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Final Report



General Elections

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Republic of Zambia

European Union Election Observation Mission

FINAL REPORT

General Elections, 12 August 2021

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This report contains the findings of the EU Election Observation Mission (EU EOM) on the general elections. The EU EOM is independent from the European Union institutions, and therefore this report is not an official position of the European Union. The report is available only in English.

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I. EXECUTIVE SUMMARY

Following an invitation by the Ministry of Foreign Affairs of the Republic of Zambia, the European Union deployed an election observation mission (EU EOM) to observe the 12 August general elections. The EU EOM, led by Chief Observer Maria Arena, a member of the European Parliament from Belgium, was present in Zambia from 30 June to 1 September 2021. The mission's mandate was to observe all aspects of the electoral process, the national electoral legal framework and its implementation and assess the extent to which the elections complied with international and regional commitments for democratic elections.

The preliminary statement issued by the EU EOM on 14 August concluded that "The 2021 general elections took place against a background of deepening political polarisation. Throughout the campaign, there were widespread concerns about the potential escalation of violence. Despite COVID-19 challenges, the electoral process was technically well-managed. Arbitrary and selective application of the law hampered opposition candidates from competing under equal conditions and restricted freedoms of assembly and movement. The ruling party extensively used state resources, and its campaign was largely exempted from restrictions. The traditional and online media campaign was highly monetised, with the ruling party monopolising the prime-time on state and private media. Disinformation and tribalism pervaded online debate to the detriment of voters."

On 12 August, Zambians voted for president, national assembly members, mayors and council chairpersons, and local councillors. The presidential election was highly competitive, with stakes higher than ever. President Edgar Chagwa Lungu of the Patriotic Front (PF) ran for a final term in office. Hakainde Hichilema of the United Party for National Development (UPND) was standing for the sixth time. It was the third time for both major contenders to face each other in a presidential race. There were 14 other presidential candidates, including one woman. Twenty-one political parties as well as independent candidates competed in the parliamentary elections.

Zambia has ratified the key international and regional treaties and protocols applicable to democratic elections. However, essential aspects of equality of the vote, women's participation, and political accountability are yet to be fully implemented. Fundamental rights and freedoms in the Constitution are largely in line with international and regional commitments, though some aspects leave scope for arbitrary limitations. Outdated laws on defamation and public gatherings are inconsistent with international and regional commitments on freedom of expression and assembly. Such impediments to fundamental rights have been compounded by the uncertainty of the implementation of COVID-19 regulations.

The legal framework, essentially unchanged since the 2016 elections, provides a reasonable basis for democratic elections. However, some inadequacies and ambiguities remain. Various aspects of the law affect the principles of equity, inclusivity and transparency in the electoral process and leave scope for inequitable treatment of stakeholders.

Overall, the Electoral Commission of Zambia (ECZ) carried out its work professionally under a challenging pandemic setting. However, stakeholder trust in the ECZ remained low. Neither the current appointment system nor the recruitment of the electoral officers at the local level by the administration reinforced public confidence in the institution. In addition, inadequate

communication and lack of genuine stakeholder consultations enhanced perceptions of non-transparency and partiality in ECZ's decisions and actions.

The technical aspects of the electoral process were well-administered, and key operational deadlines were generally met. Due to COVID-19, the ECZ took additional measures to protect voters and electoral staff throughout the process. Women were well-represented among the polling staff. The COVID-19 situation limited voter information activities on the ground to small-scale meetings with voters. The ECZ's social and print media campaign featured posters on voting procedures and discouraged vote-buying.

In 2020, the ECZ compiled a new voter register introducing a biometric voter registration system to remove some 1.4 million deceased voters from the 2016 register. The certified voter register included 7,023,499 voters, representing 83.2 per cent of the eligible voters. Women represent 53.4 per cent of the registered voters and men 46.6 per cent. For the first time, the voter register included some 14,000 prisoners. There were some criticisms against the ECZ for inadequate planning and lack of broad consultations.

Not all candidacy requirements are in line with international and regional commitments on the right to stand. A specific education certificate required for contestants in all elections hampered candidacy for those without formal education, in particular marginalised groups and women. Also, the high and non-refundable registration fees discourage aspirants with less financial means.

Large-scale gatherings, roadshows and door-to-door canvassing took place across the country against the backdrop of COVID-19 regulations. The campaign took place in a highly competitive and tense environment, dominated by the ruling PF and the UPND. The Socialist Party (SP) and Democratic Party (DP) were the most visible among other parties. The presidential campaign was deeply polarised and lacked dialogue, thus weakening the message of peace initiatives and entrenching the political divide. Violence, particularly clashes between the UPND and PF cadres, raised concerns of increasing confrontations. The ECZ responded to political violence by temporarily suspending campaigning in some districts across the country. However, the lack of transparency in the decision-making process over the suspensions triggered public controversy. The President, on 1 August, announced the deployment of the Zambia Defense Force to beef up police capacity.

The arbitrary application of COVID-19 campaign regulations and Public Order Act (POA) provisions hindered opposition candidates from competing under equal conditions and amplified widespread perceptions of an unlevel playing field in the campaign. The selective application of those rules restricted freedoms of assembly and movement and, at times, involved excessive use of force by the police to curb opposition campaigning. The ruling party was largely exempted from campaign restrictions. The PF presidential campaign demonstrated the absence of a clear distinction between the state and the ruling party. The use of state resources was evident with a broad range of state development, social protection, and relief programmes being used in the campaign.

The media coverage of the campaign was highly polarised, with the state media granting disproportionate coverage to the President during prime time, blurring the line between government functions and campaign activities. Overall, the state media failed to adhere to its legal requirement to allocate equal airtime to candidates. Also, private media did not provide equitable coverage to all political parties. The overall imbalance in coverage benefitted the

ruling party even though private broadcasters gave higher exposure to a few prominent opposition figures. Due to the constraining legal framework and harassment of journalists the media frequently opted for self-censorship.

Freedom of expression online is curtailed by several clauses in the Penal Code and the Cybersecurity and Cyber Crimes Act, with both of them criminalising defamation, libel, and publication of false content. Lack of pluralistic debate in traditional media compounded by the COVID-19 pandemic elevated Facebook to the prime discussion forum. Political exchanges on the most followed media pages on Facebook featured divisive rhetoric ranging from personal insults to outright tribalism and hate speech, primarily observed in comment sections of trending news posts. Parties' presence on social media correlated with their political weight offline. Facebook did not act to preserve electoral integrity on the platform. Civil society capacities to undertake fact-checking is currently limited.

Political party and campaign finance are unregulated. The overall lack of transparency and accountability of campaign expenditures disadvantaged parties with less financial resources. The few scattered rules that exist lack independent oversight, regulation on the timely dissemination of key information, and sanctions. With no limits on campaign advertising, the campaign coverage in traditional and online media was highly monetised. The PF spent far more on TV and radio adverts than any other campaign and dominated across all categories of Google adverts and on officially labelled adverts on Facebook.

Electoral dispute resolution processes, including access to courts, are largely in line with international standards. Overall, there were few legal actions before election day. By 1 September, the EU EOM was aware of 62 petitions against parliamentary results and a further 25 against mayor and council chair elections.

The ECZ introduced a decentralised accreditation process for national observers which featured cumbersome accreditation requirements and a tight deadline. Despite an unclear, complicated and inconsistently implemented accreditation process, the ECZ accredited all national observer groups that applied. Civil society and faith-based organisations were substantially involved in all phases of the electoral process. The Christian Church Monitoring Group (CCMG) deployed 330 long-term observers and 1.500 short-term monitors and conducted a sample-based parallel vote tabulation.

Election day was mostly calm and orderly despite long queues of voters throughout the day. A few isolated violent incidents resulted in at least one fatality. EU EOM observers reported overwhelmingly positive on the opening and voting procedures in the polling stations observed. Polling staff were present and conducted elections professionally. Polling agents and observers were able to observe the process unhindered. Voting procedures were generally followed. Closing and counting were assessed positively in the polling stations observed. A few polling stations in urban areas closed later due to long queues. Counting was conducted in a calm atmosphere but procedures were not followed systematically. EU EOM observers assessed the tabulation of results at the observed constituency totalling centres as peaceful and transparent. Restrictions on access to social media and instant messaging platforms, from election day until 14 August, unduly curbed freedom of expression and interfered with the right to access to information and were not explained by neither the ICT regulator nor the ECZ.

The ECZ announced the final presidential results on 16 August within the 72 hours timeframe set before elections. The results were progressively uploaded on the ECZ website by 20 August. The final turnout was reported at 70.61 per cent. Hakainde Hichilema of the UPND received 59.02 per cent of the votes, while Edgar Lungu of the PF received 38.71 per cent. The other 14 candidates together received 2.27 per cent of the votes. In the new parliament, altogether 82 seats were allocated to the UPND and 59 to the PF, whereas 13 seats went to independent candidates and one to the Party of National Unity and Progress (PNUP).

The transition of power was peaceful. The inauguration ceremony of the President-elect took place on 24 August. In his speech, Hakainde Hichilema emphasised the importance of national unity and pledged to "foster a better democracy." The newly-elected National Assembly convened on 10 September.

The 2016 EU EOM offered 33 recommendations for improving the framework for elections. Ahead of the 2021 general elections, seven of these recommendations were either fully or partially implemented.

The 2021 EU EOM offers 22 recommendations for future electoral reforms based on observations, analysis and extensive discussion with a range of stakeholders. It has six priority recommendations:

1. Repeal the Public Order Act and ensure in law adherence to regional and international standards for freedom of assembly, movement and expression.
2. Revise candidacy requirements to enhance the right and the opportunity to stand by ensuring registration fees do not deter participation and are refundable, and removing educational requirements for the right to stand.
3. Enact a law on political parties stipulating registration requirements and guaranteeing internal party democracy, inclusivity, transparency and accountability, with adequate institutional oversight.
4. Remove from the law undue campaign privileges for the President and Vice-President to ensure equal campaign conditions for all candidates.
5. Enact a law on campaign finance including reporting requirements for political parties, candidates, and traditional and social media. Mandate standardised, timely disclosure before and after elections. Income and expenditure reports have to be audited by a competent, independent body with investigative, sanctioning, and enforcement powers.
6. Formalise cooperation between the ECZ, civil society and main social media platforms to develop an efficient mechanism ensuring transparency of online campaigning, including its financing and countering hate speech and disinformation. Civil society in coordination with the ECZ could initiate signing of an agreement ensuring that social media platforms, including Facebook, introduce best practices in Zambia, including engagement with the ECZ, employment of content moderators, and prompt removal of damaging and dangerous content.

II. INTRODUCTION

Following an invitation by the Ministry of Foreign Affairs of the Republic of Zambia, the European Union deployed an election observation mission (EU EOM) to observe the 12 August general elections. The EU EOM was present in Zambia from 30 June to 1 September 2021. The mission's mandate was to observe all aspects of the electoral process, the national electoral legal framework and its implementation and assess the extent to which the elections complied with international and regional commitments for democratic elections.

The EU EOM was led by Chief Observer Maria Arena, a member of the European Parliament from Belgium. The EU EOM comprised a Deputy Chief Observer and a core team of ten analysts based in Lusaka, 32 long-term observers and 29 locally recruited short-term observers deployed in all districts across Zambia. Twenty-five EU member states and Norway were represented in the mission. On election day, 75 EU EOM observers followed election day proceedings in 347 polling stations and 122 totalling centres out of 156. The EU EOM presented its preliminary statement at a press conference on 14 August.

The EU EOM is independent and strictly neutral, with no vested interest in the outcome of the elections. The EU EOM is also independent in its findings and conclusions from EU member states, EU institutions and the EU Delegation to Zambia and COMESA. The mission followed an established methodology and adhered to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.

III. POLITICAL CONTEXT

A. Political context

The 2021 general elections took place against the backdrop of deepening political polarisation and shrinking democratic space. The very narrow margin of victory for President Edgar Chagwa Lungu of the Patriotic Front (PF) in the 2016 presidential election and the unsuccessful legal challenge of the final results by Hakainde Hichilema, presidential candidate of the United Party for National Development (UPND), widened the political divide.¹ Initiatives for reconciliation through national dialogue and efforts to proceed with constitutional reform were not successful. Economic distress, restrictions on fundamental freedoms of assembly and expression, pressure on the media, excessive use of police force against the opposition, and the COVID-19 pandemic, contributed to a further deterioration of the political environment.

Before the elections there was widespread anxiety about the risk of violence, mostly related to anticipated post-election unrest. President Edgar Lungu's decision to seek office for a third time was controversial.² There was also uncertainty related to a possible resignation or disqualification of one of the presidential candidates, which, if true, would have precipitated

¹ President Edgar Lungu received 1,860,877 votes (50.35 per cent of the valid votes cast), thus narrowly surpassing, by 26,045 votes, the 50 per cent plus one requirement. UPND presidential candidate Hakainde Hichilema received 1,760,347 votes, 47.63 per cent of the valid votes cast. The margin of victory was 100,530 votes.

² On 7 December 2018, the Constitutional Court ruled that President Edgar Lungu was eligible to run for a third term since his first tenure in office cannot be considered a full term. A second challenge to the eligibility of the President to stand for re-election was ruled out by the Constitutional Court on 11 June 2021.

a postponement of the presidential election. The 2016 election results split the country into two, generating concerns about emerging ethnic voting patterns and politically sponsored “tribalism”.³ Positively, these fears were not confirmed in the 2021 elections.

Most political parties launched their manifestos ahead of the official start of the campaign on 12 May. Amid increased living costs and high unemployment, particularly among the youth, the focus of the opposition on the economic situation appeared more appealing to voters than the efforts of the ruling party to highlight infrastructural development over the last five years. The opposition UPND was also more successful than the ruling PF in building up an alliance with other small parties, who actively backed the opposition campaign beyond its traditional strongholds.⁴ With their presidential candidates often taking positions on controversial issues, at times in joint statements, smaller parties played essential role at the national level.⁵

A particular characteristic of the 2021 elections was the broad network of representatives of civil society organisations, legal advocacy groups, domestic observers, the Church, and academia, who were relentlessly raising awareness on critical issues of the electoral process, the rule of law and human rights.

B. Key contenders

On 12 August, Zambians voted for President, national assembly members, mayors and council chairpersons, and local councillors. The presidential election was fiercely contested, with stakes higher than ever. President Edgar Chagwa Lungu of the PF ran for a final term in office with Nkandu Luo as his running mate. Hakainde Hichilema of the UPND, in a joint ticket with Mutale Nalumango, was standing for the sixth time. It was the third time for both major contenders to face each other in a presidential race.

There were 14 other presidential candidates, including one woman.⁶ The presidential candidates of the three most recently founded parties, Harry Kalaba of the Democratic Party (DP), Andyford Banda of the People’s Alliance for Change (PAC) and Fred M’membe of the Socialist Party (SP), conducted the most successful campaigns among the others.⁷

C. Elected institutions

The key elected institutions in Zambia are the office of the President, the National Assembly and the Local Councils headed by either council chairs or mayors. The president is the holder of executive authority, head of state and government, the armed forces, and a member of

³ In the 2016 elections, the ruling PF received support predominately from the Eastern, Muchinga, Northern and Luapula provinces. The opposition UPND won the majority of the votes in the Southern, Western and North-Western provinces.

⁴ Among the UPND Alliance members were Alliance for Democracy and Development (ADD), Movement for Change and Equality (MCE); Movement for Democratic Change (MFC), National Democratic Congress (NDC), Republican Progressive Party (RPP), Zambia Empowerment and Development (ZED) and Zambia Shall Prosper Movement (ZSPM). The ruling PF was joined by a small fraction of the Movement for Multi-Party Democracy (MMD) and Chishimba Kambwili after leaving the National Democratic Congress (NDC).

