candidates in these elections. There was one female candidate running for the 2011 presidential election. A total of 111 (14 per cent) of the 768 candidates standing for the 150 parliamentary seats were women. Only eight out of 20 parties contesting parliamentary elections nominated female candidates: UPND 22, MMD and PF nominated 20 each, Zambia for Empowerment and Development 10, Alliance for Democracy and Development and United National Independence Party six, Forum for Democracy and Development four and National Restoration Party two. A total of 21 female candidates stood as independents. The low number of women candidates means that the next parliament will almost certainly fall well below international and regional targets for the representation of women in public life.

VOTER EDUCATION

Pursuant to its mandate the Electoral Commission is responsible for providing voter education and in line with this it established the National Voter Education Committee that included civil society organisations and public institutions, and 74 District Voter Education Committees. A total of 1,422 voter education facilitators were trained to deliver these programmes in every ward. Specially tailored, and at times highly innovative, voter education programmes for each phase of the electoral process were delivered to increase the public's awareness of their rights, knowledge of voting procedures and to encourage them to vote. This included producing material in the seven main local languages, door-to-door campaigns, local drama groups targeting different social groups such as women and new voters, and highly visible radio and television campaigns.

CIVIL SOCIETY AND OBSERVATION

Civil society organisations played an important role in providing increased transparency during election day and then during counting and aggregation processes. The coalition of

eight civil society and faith based organisations that worked within the umbrella group, the Civil Society Election Coalition 2011, deployed over 9,000 monitors to all the 6,456 polling stations to observe the polling and results management process. This was despite some internal challenges experienced by the groups that were part of the consortium. After some initial controversy surrounding the plans of these groups to conduct a parallel vote tabulation, compromise was reached to accommodate such an exercise. This further enhanced transparency measures in the results process. Civil society also contributed in delivering voter and civic education prior to the elections to increase public understanding of the electoral process as well as voter turnout. Constant calls by non-state actors including the churches to ensure peaceful elections were also important voices in the maintenance of a climate conducive to guaranteeing that key freedoms were respected.

A large number of regional and international observer missions were also deployed from the African Union (AU), the Commonwealth, the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), the Electoral Institute for the Sustainability of Democracy in Africa (EISA) and the National Democratic Institute (NDI).

COMPLAINTS AND APPEALS

There is provision for dispute resolution and judicial adjudication of electoral matters. In accordance with the Electoral Act and Code of Conduct, 75 conflict management committees (CMCs) were established in August 2011. They have been very active in places where the electoral contests were particularly hard fought, and they served a valuable role in resolving matters such as disputes about posters, insults traded between candidates, and threats of violence. Some cases such as those involving aggravated violence were submitted to a CMC but later resulted in criminal prosecution. Although there were many informal complaints of media bias none of these complaints were submitted to these committees. The police became more active in prosecutions in the two weeks before the poll.

During the campaign period there have been a considerable number of election related cases in the High Court including an unsuccessful challenge to President Banda's candidacy on the grounds that his parents were not Zambian. The case was dismissed on technical grounds. The Zambia Revenue Authority was sued for allegedly failing to charge import duty on campaign material imported by the MMD. This case was dismissed on 13 September 2011 on an issue of due notice, but the allegation itself was not addressed. Both these cases were taken by PF. In addition, during the campaign, the PF or its candidates obtained six court injunctions against media outlets to stop the continued publication of stories claimed to be defamatory. In these cases the court decided the protection of reputation during the election period outweighed the right to freedom of expression. A case was taken by the Zambia Federation of Disability Organisations against the Electoral Commission to force it to make special facilities available for visually impaired, deaf or wheelchair bound voters. On 19 September 2011 the High Court in Lusaka made declarations that the Electoral Commission had unlawfully discriminated against disabled voters, but the judge declined to grant immediate mandatory orders to remedy that, therefore the orders will take effect for future elections only.

POLLING AND COUNTING

Material required for polling was transported prior to election day to district level without major incident. The local delivery of this material down to polling station level was generally efficient allowing for the timely opening of the poll nationwide. There were some problems in Lusaka and there were other isolated incidents of polling material arriving late, but the large majority of polling stations either opened on time or within an hour of the scheduled time. Voting proceeded throughout the day in a calm and orderly manner with a few reports of disruptions in Lusaka and a few other areas of the country. Polling procedures in 94 per cent of polling stations observed by European Union observers were assessed as good or very good. In some polling stations visited some procedures were not followed strictly or material was missing, but this did not adversely affect the overall integrity of the polling.

Polling staff were professional and overall acted with impartiality in the polling stations observed. Effective use of procedures provided adequate security measures and the secrecy of voting was maintained. European Union observers assessed the overall environment for polling positively. Closing was assessed as fair to good in most polling stations visited. Counting of ballots commenced at all polling stations in clear sight of party agents and election monitors immediately following closing of the poll. It was conducted in a transparent manner, albeit slowly, in the spirit, if not according to the exact rules, laid out by procedures in the polling stations observed. It went on across the country throughout most of the night. On the whole opening, voting itself and closing and counting were carried out transparently and in full view of monitors providing for an inclusive process.

The EU EOM has been present in Zambia since 12 August 2011 following invitation from the President of the Republic of Zambia. The EU EOM is led by Ms. Maria Muñiz de Urquiza, Member of the European Parliament (MEP). The mission deployed 120 observers from 27 European Union member states, Canada and Norway across the country to assess the electoral process against international and regional commitments for elections as well as the laws of Zambia. A delegation of members of the European Parliament, headed by David Martin, MEP, also joined the mission and fully endorses this statement. 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. On election day, observers visited 522 polling streams in 77 of the 150 constituencies throughout Zambia to observe voting and counting. The EU EOM will remain in country to observe post election developments and the tabulation of results. The EU EOM wishes to express its appreciation to the Government of Zambia, the Electoral Commission and civil society as well as the people of Zambia for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Union to Zambia and the European Union member states' diplomatic missions resident in Zambia for their support throughout.

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