⁵ For example, the [statement by Sean Tembo](#), presidential candidate of Patriots for Economic Progress (PeP) on the conduct of the Zambia Police Service as well as the campaign strategies of PF and UPND; a [letter to ECZ by Harry Kalaba](#), presidential candidate of DP, on the uneven playing field of the campaign; a [press address by Dr. Nevers Mumba](#), presidential Candidate of MMD, on false alliance claims by PF.

⁶ The only woman running in the presidential election was Chishala Kateka of the New Heritage Party.

⁷ The DP was founded in 2018 by Harry Kalaba shortly after he resigned as Minister of Foreign Affairs in President’s Lungu government. The SP was founded in late 2017 and PAC in 2016.

parliament. The president holds wide-ranging powers to make public appointments, including making nominations to the National Assembly, merging, or dissolving ministries, and initiating legislation. The president also appoints provincial Ministers who run Zambia's ten provinces, implement government programmes, and coordinate the decentralised functions of national ministries. Constitutional checks on executive powers include the National Assembly agreeing to various presidential actions, such as appointments to the judiciary and other high state offices. Checks and balances could be made more robust to entrench a genuine separation of powers.⁸

The National Assembly is the unicameral body of parliament. There are 156 directly elected members, while other members include the vice president, the speaker, deputy speakers and up to eight nominees of the president. The National Assembly is empowered to pass legislation, approve extensions to states of emergency and constitutional reforms. Some actions require a simple majority of votes of those present and voting and other matters require a two-third majority, such as legislation referred back to the house by the president and constitutional amendments.

The 116 districts in Zambia are led by a directly elected Head of the District Council (Mayor or Council Chairperson). The District Council is responsible for collecting local taxes and infrastructure. Districts are further divided into 1,858 administrative and electoral areas (wards). Directly elected councillors head the wards.

D. The Judiciary

The Constitution recognises traditional customary law and common law systems.⁹ The common law courts are the main interpreters and arbiters of statutory law. The Chief Justice is the head of the Supreme Court and the entire judiciary and is responsible for its administration. Courts include magistrates' courts at the lower level, the High Court, the Court of Appeal, and the Supreme Court. The High Court has unlimited and original jurisdiction in civil and criminal matters, including on fundamental rights.¹⁰ It has played a positive role in expanding fundamental rights jurisprudence in Zambia.¹¹ Women are strongly represented in the judiciary, including in key decision-making roles.¹²

A Constitutional Court was established in 2016.¹³ The Constitutional Court has equal status with the Supreme Court at the apex of the judiciary. The equal status of these courts relates to their judgments as their decisions cannot be appealed between them. The Constitutional Court mandate entails addressing politically sensitive matters and as such leaves it open to criticism, including on appointments of judges.¹⁴ Some decisions of the Constitutional Court, notably regarding the presidential term of office and rules for presidential election petitions,

⁸ The President is the executive as well as a member of the legislature which ratifies many presidential actions/appointments.

⁹ The Constitution, Article 23, bestows equal primacy to statutory (formal written) law and customary (traditional) law.

¹⁰ High Court decisions are appealable to the Court of Appeal which in turn may be appealed to the Supreme Court.

¹¹ For example, in [Sangwa v Nkonde \[2018\] ZMHC 284](#), the High Court will accept a petition on fundamental rights even if the petitioner does not sign it.

¹² [Gender representation in the Zambian Judiciary](#)

¹³ [Constitutional Court Act, 2016](#)

¹⁴ See, e.g., March 2020 critical reports published in [Zambian Observer](#) and [Lusaka Times](#). A parliamentary select committee approved the appointee nominations.

drew scepticism about the court's approach.¹⁵ Close to the 2021 elections, a majority decision excluded some government-contracted debt from National Assembly oversight. The case was perceived as benefitting the incumbent and demonstrated the reputational vulnerability of the court in politicised disputes.¹⁶ However, other rulings have ensured accountability by requiring the resignation of ministers from their portfolios ahead of elections.¹⁷ Prior to the elections, the Constitutional Court introduced new rules clarifying timelines for various stages of presidential petitions.¹⁸

IV. IMPLEMENTATION OF 2016 EU EOM RECOMMENDATIONS

Most 2016 EU EOM recommendations remained unaddressed.

Following the 2016 general elections, the 2016 EU EOM offered 33 recommendations for consideration by the Zambian authorities.¹⁹ These included reviewing the law to ensure legal certainty, freedom of assembly, decentralised ECZ structures, equality of the vote, campaign finance rules, ECZ media oversight, and enhanced transparency measures. Only one recommendation, the abolition of so-called “polling streams”, was fully adopted. Despite the 2016 EU EOM recommendations for improved stakeholder engagement, shortcomings in ECZ communications and outreach during the 2021 elections continued. Reflecting other aspects of 2016 EU EOM recommendations, the ECZ adopted tactile ballots and elaborated procedures for Conflict Management Committees (CMC). Some improvements in the approach to voter education were also observed, but overall effective delivery was either late or hampered due to the COVID-19 pandemic.

Proposed constitutional and legislative reforms ahead of the 2021 elections did not adequately address EU EOM recommendations for political parties, for participation of women or persons with disabilities, the use of state resources, or penal code reforms. The failure of the National Assembly to legislate on these and other issues underpinned shortcomings for the conduct of various aspects of the 2021 elections. Overall, only seven recommendations were either fully or partially implemented.

¹⁵ In *Pule & Others v AG & Others* [2018] ZMCC 224, the court found President Lungu’s first term was not a term in the complete sense as it arose after an election halfway through the term of the previous president. In [Hichilema and Another v Lungu and Others \[2016\] ZMCC 5](#), the court dismissed an election petition against the 2016 results as the hearing had not been completed within a 14-day limit set by the Constitution and the substance of the case was never fully argued.

¹⁶ Former Minister Dipak Patel, argued much of government debt in recent years had been contracted without constitutionally mandated approval of the National Assembly. A majority of the court disagreed approval was necessary. There was one dissenting judgment. [Dipak Patel v Minister of Finance & AG \[2021\] ZMCC 12](#)

¹⁷ In *Katuka and Another v AG and Another* [2017] ZMCC 4, the court rejected that ministers could continue in their posts between the dissolution of parliament and an election. It required those who had overstayed their mandate to repay the state overpaid salaries and allowances.

¹⁸ The Constitutional Court has taken steps to improve its reputational legacy. Judges took part in a lessons-learned conference in early 2021, looking at election petitions in the neighbouring countries Malawi and Kenya. Judges also went to Zimbabwe to understand the judicial approach to similar legal rules in that jurisdiction. This led to new [Constitutional Court \(Amendment\) Rules, No. 29 of 2021 adopted on 16 April 2021](#).

¹⁹ [Final Report](#) of the EU EOM Zambia 2016.

V. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

A reasonable but complex legal base for democratic elections requires clarity of law and more robust protections of fundamental rights and freedoms to ensure equity, transparency, and legal certainty among all stakeholders.

A. International commitments

Zambia has ratified the key international and regional treaties and protocols applicable to democratic elections.²⁰ The state is also party to various key regional treaties and charters of the African Union and the Southern African Development Community.²¹ Several principles in Zambia's Constitution echo various international and regional commitments, including provisions for gender equity, equality of the vote, and accountability of political parties and candidates. However, these principles are not adequately elaborated in law. The Ministry of Justice may promote adherence to and observance of international law to contribute to good governance. Nonetheless, international treaties need to be passed into domestic law to have binding force in the courts. Some enacted laws purport to give effect to various standards, including women's rights and political accountability. However, these laws either do not fully reflect international or regional commitments or some aspects of the law have not been operationalised.²²

B. Fundamental freedoms

The constitutional *Bill of Rights* underpins fundamental rights and includes freedom of expression, movement, assembly, and association. Due process and the protection of the law are also articulated. The provisions are largely in line with international and regional commitments. However, the right to seek information, a key component of freedom of expression, is not sufficiently protected,²³ while freedom of opinion may be curbed based on "public morality", thus diluting protection of these rights contrary to international commitments.²⁴ As the Bill of Rights may only be amended by popular referendum, fundamental rights regulation would benefit from a rigorous review process to avoid conflicts with international legal commitments.

²⁰ The instruments ratified are the [Universal Declaration of Human Rights \(UDHR\)](#), the [International Covenant on Civil and Political Rights \(ICCPR\)](#) and its [Optional Protocol](#) on individual complaints procedures, the [International Convention on the Elimination of Racial Discrimination \(ICERD\)](#) and its Protocol, the United Nations (UN), the [Convention on the Rights of Persons with Disabilities \(CRPD\)](#) and its [Protocol](#), the [Convention on Elimination of all Forms of Discrimination against Women \(CEDAW\)](#), the [International Convention on the Political Rights of Women](#), the [UN Convention against Corruption \(UNCAC\)](#).

²¹ The African standards include the African Union (AU) [African Charter on Human and People's Rights \(Banjul Charter\)](#), the [African Charter on Democracy, Elections and Governance \(ACDEG\)](#) and the [Declaration of Principles on Freedom of Expression and Access to Information in Africa \(DPFEA\)](#). The Southern African Development Community (SADC) instruments include the Protocols on [Corruption](#) and [Gender & Development](#). The [SADC Principles and Guidelines Governing Democratic Elections and Election Observation](#) are also cited by authorities, including the ECZ and the courts, in connection with electoral matters or democratic rights.

²² For example, the [Gender Equity and Equality Act](#) was passed in 2015 to domesticate various international commitments but has not been fully operationalised as the Commission foreseen by the law is not in place. Another example is the Anti-Corruption Act 2012 which aimed to give effect to commitments on corruption but omits key political and campaign funding provisions.

²³ The Constitution does not cite a right to seek information as part of the guarantee of freedom of expression found in ICCPR, article 19. A draft law protecting a right to information has not yet been enacted.

²⁴ ICCPR, [Human Rights Committee \(HRC\) General Comment \(GC\) 34](#), para 15. "[...] article 19 requires protection of the right to hold opinions without interference. This is a right to which the Covenant permits no exception or restriction."

Legal uncertainty surrounded the rights of assembly during the 2021 elections due to a lack of clarity in COVID-19 regulations, guidelines, and directions issued by various institutions.²⁵ The Public Order Act (POA) also leaves space for arbitrary restrictions on public gatherings.²⁶ The police may, for instance, impose restrictions on numbers and those who may participate while the President and the Vice-President are exempted from these restrictions.²⁷ The police are not required to respond to a notification of public gathering within a specified timeframe, leaving scope to impede the right of assembly without a fair hearing. There is also inadequate oversight against arbitrary application of the POA, a concern which could be addressed by reinforcing the recently operationalised Police Public Complaints Commission.²⁸ These limitations impacting on fundamental rights are inconsistent with international standards on freedom of assembly and expression.²⁹

Recommendation: Repeal the Public Order Act and ensure in law adherence to regional and international standards for freedom of assembly, movement and expression.

C. National legal framework

The legal framework, largely unchanged since the 2016 elections, provides a reasonable basis for democratic elections but with room for improvements. The key source of law is the 2016 Constitution.³⁰ It comprises basic principles for democratic elections, including periodic elections by secret ballot. The Constitution also regulates various aspects of the electoral process, including the electoral system, candidate eligibility and nominations and jurisdiction for electoral dispute resolution. The Electoral Commission of Zambia Act (ECZA) regulates the independent Electoral Commission of Zambia (ECZ).³¹ The Electoral Process Act (EPA) is the key law for the conduct of elections.³² It also embeds a Code of Conduct (CoC) for parties, candidates, observers, police, ECZ staff, public officials etc. ECZ regulations, some other laws, and various court decisions further develop the principal legal documents. However, some inadequacies and ambiguities remain.

²⁵ The Ministry of Health issued three COVID related regulations: [COVID-19 Regulations \(No.21 of 2020\)](#) (13 March 2020); [\(No.22 of 2020\)](#) (13 March 2020), and [\(No.62 of 2020\)](#) (10 July 2020) – hereafter collectively, COVID-19 regulations. The most recent regulation requires written permission for all public gatherings. COVID-19 based directions also emanated from the ECZ (e.g. [ECZ directions issued on 3 June 2021](#)). Public Health [Guidelines](#) purported to restrict various gatherings. The various instruments overlapped and lacked coordinated oversight, monitoring and consistent application.

²⁶ [Public Order Act, 1955 \(as amended\) \(POA\)](#)

²⁷ POA, s. 5(5) (c)

²⁸ The POA does not expressly provide a route for remedy against police inaction or delay regarding notifications. The Police Public Complaints Commission (PPCC) was established in 2016 to hear complaints and conduct investigations into police malpractice. The PPCC was not in operation until February of 2021 due to its board lacking a quorum. The PPCC is now faced with a large backlog of some 260 complaints and inadequate logistical supports.

²⁹ The POA and the law for political party registration (the Societies Act) date from the 1950s and do not reflect contemporary international standards. Defamation is a criminalised offence. ICCPR, HRC GC 34, at para. 22 provides restrictions on freedom of expression must “...conform to the strict tests of necessity and proportionality”.

³⁰ [Constitution of the Republic of Zambia \(as amended in 2016\), including a Bill of Rights \(1991\)](#).

³¹ [Electoral Commission of Zambia Act \(ECZA\)](#), No. 25 of 2016 (as amended by [Act No. 5 of 2019](#)).

³² [Electoral Process Act \(EPA\)](#), No.35 of 2016 (as amended by Act No. [32 of 2021](#)).

Amendments to the ECZA and the EPA, in 2019 and 2021, respectively, enhanced the ECZ's independence by enlarging the tenure of office of commissioners,³³ extended the franchise to prisoners for the first time and removed some arbitrary restrictions on the right to register for persons with mental disabilities.³⁴ While the 2021 amendments came only three months before elections, this did not impede the registration of prisoners as the courts had already extended the right to participate.³⁵ However, the impact of legal changes relevant to persons with a mental disability were not as widely known. In general, ease of access to and awareness of the legal framework was not assured.³⁶

Various aspects of the law affecting the principles of equity, inclusivity and transparency in the electoral process is inadequate and leave scope for inequitable treatment of stakeholders and the erosion of public confidence in key institutions.³⁷ A constitutional court direction to the ECZ to strictly implement its mandate and avoid novel procedures in candidate nominations evidenced such complexity in the law.³⁸ Political party conduct is insufficiently regulated, including mechanisms for inclusivity, intra-party democracy, and financial matters. The modalities for accessing key information, including candidate nomination forms, declarations of assets and liabilities, and polling station results, are inadequately prescribed.³⁹ Timelines and procedures for various aspects of the electoral process are lacking, most notably regulation of second-round presidential elections and the new nomination process if the Constitutional Court cancels an election.⁴⁰ Some constitutional and high court decisions also exposed a need for reforms, including candidate nominations, protection of the right of assembly and some court procedures.⁴¹

³³ [Electoral Commission \(Amendment\) Act, No. 5 of 2019](#) (Act 5 of 2019) added new aspects on ECZ financial independence and added incompetence or gross misconduct as bases for disciplinary action against commission members.

³⁴ The [EP \(Amendment\) Act \(19 May 2021\) No. 32 of 2021](#) (Act 32 of 2021) passed on 19 May 2021.

³⁵ Before the law changed, a constitutional court decision declared existing restrictions on prisoners' voting rights unconstitutional. See [Malembeka v Attorney General and Another \[2017\] ZMCC 1](#).

³⁶ See section on election administration.

³⁷ [ICCPR, HRC, GC 25](#), Para. 23 *"It is of particular importance to ensure that persons do not suffer discrimination in the exercise of their rights under article 25..."*

³⁸ The court rejected the ECZ's conditional acceptance of a nomination stating, "By instructing returning officers to...indicate the word provisional on their nomination forms...the 2nd Respondent [ECZ] added an unnecessary step. Its mandate was to accept or reject outrightly... We do not expect the 2nd Respondent to repeat such conduct in future elections." See [Nkunika v Nyirenda & The ECZ \[2021\] ZMCC 5](#).

³⁹ There is a lack of timelines and precise requirements for accessible publication of key information in a timely manner for various issues, including the election timetable and information in candidate nomination papers. S.20 (1) of [The General Regulations](#), entitled *'Publication of Local Notice'*, requires the publication of nomination forms only where there is more than one nominee. The forms have not been published. Early access to nomination forms would allow independent verification, gender disaggregation of candidates, and confirmation of fees paid and candidate party backing by for example, interested media, citizens or CSOs There is also no specificity on where the forms should be published. There is no deadline for candidate resignations. A candidate can resign on the eve of an election and cause a rerun after ballots are printed. There is no clarity on the scheduling of nominations if the Constitutional Court nullifies an election. Information, such as boundary maps only requires publication in the national gazette, a document which is not easily accessible to the public.

⁴⁰ The Constitutional Court may nullify an election based on a petition against results and, if so, a new election must be held within 30 days. Thereafter, the nominations process is not detailed in law, leaving scope for constitutional uncertainty.

⁴¹ The [George Muhali Imbuwa v ECZ \[2021\] ZMHC 7](#) case revealed that ECZ decisions to reject nomination papers for seemingly minor administrative errors can only be reviewed on appeal to the High Court. In a 1997 decision in *Law Association of Zambia v AG [2016] ZMSC 46*, the Supreme Court (SC) held that a legal requirement to obtain police permits for public meetings was unconstitutional. The POA was later amended. However, the SC saw the changes to the law as 'half-hearted', and noted the police were still not fairly applying the law.

Recommendation: Revise the law and regulations to ensure clear, coherent and transparent rules and timelines for each stage of the electoral process. Effective revisions requires addressing candidate nominations, second round processes and providing for prompt access to information of public interest, including results.

D. Constitutional reform

Zambia's Constitution is susceptible to politicisation, regular alteration, blockages, and controversy. The most recent amendments of 2016 were viewed by many as incomplete. This led to further efforts in 2018, concluding in the "Siavonga Resolutions", a series of reform proposals including on separation of powers and electoral reforms. The National Dialogue Forum (NDF) was established by law to implement the resolutions, but despite this compulsory consultative forum the PF government introduced a separate process overtaking the NDF and published a new Constitution of Zambia (Amendment) Bill, No.10 (Bill 10). This process appeared to lack broad consultation and was seen to row back on some positive 2016 reforms. Bill 10 failed to pass in the National Assembly, leaving the Constitution in a state of partial reform.

E. The electoral system

On a ticket with a nominated running mate, the president is elected in a single national constituency by absolute majority. If no candidate reaches 50 per cent plus one vote of the valid votes cast, a second round is held between the two leading candidates within 37 days. The second round is won by a simple majority. The holding of the office of the president is limited to two terms.⁴² Candidates for parliamentary and local councils' seats and council chairpersons and mayors compete on a first-past-the-post basis. Parliamentary candidates contest in 156 single-seat constituencies; councillors compete in 1,858 single-seat wards, and council chairpersons and mayors contest in 116 single-seat districts.⁴³ Two-term limits also apply to the elected offices of the mayor and council chairperson.

The Constitution prescribes key principles for the election of the president, member of parliament, or councillor, requiring the electoral systems to ensure gender equity in the National Assembly or councils and the equality of the vote.⁴⁴ Enhanced representation of special interests may be achieved as the president can nominate up to eight members to the National Assembly in addition to those directly elected. This possibility may benefit representation for women and other under-represented groups, but it is not guaranteed. On the other hand, this can also contribute to a distortion of the weight of elected representation overall.⁴⁵

F. Delimitation of constituencies

⁴² In June 2021, the Constitutional Court rejected a bid to reopen a debate on whether the incumbent could participate in the 2021 elections. President Lungu had already been twice elected, firstly during the mid-term of former president Sata who died in office. This term was less than two years long. The Court had previously decided that this first period in office following the death of President's Lungu predecessor did not legally qualify as a full term. See [Legal Resources Foundation Limited & Ors vs. Edward Chagwa Lungu & Ors., 21/CC/0025](#) and [Daniel Pule and Others v. AG \[2018\] ZMCC 224](#).

⁴³ Unopposed candidates are returned automatically.

⁴⁴ Constitution, article 45.

⁴⁵ Including the presidential nominees, the National Assembly numbers up to 167 members.

Constitutional and legal complexities, outdated census data and the failure of the National Assembly to enact ECZ recommendations on constituencies entail an enduring inequality of the vote contrary to international standards. There is a wide disparity of registered voters between various electoral areas, exemplified by constituencies including Lufubu (Central province) (11,411), Luapula (Luapula province) (17,353) Feira (Luapula province) (14,288), compared with Munali (Lusaka province) (151,573), Kanyama (Lusaka Province) (177,495) and Kabwate (Lusaka province) (108,729).⁴⁶ EU EOM analysis shows an average number of voters per constituency of 45,022. The data also reveals most constituencies have 27,218 registered voters above or below the average, underlining the significant inequality of the vote.

The ECZ is constitutionally mandated to review, name and delimit the boundaries of constituencies and wards at least every 10 years.⁴⁷ However, these electoral areas are also confined inside districts, which are, in turn, confined within provinces.⁴⁸ Both can only be merged or have their number changed by law. Following a detailed review in 2019, the ECZ proposed new boundary delimitations of constituencies, wards and of polling districts, including an increase of the number of national assembly constituencies to 246. These and revised proposals were not adopted in time for the 2021 elections. Unless the National Assembly approves changes by law, the ECZ is limited in its ability to achieve a broad national equal representation.⁴⁹

Recommendation: Guarantee periodic delimitation of electoral boundaries through an independent, inclusive and transparent process establishing equality in voting and representation on a timeline compatible with the electoral calendar and underpinned by effective access to judicial remedy.

⁴⁶ See ECZ Data on [Registered-Voters-By-Gender-And-Constituency](#).

⁴⁷ The ECZ mandate requires it to achieve approximate equality of constituency and ward population while considering various factors including diversity, population density, and geographical features. The most recent census data available to the ECZ is from 2010.

⁴⁸ Constitution, art. 149: Only the President may, with the approval of the National Assembly or by petition of 60 per cent of voters in a province, divide or merge a province. Constitution, art. 59 requires the “Electoral Commission shall, in delimiting the boundaries of constituencies and wards ensure that constituencies and wards are wholly within districts...”

⁴⁹ See, [SADC Parliamentary Forum: Norms and Standards for Elections in the SADC Region](#), Windhoek 2001 p. 13 ‘[...]’. *The drawing up of constituency boundaries should be left to the technical competence of the Boundary Delimitation Commission without political interference. The Commission should consult stakeholders in this process.’* [EISA and Electoral Commission Forum of SADC Countries: Principles for Election Management, Monitoring, and Observation](#), p. 15, ‘*The delimitation process should be devoid of manipulation of electoral boundaries to favour particular groups or political interests.*’ See also, Venice Commission 1.2.2; ‘*When constituency boundaries are redefined [...] – it must be done: - impartially; [...] taking account of the opinion of a committee, the majority of whose members are independent....*’

VI. ELECTION ADMINISTRATION

The ECZ managed well the technical aspects of the electoral process; most stakeholders strongly criticised the lack of genuine consultations and clarity of communication.

A. Structure and composition of the election administration

The ECZ is a five-member constitutional autonomous, permanent body responsible for organising all elections. ECZ members are appointed for a seven-year term, renewable once, by the president subject to the approval of the National Assembly. Members may only be removed based on the grounds of misconduct and gross negligence, with investigation powers lying with the Chief Justice. The ECZ has the legal power to issue regulations and guidelines and a duty to enforce the Code of Conduct embedded in the EPA.⁵⁰ The ECZ must ensure electoral processes are non-discriminatory, transparent and credible. A Chief Electoral Officer appointed by the Commission is responsible for implementing ECZ decisions and managing its activities. The ECZ has nine departments with specific responsibilities.

Overall, the ECZ carried out its work professionally under a challenging pandemic setting, but stakeholder trust in the ECZ remained low. The current appointment system of ECZ members, as well as the recruitment of the provincial and district electoral officers from the local administrations by ECZ, does not reinforce public confidence in the institution. Unclear ECZ external communication raised stakeholders concerns at various stages. Lack of genuine stakeholder consultations enhanced perceptions of non-transparency and partiality in the ECZ's decisions and actions.

In line with the Code of Conduct, the ECZ should meet political parties regularly to discuss matters related to the elections and the election campaign and inform them of the electoral timeline. The ECZ established Political Party Liaison Committees at national and at district levels. Although some aspects of the communication and consultation process with political parties have been improved compared to the 2016 elections, most opposition political parties expected more substantial engagement from the ECZ. On the other hand, the ECZ had very limited communication or consultations, or none at all, on pertinent electoral matters with civil society organisations such as concerning voter registration, campaigning and political violence, including the citizen observer accreditation process (see section XIV). The ECZ's Facebook page was the main tool of communication with stakeholders.

Recommendation: Promote transparency through improved clarity and consultation on decisions and decision-making processes. Establish and enforce improved mechanisms for genuine, inclusive and formalised consultations with political parties, civil society and media throughout all stages of the electoral process.

Despite a constitutional provision foreseeing decentralised ECZ structures at the provincial and district levels, these are not in place and the ECZ currently relies on the support of the local administration. Some 116 district electoral officers, recruited from local administrations, assisted operations while ten provincial appointees coordinated activities between the ECZ and districts. Provincial and district electoral officers played an *ad hoc* role

⁵⁰ The ECZ issued various regulations, notably measures to undertake a new voter register ahead of the 2021 elections, to update existing polling procedures for voting in prisons and voter education.

without a precise legal basis, while complete control and oversight of the process by the ECZ was not always guaranteed. Although the electoral administration at the local level was well-organised, it frequently did not enjoy trust among local stakeholders. EU EOM observers noted inconsistencies in the implementation of procedures at various stages of the process and varying competency levels.⁵¹ The ECZ reported that the provincial administration had replaced at least 10 out of the 116 district electoral officers at an advanced stage of the election preparations and as late as a month before the election day.

Recommendation: Implement decentralised ECZ structures with professional electoral staff, clearly prescribed functions and responsibilities, and an adequate budget.

The ECZ website provided some information on different aspects of the process, such as voter registration and stages of the elections. However, as an essential resource, it could have been more user friendly and included a broader scope of information of public interest in a timely manner. The publication of the results of the presidential elections per polling station on the ECZ website would contribute further to the transparency of the process.

Due to COVID-19, social media platforms became the centrepiece of the ECZ's external communication. The Commission was active on Facebook and Twitter, with 121,000 and 22,000 followers, respectively, and operated a YouTube channel. ECZ accounts were regularly updated, used to live-stream press conferences, and at times their posts triggered lively discussions on electoral matters. The ECZ published some information of public interest, including media briefs and notifications either through its website, on Twitter or via its Facebook page. However, important public information was not always readily accessible through any of these channels. The legal framework was only partially accessible on the ECZ webpage. Many parts were difficult to locate and scattered in various other government and non-government resources.

Recommendation: Ensure prompt and easy access to key information on electoral processes for all stakeholders. Compile and publish in unified manner and accessible format, on-line and in print, all relevant legal instruments and guidelines.

B. Administration of elections

The technical aspects of the electoral process were well-administered, and key operational deadlines were met overall. Because of the deteriorating COVID-19 situation, the ECZ took additional measures to protect voters and electoral staff throughout the process, which impacted the initial budget for the 2021 general elections. On 12 May, the ECZ published COVID-19 standard operating procedures, including general protective measures and specific procedures by electoral activity.

The 116 district electoral officers, responsible for the recruitment and training of the polling staff, candidate nomination, campaign and accreditation of observers, party agents and media, were operational since April. Training of some 83,324 polling staff, including contingencies, was carried out on schedule and overall in a satisfactory manner as reported by EU EOM

⁵¹ For example such inconsistencies were noted in the training of polling station staff on the electoral procedures, the accreditation process for national observers, the conduct of voter registration operations, the application of POA and COVID-19 regulations and the different communication tools used by the District Election Officers regarding the conduct of electoral operations.

observers, however not always adhering to COVID-19 regulations.⁵² Positively, among polling and totalling centres attended by EU EOM observers on election day, women represented on average close to 50 per cent of all electoral staff including decision making roles.

Some 7,651,900 ballot papers were printed and prepacked in Dubai for each election, and dispatched in a timely manner to polling stations.⁵³ Polling stations received an average surplus of 9.3 per cent of ballot papers for each election. As mitigation measures against malpractice and double voting, the ballot papers and the result forms had specific security features.⁵⁴ Voters could vote only by producing the national registration card (national identification document) and the voter card and if their name was included in the voter register. Voters were checked for traces of ink before voting, and their finger was marked with indelible ink. Each voter was attached to a specific polling station through their unique voter card.

C. Voter education

The ECZ is mandated to provide voter education and voter information to enable citizens to participate in the electoral process. The ECZ involved civil society and faith-based organisations in voter education. The COVID-19 circumstances limited voter education and information activities on the ground to small-scale meetings and door-to-door awareness campaigns of voters.⁵⁵ Voter information messages focused on the date of elections, on how to vote and mark the ballot paper validly. EU EOM observers reported voter education material was not always available and not always distributed to the wards.

The voter information campaigns in traditional and social media only picked up pace two weeks before the elections, as the airing of voter education clips by ECZ was delayed. Election officials regularly participated in call-in programmes on local radio stations to address election-related questions. The ECZ's social and print media campaign featured posters clarifying voting procedures and advocating against vote-buying. The media and ordinary citizens frequently shared voter information posts from the ECZ's Facebook page.

Recommendation: Develop continuous, effective and broad-reaching voter education, including clear messages on key stages of the electoral process, specially tailored for youth, women, persons with disabilities, prisoners and marginalised groups. Ensure consistency of voter education messages across traditional and online media. The ECZ could enhance use of varied digital tools.

⁵² EU EOM observers reported that polling staff had not undergone testing during their training due to insufficient test supplies and limited laboratory capacities in some provinces. The use of facemasks and disinfectants was noted, but social distancing was jeopardised in some small training venues.

⁵³ The printing process was supervised by ECZ commissioners and monitored by representatives of PF, UPND, state agencies, media and three citizen observers' groups, CCMG, NGOCC and FODEP.

⁵⁴ Colour-coded, with holograms and watermarks, they bared visible deterrents against attempts to forge them. Some security features were not disclosed to the public and were visible only with infrared light to secure the sensitive material further.

⁵⁵ The ECZ, assisted by 18 civil society and faith-based organisations, conducted voter education/ information activities from 2 June to 4 August. Some 3,500 voter education facilitators were trained and deployed at the ward level.

VII. VOTER REGISTRATION

A new biometric voter register was introduced removing 1.4 million deceased voters.

A. The right to vote

Every Zambian citizen who reaches 18 years and holding a national registration card (NRC) may register to vote in their area of residence.⁵⁶ The 2021 final voter register was certified on 9 May. Persons turning 18 after that date were not included in the final voter register, and thus could not vote on 12 August, leaving an unknown number of eligible potential voters disenfranchised. The May 2021 EPA amendments provided the right to register to vote for various classes of detainees.⁵⁷ For the first time, the voter register included 11,359 prisoners.⁵⁸ Previously, persons with mental disabilities were arbitrarily denied the right to register to vote. Following the EPA amendment, any such restriction must be based on a lack of legal capacity as defined by law.⁵⁹

The law does not provide for out-of-country voting by eligible voters abroad. Opportunities for a special vote (voting in a polling station other than where the voter is originally assigned) applies to limited categories of voters including electoral and security staff on duty on election days, although the procedures are not adequately prescribed or widely communicated.

B. Voter registration procedures

Zambia has an active voter registration system compiled and maintained by the ECZ.⁶⁰ In 2020, the ECZ compiled a new voter register introducing a biometric voter registration system to remove some 1.4 million deceased voters from the 2016 register. After several delays, mainly due to the COVID-19 pandemic, voter registration was conducted from 9 November to 12 December 2020 with a four days extension (17 to 20 December). The voter card was issued electronically on the spot when the voter was biometrically registered. The provisional voter register was available for electronic verification from 7 February to 7 May and for physical verification at the voter registration offices from 29 March to 2 April. During the inspection period, voters checked if their names and other details were correct and were able to submit applications for corrections or changes. A registered voter whose name

⁵⁶ The Ministry of Home Affairs Directorate of National Registration, Passports & Citizenship is in charge of issuing the national registration cards (NRC). Any Zambian citizen who reaches the age of 16 has the legal duty to obtain an NRC. The NRCs are issued at district registration offices. The registration records are manual and kept at the district level. The registration process is a continuous exercise. Deployment of mobile units to remote and rural areas takes place on an *ad hoc* basis. A mobile NRC registration exercise took place before the voter registration. Since 2018 dual nationality citizens can obtain an NRC.

⁵⁷ ICCPR, art. 25, and Article ICCPR, HRC GC 25, para. 11 ". *Where registration of voters is required, it should be facilitated, and obstacles to such registration should not be imposed.*" Banjul Charter, art. 13.1, "*Every citizen shall have the right to participate freely in the government of his country....*" SADC Principles, 7.4 "*Safeguard the human and civil liberties of all citizens...*"

⁵⁸ Voting was possible in 80 out of 93 correctional centres nationally. The prison population is estimated at some 20,000, with fewer than 1,000 women among those in detention.

⁵⁹ Mental Health Act, 2019, s. 4 "*Where the nature of the mental illness, mental disorder or mental disability results in the absence of mental capacity of that mental patient, the mental patient shall not enjoy legal capacity and is legally disqualified from performing a function that requires legal capacity.*"

⁶⁰ The EPA and the EP (Registration of Voters) Regulations 2020 foresee that the Commission should conduct continuous registration of voters.

was omitted from the voter register could submit a claim. Likewise, a person could submit an objection to the inclusion of a person in the voter register. Claims and objections were submitted to the district registration officers and determined by the ECZ before the voter registration certification on 9 May.⁶¹

The certified voter register included 7,023,499 voters representing 83.2 per cent of the eligible voters.⁶² Women represent 53.4 per cent of the registered voters and men 46.6 per cent, while 54 per cent of the registered voters are between 18 and 35 years old.

Whereas EU EOM interlocutors were overall confident that deceased voters did no longer inflate the voter register as was the case in the previous elections, the ECZ was criticised for inadequate planning, lack of broad consultations and limited time and locations allocated for citizens to register and scrutinise the voter list.⁶³ The UPND alleged that the voter register had a partisan character arguing that more NRCs were issued in PF strongholds.

Recommendation: Involve all stakeholders in the planning process of future reviews of the voter register.

VIII. REGISTRATION OF CANDIDATES

High candidate registration fees and restrictive educational requirements affected the right to stand predominantly to women and the marginalised.

A. Registration of political parties

Basic constitutional principles for the effective regulation of political parties are not fully developed in legislation, entailing a lack of inclusivity, accountability, and oversight.⁶⁴ The Constitution defines Zambia as a multi-party democracy. It prescribes certain rights, principles, and duties to political parties including freedom of association, access to media, and compliance with electoral and party Codes of Conduct, and avoiding discrimination, violence, and abuse of state resources. Parties should sponsor candidates, have a national character, and exercise intra-party democracy. These aspects, in particular, require elaboration in law.

There are 32 registered political parties. Registration occurs under the Societies Act, a law significantly predating the Constitution and silent on key matters intended to be legislated.⁶⁵

⁶¹ Some 359 claims (66 were sustained and 293 denied) and eight objections (four sustained and four denied) were submitted to the district registration officers and determined by the ECZ.

⁶² According to the ECZ, the provinces with the highest voter registration percentages are Luapula with 93.5 per cent of the eligible voters, Eastern with 92 per cent and Western with 88.2 per cent. On the other hand, the provinces with the lowest voter registration percentages are Central with 77.3 per cent, Southern with 77.4 per cent and Muchinga with 79.1 per cent.

⁶³ Civil society organisations requested the ECZ to conduct an independent audit of the voter register. However, the ECZ refused the conduct of an independent audit, pointing out that the 2021 voter register was new and clean.

⁶⁴ The key principles governing political parties are prescribed in article 60 of the Constitution.

⁶⁵ Registration of political parties is not expressly articulated in the Constitution art. 21(2), which states that “*Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision.... for the registration of political parties*”. The Societies Act of 1958 is the basis for registration of political parties, under the auspices of the Ministry of Home

Requirements include an application form signed by the office bearers, submitted to the Registrar with certified copies of the constitutional documents and the prescribed registration fee.⁶⁶ Once registered, political parties must hold a registered office, make available audited accounts and records of membership, and such other information as may be prescribed by the Minister.⁶⁷ Still, the operations of political parties are largely obscure. An attempt in 2017 to enact a political parties' law was unsuccessful.⁶⁸

Recommendation: Enact a law on political parties stipulating registration requirements and guaranteeing internal party democracy, inclusivity, transparency and accountability, with adequate institutional oversight.

B. Right to stand and candidate registration

The nominations processes for elections took place between 17 and 20 May. Requirements to stand are mostly reasonable, and open to both party-sponsored and independent candidates.⁶⁹ A specific education certificate required for contestants in all elections hampers candidacy for those without formal education, in particular marginalised groups and women, and does not comply with international standards on the right to stand.⁷⁰ Women, youth and persons with disabilities pay lower fees to contest. However, EU EOM interlocutors considered the fees still excessive. Also, all such fees are non-refundable.⁷¹ Inadequate rules on participation by women and persons with disabilities further underpins unequal representation of these demographics.⁷²

Recommendation: Revise candidacy requirements to enhance the right and the opportunity to stand by ensuring registration fees do not deter participation and are refundable, and removing educational requirements for the right to stand.

The Chairperson of the ECZ acted as Returning Officer for the presidential nominations. Candidates for other elections submitted forms to returning officers at the constituency level.

Affairs. It defines a society as "any club, company, partnership or other association of ten or more persons, whatever its nature or object". Political parties register within 28 days of formation or the adoption of a party constitution or rules.

⁶⁶ The Registrar must 'gazette' registrations. The registration fee is currently 5000 ZKW (approximately 200 euro).

⁶⁷ Matters provided for under the Societies Act come under the auspices of the Ministry of Home Affairs.

⁶⁸ [Political Parties Bill, 2017](#)

⁶⁹ Candidates for a presidential election are eligible to contest provided they are at least 35 years of age, hold only Zambian nationality, are registered voters and are fluent in English (the same conditions apply to vice-presidential candidates). Fluency in English and a bar on having dual nationality are not conditions for other elections. Candidates for the National Assembly, Mayor and Council Chair elections must be at least 21 years old, whereas 19 is the age of eligibility for election as a Ward Councillor.

⁷⁰ Candidates must produce a grade 12 certificate or equivalent as validated by the Examinations Council. ICCPR, HRC GC 25, para. 15 "[...] Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, [...]." Candidates holding a better qualification must still produce evidence of a grade 12 certificate. See [Nkunika v Nyirenda & The ECZ \[2021\] ZMCC 5](#). The requirement aims to assure literacy and competency, but its broad application limits voter choice.

⁷¹ Fees vary from ZMK 95,000 (EUR 3000 approx.) for male presidential candidates to ZMK 500 (EUR 20 approx.). Overall fees range between 10 and 30 per cent less for youth, women and persons with disabilities. If elections in any constituency are cancelled, and the nominations process must be recommenced, the same fees are payable again. ECZ regulations do not allow for refunds or credits, although the electoral law foresees this possibility (EPA, s.125(1)(j). [ICCPR, HRC GC 25](#), Para. 16 "[...] Conditions relating to nomination dates, fees or deposits should be reasonable...."

⁷² CEDAW, art. 2 "States Parties condemn discrimination against women in all its forms, [...] to ensure, through law and other appropriate means, the practical realisation of this principle"; CPRD, Article 29, "[...] guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, [...]"

Nominations were vetted immediately.⁷³ Minor errors or inconsistencies resulted in automatic denial of registration and a refused candidate could only appeal to the High Court creating an onerous hurdle for the right to stand.

Further uncertainty for contestants and the ECZ arises if, in any constituency, a candidate dies, resigns, or is disqualified. In such cases, the law mandates the cancellation of elections and new nomination processes. There is no time limit for such interruptions, which can arise even after the ballots are printed. All candidates in the affected constituency must partake in fresh ECZ nomination procedures, including submitting new fees. Rescheduled elections also entail significant and unwarranted cost burdens. During the 2021 pre-election period, six parliamentary and eight ward constituencies were affected, requiring new nominations in each case. Due to time constraints, at least two ward elections could not be rescheduled to coincide with the 12 August elections and had to be deferred to a later date.

Recommendation: Amend the law to avoid postponement of elections and new nomination processes for already registered contestants due to a resignation, death or disqualification of a candidate.

The intra-party adoption of candidates for parliamentary and local government elections was reported to the EU EOM to be chaotic, lacking transparency and marred by malpractices such as vote-buying, violence, and different forms of corruption.⁷⁴ Both UPND and PF selections involved complex procedures based on selection committee interviews conducted at five decision levels (ward, constituency, district, provincial and central levels). EU EOM observers noted that candidates selected at lower levels were often replaced at the higher selection levels. In some cases, candidates were intimidated or prevented from seeking the nomination.⁷⁵ Further EU EOM observers noted that personal wealth and patronage networks also appeared to play a key role in selection processes. Undemocratic selection resulted in some internal party conflicts, especially in the strongholds of PF and UPND.⁷⁶ The Socialist Party (SP) conducted decentralised candidate selection procedures and uniquely adopted a significant number of women and youth.

Sixteen presidential candidates, including one woman, contested the 2021 presidential election. Twenty-one political parties with 857 candidates competed in the National Assembly elections, with women representing 21 per cent of the contestants. The PF had a candidate in every constituency whereas UPND fielded candidates in all but one constituency.⁷⁷ There were 200 independent parliamentary candidates, compared to 103 in 2016. The highest number of independent parliamentary candidates were in Eastern Province

⁷³ In addition to prescribed forms, affidavits vouching for eligibility, and statements of financial affairs, all candidates were required to provide proof of registered voter support in the contested constituency. Presidential candidates are required to show support of at least 100 voters in each province. Candidates to the National Assembly, for Mayor and Councillor Chair, must show support from 15 registered voters and councillors of nine registered voters.

⁷⁴ The Christian Churches Monitoring Group (CCMG) and the TI-Z observed the final phase (from March until 20 May) of the intra-party selection of candidates for parliamentary and local government elections.

⁷⁵ EU EOM observers in Western Province received evidence on a local government candidate (UPND) in Nanjucha Ward (Nalola District, Likuma Constituency) being unreasonably arrested on nomination day, allegedly to prevent him from registration. The case was brought to the High Court in Lusaka.

⁷⁶ During filing of nomination papers on 20 May in Chilanga, clashes between two PF rival groups accompanying their candidates to the nominations resulted in the death of one person. Several PF members were suspended from the party.

⁷⁷ In Nalolo Constituency, Western Province, UPND had no candidate due to not authorised photocopies of the nomination papers.

(45). Most of them were affiliated with one of the two main political parties, PF and UPND. Based on candidate numbers, Eastern, Copperbelt and Lusaka Provinces were the most contested constituencies. Some 28 parties competed in local elections, with 6,130 candidates running for 1,858 seats, with women representing some ten per cent of the candidates.

IX. CAMPAIGN ENVIRONMENT

Arbitrarily restricted rights of assembly and expression advantaged the ruling party in an unlevel campaign playing field.

The campaign took place in a highly competitive and tense environment, dominated by the ruling PF and the opposition UPND. The SP and DP were most visible among the other parties. The presidential campaign was deeply polarised and lacked dialogue, thus weakening the message of peace initiatives and entrenching the political divide.⁷⁸ Mutual accusations between the UPND and PF mainly related to ethnicity and violence, led to a deterioration in the campaign tone.⁷⁹ The use of “tribal” language was publicly acknowledged but not effectively addressed by the ECZ.⁸⁰

A broad range of campaign activities, including large-scale gatherings, roadshows and door-to-door canvassing, took place across the country against the backdrop of COVID-19 campaign regulations.⁸¹ At the official launch of his national campaign on 26 June, President Lungu announced that given the increased cases of COVID-19, he would not hold campaign rallies and expected the same from the opposition. Following his directive to the police and the Ministry of Health to enforce COVID-19 regulations, the launch event of the UPND campaign was cancelled. The opposition reacted with calls for mass mobilisation and accused the government of “weaponising” the pandemic to prevent the opposition from campaigning. On 3 June, the ECZ banned campaign rallies and, on 15 June, roadshows.⁸² On 17 June, following the death of former President Kenneth Kaunda, President Lungu announced 21 days of national mourning. There was a significant reduction in campaign activities and election-related incidents during this period, yet verbal attacks related to ethnicity continued.⁸³

⁷⁸ On 14 June, a Peace and Non-Violence Accord was signed by 12 political parties. President Lungu did not attend the event, organised by the Zambia Centre for Intra-Party Dialogue (ZCID) and the Three Church Mother Bodies under the auspices of the Commonwealth Secretariat. The Movement for Multi-Party Democracy (MMD), refused to take part in the initiative. The ECZ organised another signing of a peace accord engaging only UPND and PF on 20 July.

⁷⁹ Constitution arts. 60(3)9(a) and 9(b) and EPA ss.14 and 15 prohibit propaganda and political campaign based on ethnicity and tribalism. Some prominent PF members, including the running mate of President Lungu, received criticism for using tribal sentiments in their speeches ahead of the elections. A widely shared on social media campaign video attributed to the UPND Council Chairperson candidate in Kafue was criticised for referring to tribalism in his campaign. Further, the UPND referred to President’s appointments as being part of the larger plan of the ruling party to rig elections. In February 2021, President Lungu appointed seven new permanent secretaries, all from the Northern and Eastern provinces.

⁸⁰ On 30 June, the ECZ suspended the PF member and presidential campaigner, Chishimba Kambwili, from participation in the campaign for using “tribal language” and holding campaign rallies against the COVID-19 regulations. Sanctions were lifted after one week but Kambwili was later again recorded using “tribal language” saying that ‘if elections are won by the opposition, Bembas would be chased and killed’ (https://fb.watch/77sDqOFm_y/).

⁸¹ The EU EOM observed 96 presidential, parliamentary, and local government campaign events in all ten provinces, of which 49 were for PF, 27 were for UPND, 13 of independent candidates, four of DP, two of SP, and one of NDC.

⁸² Only a single car roadshow and door-to-door campaigning of not more than three persons were allowed.

⁸³ For further details see section *Digital Communications and Social Media*.

Freedoms of assembly and movement were subject to arbitrary restrictions, contrary to international and regional standards.⁸⁴ The Code of Conduct affirms the right to campaign freely. However, the already existing COVID-19 regulations, which restricted gatherings without authorisation from the Minister of Health, signalled legal complexities for holding rallies. Arbitrary applications of COVID-19 campaign regulations hindered opposition candidates from competing under equal conditions and amplified widespread perceptions of an unlevel playing field in the campaign.⁸⁵ These regulations and POA provisions⁸⁶ were selectively applied to restrict freedoms of assembly and movement and, at times, involved excessive use of force by the police to curb opposition campaigning.⁸⁷ Overall, COVID-19 campaign regulations lacked detail and precise supervisory and enforcement mechanisms.⁸⁸

The ruling party was largely exempted from COVID-19 campaign restrictions.⁸⁹ Most controversial were the President's and Vice President's official visits, widely used for campaign purposes.⁹⁰ Notably, the President's market visits presented as "COVID-19 sensitisation" and "facemask distribution" events attracted large crowds and very much resembled campaign events.⁹¹ This prompted public criticism about respect of COVID-19 regulations. Opposition parties, particularly the UPND and DP, used the pretext of "facemask distribution" to launch their campaign activities,⁹² but unlike the President they were often obstructed by the police.

The PF presidential campaign demonstrated the absence of a clear distinction between the government and the ruling party.⁹³ The abuse of state resources was evident with a broad range of state development, social protection and relief programmes used in the campaign. The number of Social Cash Transfer (SCT) beneficiaries increased significantly in the

⁸⁴ [SADC Principles and Guidance Governing Democratic Elections](#), Para. 7.4 "Safeguard (...) the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, [ICCP](#), Article 21. "The right of peaceful assembly shall be recognised."

⁸⁵ EU EOM and national observer reports indicated that the opposition conducted significantly fewer campaign events in the parliamentary elections than the ruling party. The UPND cancelled several large-scale presidential rallies, for example, on 31 July in Matero, Lusaka, and on 11 August in Copperbelt, for not receiving permission or anticipating organised provocations.

⁸⁶ The POA, s. 5(6), excludes the President and Vice President from notifying police of meetings or being subject to certain restrictions. However, the Code of Conduct requires police not to oppress any contestants or partisans.

⁸⁷ At least seven times, the police used teargas against the UPND and DP candidates. Multiple times, high-profile opposition convoys and campaigns were blocked or obstructed by the police.

⁸⁸ [ACDEG](#), art. 2(2) "Promote and enhance adherence to the principle of the rule of law".

⁸⁹ In practice, PF's parliamentary candidates attached themselves to presidential and vice presidential official visits (allowed by law) and hence campaigned freely. Also, the police did not intervene to PF road shows and other campaign activities that were against COVID-19 restrictions.

⁹⁰ During the official campaign period, President Lungu inaugurated a large number of state projects in all ten provinces. From 9 July to 11 August, the President visited 27 localities in 24 districts. For the same period, the Vice President conducted at least 26 official visits, often accompanied by the running mate of President Lungu and other PF functionaries.

⁹¹ Videos showing President Lungu's visits to the markets of Mtendere and Bauleni in Lusaka on 9 July triggered broad public reactions for not being addressed by ECZ and the police. On the same day, the DP presidential candidate Harry Kalaba posted on his Facebook page a video showing police stopping his door-to-door campaign in Kabwe.

⁹² In the second half of July, UPND started a National Mask Distribution Programme, with Hakainde Hichilema conducting a series of roadshows in Lusaka, Central and North-Western Provinces attracting thousands of supporters live broadcast on Facebook. The DP presidential candidate Harry Kalaba initiated "mask distribution" campaign events in Copperbelt.

⁹³ EPA, s. 3(d), requires that the electoral system and process ensure that there are "no special privileges accorded to a political party or social groups, except for persons with special needs." However, the EPA excludes the President and the Vice President from the prohibition of using state resources for campaign purposes. "A person shall not— use Government or parastatal transportation or facilities for campaign purposes, except that this paragraph shall not apply to the President and the Vice President in connection with their respective offices" (EPA, s. 15 (1)(k)).

months before the elections.⁹⁴ Similarly, the Farmer Input Support Programme (FISP) was carried out during the campaign period, though it should have been implemented shortly before November.⁹⁵ The EU EOM observed the Food Reserve Agency using sacks with inscribed PF ballot paper logo and the slogans “vote PF” and “vote Edgar Chagwa Lungu” to buy maize from farmers, paid in cash. In July, the Disaster Management and Mitigation Unit allocated ZMK 15 million to empower marketers. Further, the civil service debt swap programme was initiated three weeks before the elections, while senior civil servants were widely involved in the PF presidential campaign.⁹⁶ President Lungu publicly offered incentives to traditional leaders to influence the electorate’s vote in his favour.⁹⁷ None of these widely publicised abuses of the incumbency were addressed by the ECZ.

Recommendation: Remove from the law undue campaign privileges for the President and Vice-President to ensure equal campaign conditions for all candidates.

Violence, particularly clashes between UPND and PF cadres, was a lasting matter of concern.⁹⁸ On 11 June, the ECZ responded to political violence by publicly denouncing PF and UPND involvement and calling for respect for the Code of Conduct.⁹⁹ The ECZ responded to political violence by temporarily suspending on 3 June campaign rallies and road shows of all political parties and candidates.¹⁰⁰ On 15 June, the ECZ reacted to repeated clashes between UPND and PF cadres by suspending all campaign activities of both parties for 14 days in four districts.¹⁰¹ More controversial were the ECZ suspensions of campaigns shortly before the elections and preceding police investigations.¹⁰² Overall, the ECZ decision-making process over the suspension of the campaign lacked transparency. The ECZ is empowered to disqualify a party or candidate for breaching the Code of Conduct without distinguishing the different scales of offences. A lesser sanction of suspending participation is

⁹⁴ For example, EU EOM received reports that in the Southern province, the SCT beneficiaries increased from 19,000 to 66,000 in 2021. The Head of the local Social Welfare Department reported following a directive to conclude the SCT payments before election day.

⁹⁵ The 2021 budget showed a fourfold increase in FISP compared to 2020, from ZMK 1,4 billion to ZMK 5,7 billion and more than a double increase of allocations to the SCT programme and the emergency cash transfer scheme from ZMK 2,3 billion in 2020 to ZMK 4,8 in 2021.

⁹⁶ EU EOM campaign reports indicated that Permanent Secretaries and District Commissioners actively participated in the campaign events of President Lungu and the PF parliamentary candidates. EPA, Code of Conduct s.1(2) “A public officer shall not engage in any active partisan political activity referred to in subparagraph (1) whilst in the public service.

⁹⁷ On 22 April, the Ministry of Chiefs and Traditional Affairs released ZMK 20 million to pay Chiefs and their Retainers. During the meeting, traditional leaders were cautioned against taking a partisan stance and supporting the opposition. On 7 August, the President presented a newly-built palace to the chieftaincies in Serenje. On 30 July in Monze district, Southern province, President Lungu asked traditional leaders to ensure that the electorate gives the PF government “progressive MPs, so that together we can deliver the much needed development in the area” and promised to consult the Ministry of Local Government on the possibilities of dividing Monze district into two. (<https://www.pressreader.com/zambia/daily-nation-newspaper/20210730/281496459323309>)

⁹⁸ During the official campaign period from 12 May to 11 August, and based on reports by the CCMG and media, there were at least 63 cases of physical election-related violence, 17 of which were in Lusaka.

⁹⁹ [ECZ 11 June Press Statement](#).

¹⁰⁰ Road shows could be carried out just by a single car.

¹⁰¹ These were in Lusaka (Lusaka) Southern (Namwala), Northern (Mpulungu) and Muchinga (Nakonde) provinces.

¹⁰² On 28 July, the ECZ suspended the campaign of an independent candidate in Sioma (Western province) and a UPND candidate in Ikelenge (North-Western), both for violence. On 2 August, ECZ sanctioned UPND in Kanyama (Lusaka province) related to the murder of two suspected PF supporters by suspected UPND cadres, acknowledging that the police investigations were ongoing. All suspensions were lifted on 9 August.

not explicitly prescribed for any matter. As such, the legal authority underpinning some ECZ directions was not always certain, and the manner of enforcement remained unclear.¹⁰³

The President's 1 August decision to deploy the Zambia Defence Force to beef up police capacity in response to political violence in Lusaka received mixed reactions. This exceptional security measure during elections lacked of public information on military deployment and increased uncertainties among the population with soldiers, in some cases equipped with heavy weaponry, present in different parts of the country. However, the military remained neutral and several opposition leaders, including Hakainde Hichilema, positively assessed the army's conduct on the ground.

Campaign coverage on commercial media was primarily paid-for by political parties, disadvantaging less affluent opposition and smaller parties. At the same time, state-run broadcasters reported on all official visits by the President and Vice-President in a manner that resembled campaign coverage and provided the PF with a disproportional free exposure, contrary to international and regional standards.¹⁰⁴ The most-watched private channel Diamond TV offered a similar campaign coverage, reinforcing the undue advantage given to the incumbency.

COVID-19 propelled the PF, UPND and DP strategic use of Facebook as a key campaign tool.¹⁰⁵ High-profile influencers supported both frontrunners,¹⁰⁶ while partisan online foot soldiers amplified pre-existing fissures between different groups by exploiting tribal affiliation.¹⁰⁷ While on the surface, the PF and UPND online campaigns looked similar, their actual strategies differed. The UPND developed a strong interlinkage of the grassroots-level online and offline electioneering, placing "vote protection" at the centrepiece. Clear instructions on guarding the vote were given through UPND-leaning Facebook pages. They were repeated by the party's youth leaders during in-person canvassing across the country and via a mobile app and on UPND-leaning TikTok accounts.¹⁰⁸ By contrast, the PF relied heavily on the paid-for cross-platform promotion of the President's leadership talent and government's development programmes.¹⁰⁹ It echoed the extensive coverage of the President and Vice-President in traditional media, hence obscuring the line between governing and campaigning.

¹⁰³ Electoral offences of a criminal nature fell under regular police jurisdiction. For other matters, the ECZ promulgated [regulations to enforce](#) sanctions for breaches of the code of conduct. Still, these depended on a person alleging or witnessing a breach notifying the ECZ in writing.

¹⁰⁴ DPFEA, African Commission on Human and Peoples' Rights, 32nd Session, 2002, "*...the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receives adequate politically balanced information, particularly during election periods.*"

¹⁰⁵ The PF, UPND and DP have 1.2, 1 and 0.6 million followers on Facebook, respectively, comprising 90 per cent of all accounts following presidential aspirants.

¹⁰⁶ Of 25 Facebook pages administered by most followed influencers, ten were UPND-leaning, and nine were PF-leaning.

¹⁰⁷ The EU EOM manually assessed 150 recently established accounts, who either promoted or criticised certain candidates on popular Facebook groups with participants across the political spectrum. Among them, 61 were PF-leaning and 45 UPND-leaning, seemingly operating in an organised manner and being linked with respective party's fan pages.

¹⁰⁸ The instruction was to vote, "*to stay 400m from the polling station to count voters*", and during the counting to observe if the number of ballots recorded in the protocol corresponded to the number of voters observed. The hashtag #VoteProtection was created on 11 July, while the party's youth leaders toured at least 40 constituencies in all provinces repeating the message. Video clips from their campaigns were placed on UPND-leaning Facebook pages and cross-shared further.

¹⁰⁹ The PF held nine online rallies, live-streamed on its Facebook page and paid for live stream on more popular media pages. The second and last rallies were also broadcast live on state-run TV, with clips repeated during prime-time newscasts.

X. CAMPAIGN FINANCE

An absence of robust regulation, compounded by a lack of transparency and accountability, undermined the voters' right to make an informed choice.

Notwithstanding constitutional provisions there is no law on political party and campaign finance.¹¹⁰ A few scattered rules require candidates to declare assets and liabilities to contest elections,¹¹¹ ban the use of corruptly obtained funds for party and electoral purposes,¹¹² and impose limited political party financial disclosures.¹¹³ However, a lack of independent oversight and insufficient robust regulation on timely dissemination of key information and sanctions for non-compliance strips these provisions of substance. Candidates must submit to the ECZ details of their assets and liabilities with nominations, but this requirement is not backed by a clear mandate for public access, auditing, or investigation. The gaps in accountability leave funding and expenditure by contestants unknown to voters, contrary to international standards.¹¹⁴

Most parliamentary candidates claimed to have largely self-funded their campaigns. Still, PF candidates appeared to have received significantly more financial support from the party than UPND candidates. PF campaign materials, billboards and posters, dominated the campaign environment, also in opposition strongholds. EU EOM observers reported that the ruling party invested by far more funds in campaign events, for example, for party regalia and transportation, than opposition parties.¹¹⁵ The ECZ failed to publish any information on the presidential declarations of assets, stating that there is no explicit legal mandate to disclose such information.

The campaign in traditional and online media was highly monetised.¹¹⁶ The PF, UPND and SP bought considerable airtime on broadcast media, yet the PF spent far more on TV and radio adverts than any other campaign.¹¹⁷ The PF also dominated across all categories of Google adverts and paid for a significant number of genuine posts on news, infotainment, and media pages on Facebook, reaching over four million users weekly.¹¹⁸ In addition, the PF spent almost five times more than the UPND on officially labelled ads on Facebook.¹¹⁹ Total spending in the media and online is unknown as there are no legal reporting requirements for political parties or service providers such as media houses, tech companies and advertising

¹¹⁰ The Constitution, Article 60 (4) foresees a law to address "*Campaign financing / Restrictions on political parties*"

¹¹¹ The requirements in the electoral legal framework (EPA), section 30(1) (c), do not prescribe public disclosure.

¹¹² Anti-Corruption Act, 2012, s. 35(2).

¹¹³ Societies Act, 1958 (as amended) ss. 19 & 20 do not detail public disclosure, nor is there a link to election processes.

¹¹⁴ [UNCAC](#), art. 7(4), "[...] promote transparency and prevent conflicts of interest." The [SADC Principles](#) 4.1.6 "*Promote necessary conditions to foster transparency, [...]; access to information by all citizens.*"

¹¹⁵ At the President's rally in Southern province on 29 July, regalia was given to some 2000 attending persons, with some 90 per cent of whom were transported to the location. On 16 July in Copperbelt, most of the 3000 participants in the President Lungu's market rally received and were wearing PF chitenges. PF cadres distributed party regalia.

¹¹⁶ On four TV stations monitored by the EU EOM, 33 per cent of all prime-time election-related programming is paid-for; on eight radio stations, the average paid-for time was 29 per cent. In four cases, the paid airtime exceeds the time of news.

¹¹⁷ For example, from 9 July to 11 August, on four TV stations monitored by the EU EOM, all parties paid for some 1646 advertisements, among them – 809 were for the PF, 272 for NAREP, 243 for the SP and 126 for the UPND.

¹¹⁸ The administrators of Zambia's top 5 Facebook media pages and a dozen regional radio stations informed the EU EOM that political parties are paying for adverts and live broadcasts. Such content appears genuine with a paid-for disclaimer.

¹¹⁹ For example, the official Facebook page of Edgar Chagwa Lungu spent some 4.7 thousand USD, while the page of Hakainde Hichilema some 800 USD, as per [Facebook Ad Library](#) (12 August).

agencies. Further, Facebook’s key transparency tool for political ads – *Facebook Ad Library* – was introduced in Zambia only after the elections. The overall lack of transparency and accountability disadvantaged parties with fewer financial assets and interfered with voters’ right to make an informed choice.¹²⁰

Recommendation: Enact a law on campaign finance including reporting requirements for political parties, candidates, and traditional and social media. Mandate standardised, timely disclosure before and after elections. Income and expenditure reports have to be audited by a competent, independent body with investigative, sanctioning, and enforcement powers.

XI. MEDIA

A constraining legal framework, the state media’s bias towards the ruling party and the prevalence of self-censorship negatively impacted on the freedom of expression.

A. Media environment

There are more than 200 media outlets in Zambia, yet they lack content diversity and editorial freedom.¹²¹ Ownership data allows for diverse editorial policies, with 70 per cent of media houses owned privately, 19 per cent are public or state, and 11 per cent are community media outlets. However in practice, diversity and pluralism was in short supply, as only state broadcasters have a free, nation-wide reach and they provided an overwhelming advantage to the ruling party. While in theory the private media was accessible to all political parties, only those with sufficient financial means could pay for participation in political broadcasts.¹²² Resorting to slander, especially of female candidates, occasional hate speech, and language driving tribal division were observed and reduced the space for meaningful political discourse.

The state-run ZNBC TV 1 is the most watched TV channel with seven million people tuning in during prime time. At the same time, audience surveys show that commercial and community radios remain the most important media outlets for bringing news to rural areas. Print newspapers are still a preferred source of information in urban centres for the electorate over 45. However, due to increasing production and delivery costs, print media consumption continues to decline.

Positively, most community radio stations invited all political party representatives to panel discussions. However, PF party candidates often avoided participation, reducing the chance for an inclusive, issue-based electoral debate. Additionally, the PF reserved the last four hours of campaign on most private media outlets, effectively monopolising the prime time

¹²⁰ UNCAC, art. 7(3), “[...] enhance transparency in the funding of candidatures for elected public office [...]”.

¹²¹ A total of 146 radio stations are licensed in Zambia, including 67 commercial and 73 community radio stations. 51 TV stations are licensed to broadcast, including 28 commercial and 11 community TV stations.

¹²² On four TV stations monitored by the EU EOM, 33 per cent of all prime-time election-related programming is paid-for; on eight radio stations, the average paid-for time was 29 per cent. In four cases, the paid airtime exceeds the time of news. For example, from 9 July to 11 August, on four TV stations monitored by the EU EOM, all parties paid for some 1646 advertisements, among them – 809 were for the PF, 272 for NAREP, 243 for the SP and 126 for the UPND.

nationwide.¹²³ Due to the constraining legal framework and harassment of journalists from both sides of the political spectrum and the authorities, the media frequently opted for self-censorship.¹²⁴ One-third of the 58 community radio stations visited by EU EOM observers reported to work under self-censorship at all times.

The pandemic has negatively affected media houses' advertising revenue. Many saw the election period as a chance to make up for financial losses by selling airtime, often to the detriment of editorial and news programmes. Furthermore, journalists were often restricted when covering events in the community due to the pandemic and their limited finances.¹²⁵

Recommendation: Protect freedom of opinion, including voters' informed choice by setting a reasonable limit on the amount of hourly paid political advertising on broadcast media in line with international best practice.

B. Legal framework for media

While the Constitution provides for freedom of expression, freedom of the media is not adequately protected. Freedom of the press is derogated on several grounds, contrary to international standards.¹²⁶ Article 11 (b) stipulates freedom of expression which is further expanded in article 20 of the Bill of Rights. At the same time the Constitution guarantees that "No law may derogate from freedom of the press,"¹²⁷ this has to be interpreted in light of the rules and guiding principles. Therefore, the right of freedom of expression for the press is an indirect right.

Freedom of expression is curtailed by the Penal Code and the Defamation Act that puts pressure on media houses and journalists. Defamation provisions related to the president are viewed by most stakeholders as outdated and providing legal grounds for silencing critical voices.¹²⁸ The Penal Code also retains a clause granting the president discretionary power to forbid any publication deemed "contrary to the public interest". Furthermore, several

¹²³ The PF is reported to have threatened several community radios with legal action if they did not air the party's last virtual rally on 11 August and pressured media outlets to abandon existing contracts with other advertisers. As a result, PF's final virtual rally aired on at least 21 radio stations, covering the entire country.

¹²⁴ Journalists of private radio stations in Western province avoided covering politically sensitive issues not put their licenses in danger. Concerned that negative coverage of parties might result in attacks from party cadres, radio stations applied self-censorship. Incidents included an attack on Liberty Community Radio station by PF cadres on 9 February 2021 during a live show with DP candidate Harry Kalaba. The police in Luapula is investigating an incident of arson against Kalungwishi FM Radio Station in Chiengi District (24 June 2021). On 16 July, Chitemwe Community Radio Station's journalist reported harassment by PF cadres as he attended a UPND political gathering. Sky FM (commercial radio station) reported that journalists are free to work but must remain cautious when covering opposition strongholds, hence, to avoid attacks they apply self-censorship. There were also reports of trolls interrupting call-in radio shows of Radio Phoenix and Hot FM. Private Sun TV in the Copperbelt reported that when complained to PF for not paying for their advertisements, they were investigated by tax authorities and charged a 7 million ZMK fine. Radio Breeze's journalists in Eastern province were intimidated by PF cadres when investigating voter registration of non-Zambians. On 25 July, a ZANIS journalist was allegedly beaten by UPND cadres and his camera taken.

¹²⁵ Working online requires more internet bundles and comes with more expenses.

¹²⁶ ICCPR, HRC GC 34, para. 21: "...when a state party imposes restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself."

¹²⁷ Constitution, Article 20 (2).

¹²⁸ In March 2021, Chilufya Tayali, President of the Economic and Equity Party (EEP) was accused of making derogatory remarks of the President in a video; Famous Kamano, a farmer who lives in Shakwema village of chief Shimbizhi's chiefdom in Itezhi Tezhi, was brought to court in February 2021 for defaming the President; the New Labour Party (NLP) leader, Fresher Siwale was arrested in 2018 for accusing the President of having three NRCs, the case was closed in April 2021. Two musicians, Augustin Kaunda and Gift Hachilema were also arrested for defaming the President in their song, their hearing postponed due to the COVID-19 pandemic.

stakeholders complained of application bias of the Penal Code. They reported incidents in which the police did not act against PF supporters but acted heavy-handedly against UPND supporters. Consequently, the overall environment led to a situation where the elections induced self-censorship, thus limited voters' access to diverse information and curtailed freedom of speech.

Recommendation: Protect freedom of expression by repealing the powers of the President to ban publications and by decriminalising defamation in favour of proportionate civil sanctions.

Additional legal instruments are affecting the media's work during elections. These include the EPA, the Zambia National Broadcasting Corporation (ZNBC) Act, the Independent Broadcasting Authority (IBA) Act and IBA's Standard Operating Procedures (SOP), the Radio and Television Communications Act, and the Ethical Guidelines for Radio and Television (2018).

The governance structures of the state media (including TV, radio, and newspapers) leave these organisations highly vulnerable to government interference and political pressure. The Minister of Information and Broadcasting directly appoints ZNBC's board of directors. Both state-owned newspapers are headed by ministerial appointees, leading to direct political interference and financial dependence of the government.

The IBA is responsible for the licensing and overseeing all private electronic media, and remains susceptible to political pressure, as the Minister of Information and Broadcasting appoints its board of directors. IBA's power to arbitrarily suspend and cancel broadcast media licences further contributed to self-censorship. IBA's authority does not extend to the ZNBC, however, the IBA SOP require journalists to balance their stories. The IBA used these provisions against media outlets that invited guests critical of the government, but not against outlets who provided disproportional coverage to the President.¹²⁹ Two days after announcing the election results, the IBA reissued a license to opposition-leaning Prime TV which was shut-down in 2019, reinforcing a perception of its political bias. Media advocacy organisations have continuously called for restructuring the IBA, ensuring its full independence, and granting IBA powers to oversee the state broadcaster's compliance with the legal framework.¹³⁰ The ministry is planning to reform the IBA to ensure its independence and considers tasking the regulator to oversee the ZNBC.

Journalists' access to information remained problematic. The Access to Information Bill is still waiting to be passed by parliament after nearly two decades. Most journalists complained about the difficulties to obtain public information from central government sources, resulting in lower-level officials sharing unsubstantial information. This not only affected the accuracy of news, but also hindered voters' ability to make informed choices.

Recommendation: Introduce legislation protecting the right to information of public interest.

¹²⁹ E.g., the oldest private TV channel, Muvi TV, received its final warning from IBA for breaching its editorial policy and IBA's SOP by not guiding or cutting off EEP President Chilufya Tayali criticising the President, "who wasn't present".

¹³⁰ IBA employs eight media monitors for its overseeing role, thus lacks capacity to monitor all broadcast programs 24/7. Community radio stations complained about the lack of capacity to record and submit to IBA all their programs as required by law.

C. EU EOM media monitoring findings

The EU EOM began monitoring 12 media outlets on 9 July, using quantitative and qualitative analysis of broadcast media's prime-time programming.¹³¹

The media coverage of the campaign was highly polarised, with the state media granting disproportional coverage to the President during prime time, blurring the line between government functions and campaign activities.¹³² During the 34-day monitoring period, the most-watched ZNBC TV 1 allocated 86 per cent of its news coverage to the President, the PF and the government. In contrast, the UPND received only six per cent of news coverage and was featured negatively. President Lungu had almost three hours of direct speech within the news, while Hakainde Hichilema had less than six minutes. Additionally, the UPND leader was primarily presented in a negative light.¹³³ Overall, the state media failed to adhere to its legal requirement to allocate equal and equitable airtime to candidates. Only the President received meaningful coverage within prime-time news bulletins on the state TV and radio. Such coverage does not conform with regional standards for public broadcasting.¹³⁴

Recommendation: Transform state media into a genuine public service outlet by appointing ZNBC's management in a transparent and inclusive manner and establishing legal safeguards for editorial and financial independence, and operational sustainability.

EU EOM media monitoring data shows that the private media also failed to provide equitable coverage to all political parties. The overall imbalance in coverage was significant for the benefit of the ruling party, even when private broadcasters gave higher exposure to a few prominent opposition figures.¹³⁵ Positively, commercial broadcasters organised presidential debates.¹³⁶ ZNBC did not air any debate, thus reducing voters' chances to compare key

¹³¹ The EU EOM monitored four TV channels of which two state-run (ZNBC TV 1 and ZNBC TV 2) and two private (Diamond TV and Muvi TV). The mission monitored eight radio stations, including six regional ones. The radio stations were Icengelo FM, a community radio station covering the Copperbelt; Radio Mano, a community radio station covering Northern province; Radio Yangeni, a community radio station covering Luapula; Spice FM commercial radio station broadcasting in Central and Eastern province; Oblate Radio Liseli, a community radio station covering Western province; Sky FM covering the Southern province. Lusaka was covered by Hot FM and the national state radio ZNBC 1. All political and election-related programmes were analysed on the four TV stations monitored between 18:00-23:00 hours and on eight radio stations monitored from 06:30-08:00 and 17:30-19:30 hours, in nine local languages. Print newspapers (State-owned newspapers the Zambia Daily Mail and Times of Zambia, as well as privately-owned newspapers the Daily Nation, The Mast and News Diggers) were analysed qualitatively.

¹³² President Lungu received more than 8 hours of all prime-time news coverage on ZNBC, while Hichilema received only 16 minutes. Some 3,6 hours of news coverage were given to President Lungu on state-run radio stations, whereas Hichilema was featured for less than four minutes. On ZNBC TV 1 and TV 2, independent candidates received 21 minutes of news coverage. Some smaller parties were not featured at all.

¹³³ ZNBC TV1 featured the UPND and Hichilema 18 times in a negative context, while the coverage of President Lungu was always positive. ZNBC TV 1 aired several times an unidentified advert claiming Hichilema cannot be a good president as he was a shareholder of the Pension Fund decades ago did not pay pension to hundreds of pensioners. Aggrieved pensioners held a press conference at PF HQ on 25 July, streamed live on Facebook, and state-owned newspapers also published articles on the issue.

¹³⁴ SADC Principles, Section.2.2, states that "*The SADC Member States shall adhere to the following principles in the conduct of democratic elections: [...] 2.1.5 Equal opportunity for all political parties to access the state media.*"

¹³⁵ President Lungu received 97 minutes of news coverage on privately-owned Diamond TV against 31 minutes of Hichilema's. President Lungu received 94 minutes on Muvi TV news, while Hichilema received 46 minutes. Smaller parties were mostly invisible. President Lungu was also featured on the news of monitored regional radio stations for 26 minutes, while Hichilema was mentioned for less than 11 minutes.

¹³⁶ Private Diamond TV organised a presidential debate on 3 and 4 August. Many other outlets and social media re-broadcasted it. It was a good example of an issue-based debate. However, the UPND candidate could not participate, claiming restrictions on his movement, President Lungu claimed not to have been officially invited, and the Socialist Party candidate did not show up.

campaign platforms directly. The campaign coverage in the print media also favoured the ruling party. Public and private newspapers provided greater coverage to the PF and significantly less for the UPND and other parties.

Female candidates were underrepresented across the media landscape in the news, editorial programming and paid political advertisement. On the four TV stations monitored, female candidates featured 11.1 per cent of all programs and 10.6 per cent of the time on monitored radio stations.¹³⁷ Coverage was given to only a few high-profile female candidates and running mates, and the rest of the female candidates were scarcely represented.¹³⁸

XII. DIGITAL COMMUNICATION AND SOCIAL MEDIA

Disinformation and tribalism pervaded online debate to the detriment of voters, with Facebook not acting to preserve electoral integrity on the platform.

A. Digital communications and social media environment

Up to 56 per cent of Zambians are connected to the Internet and use smartphones to receive and send information.¹³⁹ Against the backdrop of a tense political campaign, the low level of media literacy¹⁴⁰ and the foundational digital skills of most internet users contributed to the speedy proliferation of false and misleading narratives, including related to the elections. While the government primarily focused on expanding the geographical area of the 3G coverage, civil society organisations and rights activists carried out various educational projects to enhance digital and media literacy with a prime focus on youth in semi-urban and rural areas. Those initiatives warrant expansion in line with international commitments.¹⁴¹

Among social networks, only Facebook, with more than 2.5 million active users, shaped political narratives in public space and was the key channel for addressing young, urban voters.¹⁴² Owing to the growing popularity among the youth, TikTok was also used for campaign and mobilisation. YouTube and Instagram were other channels to reiterate messages already disseminated on Facebook, while Twitter was a platform for the cautious exchange of opinions among urban elites. The main communication language on all social networks is English, followed by Bemba and Tonga.

Infotainment and news pages with up to 1.9 million followers from across the political spectrum are distinct features of Facebook's ecosystem in Zambia. Those pages served as a source of news, as a platform for exposing poor governance and police violence, and some of

¹³⁷ CSOs sponsored Diamond TV's "Know Your Female Candidates" program.

¹³⁸ President Lungu's running mate featured 91 times in the news on ZNBC TV 1 and TV 2; Hichilema's running mate wasn't mentioned. *Times of Zambia* state newspaper published general ads from the ruling party on the female presidential running mate. On 26 July, *The Mast* newspaper published a 4-page spread featuring nine female candidates for the first time under "Gender Focus News", sponsored by NGOCC.

¹³⁹ Zambia's [ICT sector quarterly report 2021](#). The 3G signal primarily covers urban centres and areas around main roads.

¹⁴⁰ Media literacy in this context means a set of skills necessary to verify information that has been published on social media and a habit to conduct such a simplified fact check before reposting or sharing the content further.

¹⁴¹ [Joint declaration on freedom of expression and "fake news", disinformation and propaganda](#) by recognised international bodies, s.3: "States should take measures to promote media and digital literacy, including by [...] engaging with civil society and other stakeholders to raise awareness about these issues".

¹⁴² As of June 2021, there are 2.59 million Facebook users in Zambia, slightly less use TikTok, 372 thousand use Instagram, 95.6 thousand use Twitter, around 200 thousand follow YouTube, several millions use WhatsApp and Viber.

them were a vehicle for paid-for campaigning. The online reach of those pages was twofold that of presidential candidates. Frequently information posted there was also repeated in newscasts on local radio stations, by candidates during their in-person campaigning, and often migrated to closed WhatsApp groups. With the PF dominating the traditional media, a handful of independent news pages were the only viable alternative for the UPND and DP to reach out to voters outside the party's traditional support base. Overall, Zambia's top ten news and infotainment pages had a pronounced effect on the electoral discourse.

Credible national fact-checking is at its early stages, with the first nationwide initiative, iVerify, launched only a few weeks prior to the elections. Further financial and human investments in such initiatives would notably improve the capacity of the broader public to uphold a fact-based political debate throughout the electoral cycle.

B. Legal framework for digital communications and social media

Freedom of expression online is curtailed by several clauses in the Penal Code and the Cybersecurity and Cyber Crimes Act (Cybercrimes Act), with both of them criminalising defamation, libel, and publication of false content. During the last two years, arrests were made, and criminal charges proffered, based on the Penal Code, against at least 14 citizens for Facebook posts perceived as critical of the President and the government. Further, the definition of criminalised “hate speech” in the Cybercrimes Act lacks precision and goes beyond permissible restrictions on freedom of expression.¹⁴³ Such laws and heavy-handed application induce self-censorship online and do not conform to international freedom of expression standards.¹⁴⁴

The Zambia Information and Communications Technology Authority (ZICTA) is the regulatory body for the ICT sector. ZICTA's board is appointed by the minister, with a legal framework supporting the government's interference in its operations. Further, the Information and Communications Technology Act and the Cybercrimes Act grant broad powers to the ZICTA without requiring transparency and accountability for its actions. Such legal and regulatory framework adversely affects democratic processes, as demonstrated on election day, when access to social media and messaging services was restricted without any public explanation. While international standards provide a narrow range of restrictive measures in exceptional circumstances, they also call on states not to infringe other basic rights such as freedom of expression and the right to information.¹⁴⁵

Recommendation: Amend the legal framework for the ICT sector to prescribe clear and exhaustive criteria for only exceptional blocking or restricting access to Internet, to decriminalise defamation and publication of false content, and to narrow the legal

¹⁴³ Cybercrimes Act defines hate speech as “verbal or non-verbal communication, action [...] that involves hostility or segregation directed towards an individual or particular social groups”. While there is no international legal definition of hate speech, universal human rights standards recommend criminalising only such speech that is spread with an intent to cause direct harm to a person or a certain group, requiring consideration of the context in which the speech is propagated.

¹⁴⁴ DPFEA, Part II, Principle 22 (2 and 3): “States shall repeal laws that criminalise sedition, insult and publication of false news (and) shall amend criminal laws on defamation and libel in favour of civil sanctions.”

¹⁴⁵ [AU Convention on Cybersecurity](#), art. 25(3): “In adopting legal measures [...] and establishing the framework for implementation, each State Party should ensure that the measures [...] will not infringe other basic rights, such as freedom of expression.” [DPFEA](#), Chapter I, Pr. 9(2): “States shall ensure that any law limiting the rights to freedom of expression and access to information is overseen by an independent body in a manner that is not arbitrary or discriminatory.”

definition of hate speech. Ensure that enhanced transparency and accountability in ZICTA's decision-making process are central to the review.

Data privacy and protection is regulated by the Data Protection Act that establishes, among others, a Data Protection Authority. The Act was promulgated in March 2021, yet the respective institution was not established. Digital rights activists criticised the envisaged oversight mechanism for lacking independence and precision and are concerned about future unsolicited use of personal data held by various agencies. A revision of the newly adopted law and provisions for its implementation would be beneficial to ensure full compliance with regional and international standards for privacy and data protection.¹⁴⁶

C. EU EOM social media monitoring findings

Lack of pluralistic debate in traditional media compounded by the COVID-19 pandemic elevated Facebook from an infotainment tool to the prime discussion forum for candidates, journalists, rights activists, and ordinary voters alike. Political exchanges on the most followed media pages on Facebook featured divisive rhetoric ranging from personal insults to outright tribalism and hate speech, primarily observed in comment sections of trending news posts. The administrators of Zambia's most-followed Facebook pages pro-actively removed inciteful comments while also faced pressure from political parties.

Parties' presence on social media correlated with their political weight offline. Only the PF's, UPND's and DP's pool of online followers amounted to a significant vote bank. The PF and UPND had a net of official, adjoining province and constituency-level Facebook pages that ensured the linkage between the presidential and parliamentary campaigns.¹⁴⁷ For the UPND, the well-established webwork of partisan youth groups was a pivotal mobilisation tool. No other party could use Facebook to noticeably increase its public support.

Fifty-eight per cent of newly elected members to the National Assembly own an active Facebook account.¹⁴⁸ While PF aspirants had more followers per account, the interaction rate per post was significantly higher for the UPND.¹⁴⁹ Users' engagement with the official pages of Lungu and Hichilema exemplified the online support gap between the two frontrunners, as 85 per cent of all interactions on all official accounts of presidential candidates were recorded on Hichilema's page. A similar disparity was observed between the PF and UPND campaign hashtags, yet President Lungu was the most discussed subject on media pages.¹⁵⁰ Prominent use of automated tools to exaggerate online support was not observed.

Two weeks before the elections, PF-leaning pages seeded harmful disinformation campaigns that demonised the UPND leader, capitalised on anti-foreign sentiments and heralded

¹⁴⁶ [ICCPR](#), art. 17: "No one shall be subjected to arbitrary [...] interference with his privacy." [DPFEA](#), Chapter IV, Principle 42 (8): "Oversight mechanisms for the protection of communication and personal information shall be established by law as independent entities and include human rights and privacy experts."

¹⁴⁷ The EU EOM monitored 150 public Facebook pages linked to the presidential race.

¹⁴⁸ The EU EOM assessed the online presence of all parliamentary candidates from the PF and UPND; 55 per cent from PF and 49 per cent from UPND had a Facebook account. For further details, see Annex C. Social Media Monitoring.

¹⁴⁹ On average, PF and UPND parliamentary candidates had 27,978 and 6,275 followers, respectively. Using CrowdTangle, EU EOM compared the interaction rate per post on the official page of Lungu and Hichilema since 5 July 2021. Reactions on and shares of posts on Hichilema's page exceed Lungu's by 73 and 37 percentage points, respectively.

¹⁵⁰ See Annex C, Social Media Monitoring Results, Section – Net Analysis.

violence in an attempt to re-shape public discourse.¹⁵¹ Those false claims were repeated during PF's corner meetings.¹⁵² Four days before elections, a concerted character assassination campaign against Hichilema was observed. It included coordinated dissemination and promotion of content crudely disparaging the UPND leader through a cluster of anonymous Facebook groups and pages, circulation of doctored images and use of paid-for advertisements on Facebook that delivered those false claims to the broader public.¹⁵³ Such campaigns are aimed at suppressing voters and discouraging participation in elections.¹⁵⁴

Divisive tribal rhetoric was used by some high-profile campaigners as well as by ordinary party fans.¹⁵⁵ Such content was first observed on party-leaning political groups and then further shared with non-partisan groups. The PF more often used derogatory speech,¹⁵⁶ with one of the PF's key presidential campaigners exploiting all available communication channels – in-person meetings, radio interviews and virtual rallies – to stir discord continuously.¹⁵⁷ Neither the ECZ nor the police took timely and adequate actions that would effectively discourage the use of such adversarial speech. Such campaign tactic intimidates and confuses voters and reduces the public space for a merit-based debate on political alternatives.

Facebook did not act to preserve electoral integrity on the platform. None of the posts featuring manipulated tweets or fake letters was labelled as false. Despite a public promise to have a thorough verification of account's administrators who run political ads, Facebook allowed anonymous pages to sponsor and promote posts with outright false and demeaning information. The tech company also did not hire a sufficient number of content moderators who could have flagged and initiated de-platforming or downranking of videos featuring tribal talk that, in a local context, was perceived as hate speech. Facebook's response time to trusted partners (a few CSOs and media pages) could reach up to a week. It is too slow to stop the proliferation of harmful and dangerous content promptly. Overall, Facebook failed to engage in a meaningful and timely manner with national stakeholders, including civil society.

¹⁵¹ On 22 July, the PF official Facebook page published a fake letter from Africa Liberal Network (ALN), alleging that the UPND leader received USD 720,000 for removing "*Christian values from the Constitution*" and for instituting "*a gay pride parade in every city*". The anti-foreign notion was first featured in the President's speech on 23 July. On 25 July, the PF-leaning page posted a false story on the UPND hiring ex-military from the UK to hack ECZ's tallying system. On 30 and 31 July, four pages published two fake tweets pinned to Hichilema; one of them read: "*My association with satanism [...]*."

¹⁵² For example, on 28 July, during a meeting with the clergy in Kasempa (North-Western province), the PF presidential running mate cited the fake Africa Liberal Network letter and caution the church against supporting Hichilema.

¹⁵³ On 6 August, an anonymous imposter page mimicking one of Zambia's TOP 3 news pages placed an advertisement and an ordinary post claiming to prove that Hichilema is a Satanist. Within two hours, the post was further shared to 20 medium-size Facebook groups with participants from across the political spectrum. On 7 August, five interconnected anonymous pages shared a post, and two pages placed an advertisement featuring a doctored image of The Mast newspaper's front page with a headline "*HH a Satanist – US intelligence report*". A large audience was reached with the newspaper de-bunking the story on its Facebook page (314,000 followers). On 9 August, The Mast published the manipulated image of its front page, blaming the PF for a slander campaign, while in fact, the fake message was reaching voters not active on Facebook.

¹⁵⁴ [ICCP, HRC GC 25](#), at para 19: "*Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.*"

¹⁵⁵ The EU EOM analysed videos from social media (starting from early 2021 up to August 2021) that were later cited in traditional media and identified at least 25 cases of such content, including three against the president, three against the opposition leader, five against Tongas and two against Bemba chiefs.

¹⁵⁶ For example, on 29 July, the PF official page accused the UPND of being tribalists. Yet, on 27 June, a video by PF youth making derogatory remarks while stating that no one should vote for Tongas was broadly shared on PF-leaning pages.

¹⁵⁷ The former PF Minister of Information, Mr Chishimba Kambwili used divisive talk throughout the campaign: on 17 July during an interview on Breez FM (also live on Facebook); on 27 July during PF's online rally; on 1 August during door-to-door canvassing with video clips from this event being shared on PF-leaning Facebook pages and groups.

Such inaction falls short of United Nations guiding principles on business and human rights.¹⁵⁸

Recommendation: Formalise cooperation between the ECZ, civil society and main social media platforms to develop an efficient mechanism ensuring transparency of online campaigning, including its financing and countering hate speech and disinformation. Civil society in coordination with the ECZ could initiate signing of an agreement ensuring that social media platforms, including Facebook, introduce best practices in Zambia, including engagement with the ECZ, employment of content moderators, and prompt removal of damaging and dangerous content.

Positively, several high-profile rights activists called for a respectfully fact-based dialogue online and offline, scrutinised the president's record in the office and exposed cases of poor governance. All top five news pages on Facebook regularly posted “peace photos and videos” from across the country featuring youth in the PF and UPND regalia or lower-level candidates from those parties’ shaking hands, dancing or playing soccer together. Also, two of Zambia's top 10 TikTok accounts and a non-partisan hashtag #Youthvote2021 promoted peaceful and informed participation in elections. Such initiatives fostered an inclusive debate and helped voters make an informed choice, one of the key elements of democratic elections.

XIII. PARTICIPATION OF WOMEN

Women’s representation in public life is inadequately protected.

The Constitution affirms the ‘equal worth of women and men.’ However, a lack of broad concrete measures, including affirmative action to meet various international commitments, underpins low participation of women in the political sphere. The constitutional aim of gender equity in the National Assembly or local councils is unfulfilled. The SADC target for equal representation of women and men in decision-making roles in the public sector by 2015 has not been met.¹⁵⁹

The Gender Equity and Equality Act of 2015 (the Act) establishes the, as yet not operational, Gender Equity and Equality Commission whose functions and powers include prohibiting harassment, and harmful social, cultural and religious practices. It also provides for public awareness and training on issues of gender equity and equality. Importantly, the Act empowers the minister to repeal laws and abolish customs that entrench discrimination. The minister can also take measures to ensure equal participation including recommending additional changes to any law to ensure full implementation of international standards. Presently, the Act does not specifically incorporate Article 12 of the SADC Protocol on Gender and Development committing State Parties to endeavour 50 per cent of decision-making positions in public and private sectors being held by women by 2015. Provisions relating to participation of women in political life and in particular in political parties only require ‘private bodies’, which includes political parties, to eliminate discrimination without specifying concrete mechanisms to achieve that goal.

¹⁵⁸ [UN Guiding Principles on Business and Human Rights](#), adopted by the UN HRC in 2011. See also the [Joint declaration on freedom of expression and “fake news”, disinformation and propaganda](#), sec. 4 Intermediaries.

¹⁵⁹ SADC Protocol on Gender & Development, art. 12.1.

Zambia has experienced low numbers of women in elected institutions with modest improvements from 2011 to 2016. Despite the fact that women comprise 53.4 per cent of the registered voters, there was just one female presidential candidate whereas only five of them had female running mates. Political parties do not nominate women in sufficient numbers.¹⁶⁰ Women are generally underrepresented within political party leaderships and structures. Additionally, the lack of legal regulations of political parties, for example on party and campaign funding, and undemocratic procedures during the adoption and nomination process continues to disadvantage women and contributes to low number of female candidates in elections.¹⁶¹ There are 20 women elected in the new parliament, four less than in 2016.¹⁶²

Zambian society remains male-oriented, and women face constant social, cultural and economic obstacles to participate in public life. According to women activists, women candidates are mistreated by their own environment, political parties and the media. The political environment is hostile and discourages women from standing. Harassment, bullying and cyber-bullying, sexual harassment within the political parties and tradition and socio-cultural stereotypes are barriers that women face.

Harassment and cyber-bullying of female candidates, rights activists, and journalists were observed on media, during live call-in programmes in particular, and social media, hindering an inclusive political debate. Most frequently, online attacks were conducted by disruptive mobilised party supporters. The police and the ICT regulator did not take any action against the perpetrators, even if the law provides for it,¹⁶³ while the leadership of the respective party denied any knowledge of such actions.¹⁶⁴ Positively, civil society organisations assisted and advised female candidates on how to counter cyberbullying, and rights activists openly called for respectful conduct online and offline.

Recommendation: Enhance the right and opportunity for women's equal participation in all aspects of elections by operationalising the 2015 Gender Equity and Equality Act to promote non-discrimination and wide-ranging affirmative actions.

¹⁶⁰ Based on the nomination lists released by ECZ on 10 July, altogether 181 (21.1 per cent) of the parliamentary candidates were women. In 2016 there were 106 women nominations (16.3 per cent). There were 56 women among the 437 candidates (12.8 per cent) for district council seats contested at Local Government for Mayor/ Council Chairperson. In 2016, 12.1 per cent (40 of the 331 of the candidates for 101 district council seats) were female. A total of 565 of the 5,693 ward councilor candidates (9.9 per cent) were female. In 2016, 417 (10 per cent) of the 4,568 candidates for 1,620 ward seats were women.

¹⁶¹ There were no women running for parliamentary seats in 49 of the 156 constituencies. Most of the constituencies without female MP candidates were located in highly contested provinces of traditional UPND and PF strongholds.

¹⁶² Ten women of UPND, nine of PF, and one independent were elected. At the time of writing, the ECZ had not published gender disaggregated results for the 2021 local elections.

¹⁶³ The Cybersecurity Act, s.69 stipulates that it is an offence to use electronic communication with “an intent to coerce, intimidate, harass, or cause emotional distress” and is punishable with a fine or imprisonment (up to five years).

¹⁶⁴ NGOCC national coordinator held in-person meetings with the leadership of both the PF and the UPND, yet none offered a viable solution to the problem. The CSO observed that PF supporters harassed opposing female candidates and female journalists more often than those of the UPND.

XIV. CITIZEN OBSERVER GROUPS AND INTERNATIONAL OBSERVATION

Active role of citizen observers; complicated accreditation process.

The law provides for observation by national and international observers accredited by the ECZ. The ECZ introduced a decentralised accreditation process at the district level,¹⁶⁵ and set a tight deadline for accreditations that was later extended twice. The accreditation procedures were published late and included cumbersome requirements for the accreditation of national observers, such as certified copies of the national registration card and the physical presence of the observers at the accreditation centres. In addition, they included other preconditions, such as proof of registration of the civil society organisation under a specific law for at least three years while such organisations can validly register under different laws and having a minimum of three years of actual work experience in the field of governance.

Despite a complicated and unclear accreditation process, the ECZ accredited all national observer organisations that applied. The ECZ explained to the EU EOM that the new accreditation procedures aimed at limiting the numbers of "fake" or "partisan" organisations to become accredited by thoroughly checking organisations and observers to ensure the integrity of the electoral process. The ECZ did not re-issue the public notice, including the clarifications. To date, the total number of accredited observers is unknown to the ECZ due to the chaotic accreditation process. Media encountered a similar accreditation process as national observers in some districts. The accreditation process was smooth for polling agents. Neither national and international observers nor media was granted full access to the tabulation and results verification at national results centre.

Recommendation: Embed in ECZ regulations clear and transparent procedures for timely and inclusive accreditations of observers, party agents and media, ensuring unhindered access to all aspects of polling, counting and tabulation, including at the national results centre.

Civil society and faith-based organisations in Zambia have been actively engaged in initiatives to promote national dialogue and reconciliation and constitutional and electoral reforms in a vocal and systematic way. They were substantially involved in all phases of the electoral process, and they issued critical reports.¹⁶⁶ The leading citizen groups were the CCMG, an alliance of faith-based organisations, with 330 long-term observers and 1.500 monitors that conducted sample-based parallel vote tabulation. Several thousand national observers accredited under the Collective Action Zambia, the African Youth Global Network, Justice Forum Zambia, Governance, Elections, Advocacy, Research Services Initiative (GEARS), Foundation for Democratic Process (FODEP) and Operation Young Vote (OYV).

The most prominent international election observation missions were deployed by the African Union, the Commonwealth, the COMESA and the International Conference on the Great

¹⁶⁵ The accreditation procedures were published on 12 July. Some accreditation centres became fully operational only on 26 July. The deadline was set for 30 July, and it was extended until 4 August for those organisations that had submitted their applications by 30 July but had not received the actual accreditation cards.

¹⁶⁶ They monitored the constituency delimitation, the voter registration, the mobile national card registration process, the voter register's inspection period, the preparation and implementation of voter education projects, the nomination period, and the campaign activities.

Lakes Region. The Carter Center and EISA fielded expert and technical teams for the elections.

XV. ELECTORAL DISPUTES

Various mechanisms were in place for judicial and non-judicial dispute resolution but information on election disputes was occasionally lacking.

Electoral dispute resolution processes, including access to courts, are largely in line with international standards.¹⁶⁷ Presidential results can be opposed in the Constitutional Court within seven days of a declaration. A decision must be delivered within 14 days and cannot be appealed. The High Court has jurisdiction to hear appeals against parliamentary results as well as rejected nomination for those elections. Parliamentary results disputes must be made within 14 days of results declarations. The case must be heard within 90 days. Due to constraints on resources, decisions can take a long time to deliver contrary to best practice for expeditious delivery of electoral justice.¹⁶⁸ The Chief Justice appoints *ad hoc* Local Government Election Tribunals for contested local council elections results. Comprehensive public information on the number and scope of petitions was not published by the ECZ.

Overall, there were few legal actions before election day. The Constitutional Court addressed some five cases, dismissing most on procedural grounds.¹⁶⁹ Two parliamentary aspirants were deemed disqualified for not having a grade 12 certificate.¹⁷⁰ Following the declaration of results, anxiety about a possible PF petition to the ECZ on election day, partly based on a complaint alleging malpractice made by PF, did not materialise.¹⁷¹ By 1 September, the EU EOM was aware of 62 petitions against parliamentary results deposited in the Lusaka High Court. A further 25 were noted against mayor/council chair elections nationwide.¹⁷² Most of these were UPND losing candidates alleging malpractices by winning PF candidates. A high level of petitions entails pressure on the judicial system and a need to ensure adequate resources for timely handling. Of those petitions seen by the EU EOM, most appear to be

¹⁶⁷ ICCPR, art. 14.1, “All persons shall be equal before the courts and tribunal.”

¹⁶⁸ The Constitution, art. 73(2), requires a petition against the results of a parliamentary election to be heard within ninety days of filing the petition. There is no prescribed timeline for rendering a decision for such a petition. High Court rules suggest that judgment should ordinarily be delivered within 180 days of the final submissions.

¹⁶⁹ Two of the cases concern nomination fees and the right of the outgoing president to seek re-election. In [Sishuwa & Another v Luo & 16 Others \[2021\] ZMCC 10](#), the court ruled that presidential running mates were not required to pay nomination fees as they were effectively included within the one nomination ticket with the presidential candidate. In [Legal Resources Foundation Limited & 2 Others v Lungu & Another \[2021\] ZMCC 9](#), the court reaffirmed a previous ruling that President Lungu’s first term in office, being a partial short term, was not considered a full term as such and therefore the incumbent was not barred from running a third time.

¹⁷⁰ In [Nkunika v Nyirenda & ECZ \[2021\] ZMCC 5](#) the court disqualified Laurence Nyirenda in March 2021 for not satisfying the court that he had a grade 12 certificate as required by law. In May, it ruled against Charles Zulu for the same reason; see, [Charles Mathias Zulu v ECZ & AG \[2021\] ZMCC 6](#). The Court dismissed the case related to the Grade 12 certificate based on the applicant raising an issue already settled by the court. [Kaluba Musenda Simuyemba & Another v AG & ECZ \[2021\] ZMCC 8 \(there is no description to this case/link – should it be deleted?\)](#).

¹⁷¹ The EU EOM obtained a copy of the PF complaint to the ECZ, submitted on 12 August 2021. The complaint detailed allegations of electoral malpractice by UPND in three constituencies: Choma, Monze Central and Sinzongwe. Allegations included the beating of PF party agents and the theft of phones. The allegations did not appear substantively supported by evidence.

¹⁷² The EU EOM received unverified reports of petition numbers overall exceeding 100 across the country. In 2016, some 25 per cent of petitions against parliamentary election results were withdrawn or discontinued, while most of the remaining petitions (53 of 61), did not succeed in altering results in the High Court (see, <https://www.eisa.org/pdf/zam2017ElectJustice.pdf>).

speculative with few concrete facts. Five petitions relate to results with less than 1,000 votes separating winning and losing candidates. If a petitioner proves his case, the court may declare the election void thus precipitating a by-election.

The ECZ has mechanisms to address various administrative disputes, including on voter registration. In line with the law, it also established a national conflict management committee (CMC) and 116 district conflict management committees (DCMCs) to mediate issues and minor disputes arising between political parties and candidates.¹⁷³ ECZ powers to disqualify candidates and parties for breaches of the Code of Conduct appear to lack clear due process safeguards. However, where the law is silent on specific rights of redress, a general legal right to ask courts to review decisions of administrative bodies is available. At least one application was made in the High Court to review, among other matters, the ECZ's lack of action to direct the use of public media airtime.¹⁷⁴

XVI. POLLING, COUNTING AND TABULATION OF RESULTS

Long queues of voters; calm and orderly voting process.

Election day was mostly calm and orderly despite very long queues of voters throughout the day, particularly in clusters of polling stations in urban areas. Thousands of voters were patiently queuing for hours in premises hosting several polling stations. A few isolated violent incidents resulted in at least one fatality,¹⁷⁵ and unverifiable allegations of electoral malpractices marred election day.¹⁷⁶ From midday 12 August onwards, access to WhatsApp, Facebook and Instagram was blocked or hindered. Access was fully restored on 14 August following a civil society complaint to the High Court. Neither the ICT regulator nor the ECZ explained the nature, duration, or reason. Restrictions on access to social media and instant messaging platforms unduly curbed freedom of expression, interfered with the right to access information and undermined the overall transparency of elections.

Polling took place in 12,152 (outdoors and indoors) polling stations across the country. Eighty polling stations were set up in prisons and correctional facilities for registered prisoners and detainees to vote for the first time.¹⁷⁷ The maximum number of voters in each polling station was 950 voters. In urban areas, several polling stations were accommodated in the same premises, usually schools. Long queues were formed throughout the day in these areas on election day. Given the limited space of some schoolyards, thousands of people ended up queuing for several hours without respecting social distancing rules. The

¹⁷³ The ECZ has vast powers to constitute these bodies. This ECZ issued regulations for its dispute resolution structures in 2016 with amendments in 2020. The DCMCs are constituted differently depending on the district's political parties and state agencies and whether the DCMC is in a rural or urban context. Membership typically varies from 12 to 15 members.

¹⁷⁴ See section XI on media.

¹⁷⁵ The police confirmed that the PF Chairperson for Solwezi (North-Western province) was beaten to death by an angry mob and that the PF parliamentary candidate in Matero Constituency (Lusaka) was stabbed. In both cases, unverified allegations of possession of pre-marked ballot papers were levelled against the victims on social media.

¹⁷⁶ At least eight videos alleging that party cadres had pre-marked ballot papers in their possession were widely shared on social media without providing any proof of such misconduct. The ECZ and the police failed to promptly debunk the allegations, leaving ample room for speculations and distorting voter's trust in the electoral process.

¹⁷⁷ Preparations for prisoner voting followed multi-stakeholder consultation, including with prisoners. During the registration process, prisoners who anticipated release by polling day could be registered at their designated release polling district.

combination of long steady queues and the time required for each voter to be identified and cast the ballots for the four different elections contributed to congestion outside and inside the polling stations. As a result, voting was extended, and counting was delayed by several hours.

Recommendation: Designate additional suitable in size premises in a timely manner to avoid congestion at and in polling stations, especially in urban areas.

The EU EOM observed opening and voting proceedings in 349 polling stations in 62 constituencies. The overall assessment of the opening and voting was overwhelmingly positive. Opening procedures were well-implemented, and the majority of polling stations opened on time. Delays in the opening were reasonable and mainly due to the unpreparedness of the polling staff to set up the polling station.

Voting took place efficiently and in a well-organised manner in the polling stations observed. Electoral materials were available, and polling staff were present conducting elections professionally and transparently. The polling station layout was adequate and compliant with COVID-19 regulations. Polling agents and citizen observer groups, such as GEARS, OYV, FODEP and CCMG, were present without interfering, and they were able to observe the process unhindered. Voting procedures were generally followed, and the secrecy of the vote was largely respected. The large numbers of voters allocated to each polling station, the slow identification of voters and the issuance of four ballot papers contributed to delays in the voting process. The overall assessment of EU EOM observers for voting in prisons and correctional facilities was very good. These polling stations, often including regular voters as well, operated as normal polling stations. Procedures were largely followed by polling station staff while party agents and observers enjoyed unrestricted observation of the process.

Closing and counting were assessed positively in the polling stations observed. Most polling stations closed on time. However, delays of more than two hours were observed mainly in Lusaka District and Copperbelt province due to long queues. Counting was conducted in a calm and serene atmosphere with the presence of all polling station staff. Polling agents and citizen observers were able to follow the process unhindered. Procedures were largely followed but not in a systematic manner. Although counting for multiple elections was slow, with a meticulous demonstration of valid and invalid ballots to the polling agents and observers, transparency was enhanced. Results forms were not systematically displayed outside the polling stations. However, EU EOM observers reported that polling agents and citizen observers received copies of the results form in most cases. Most observed polling stations completed counting by 02.00 of 13 August.¹⁷⁸

The EU EOM observed in 122 totalling centres out of 156. Procedures were followed in a calm, peaceful and slow setting and the process was described as transparent. The reception of materials was not well organised in the observed totalling centres. Constituency results were gradually announced and transmitted electronically via the digital results management

¹⁷⁸ The late closing of some urban polling stations resulted in the late finalisation of the counting. EU EOM observers reported that polling station in Munali Constituency, Munali ward, Polling District of Masasa 1, 2, 3, Kaunda Square Stg 2 Community Hall the counting was completed at 09.00 in the morning of 13 August. However, polling station staff had difficulties in filling out the result forms (so-called GEN20) and record of proceedings resulted in completing the counting procedures only at 17.00 of the same day.

kits to the national results centre. Polling agents and observers received a periodical printout of the results. The announcement of results took place as per procedures and type of election. Although compiled results were not displayed systematically outside the totalling centres, EU EOM observers reported that the A0 tally sheet served as a public display of results to all present following the process. GEARS, OYV and CCMG systematically followed the totalling process. Both PF and UPND agents were present at all times in the totaling centres observed.

XVII. ANNOUNCEMENT OF RESULTS AND POST-ELECTION ENVIRONMENT

Prompt announcement of results; peaceful transition of power.

A. Announcement of results

The ECZ started announcing results at the national results centre on 14 August, at 01:17 am. Main political parties and candidates' agents were present along with national and international observers and members of the diplomatic community in country. The ECZ created an extra verification stage of results that allowed polling agents to view the verified results transmitted by the totalling centres. This trust-based exercise with the political stakeholders allowed ECZ to enhance transparency throughout the process until the final announcement of the results.

The ECZ announced the final presidential results on 16 August at 02:30, within the 72-hour foreseen timeframe. The final presidential results were progressively uploaded on ECZ website per constituency and completed on 20 August. Parliamentary and local elections results were also available online.

The final turnout for the presidential election was reported at 70.61 per cent, with the highest in Moomba constituency (Southern province) at 83.86 per cent and the lowest in Kaumbwe constituency (Eastern province) at 63.40 per cent. A credible comparative analysis of the 2016 and 2021 turnout is not feasible due to the excessive number of deceased voters in the 2016 voter register. The percentage of the invalid votes for the presidential election was reported at 2.55 per cent. The highest percentage of invalid votes for the presidential election was recorded in the Southern province at 3.87 per cent and the lowest in Lusaka province at 1.68 per cent.

Hakainde Hichilema of the UPND received 59.02 per cent of the votes, while Edgar Lungu of the PF received 38.71 per cent.¹⁷⁹ The other 14 candidates received all together 2.27 per cent of the votes. Eighty-two seats were allocated to the UPND in the new parliament and 59 to the PF. Thirteen seats were allocated to independent candidates and one seat to the PNUP.¹⁸⁰

B. Post-election environment

¹⁷⁹ In 2016 Lungu received 50.35 per cent of the votes while Hichilema 47.63 per cent with a margin of 100,530 votes. In 2021, Hichilema received 2,852,348 votes and Lungu 1,870,780 votes. See Annex A, election results.

¹⁸⁰ Compared to 2016 results, the number of elected independent candidates has been decreased by one. Some 200 candidates run as independent in 2021, while in 2016, there were 103. The new parliament will consist of three political parties, whereas the outgoing parliament consisted of four.

In a 14 August statement, the incumbent president claimed that the elections were "not free and fair", referring to violence and intimidation in North-Western, Western and Southern provinces.¹⁸¹ President Lungu accused the opposition of attacking PF party agents, who could not protect the vote, thus rendering "the whole exercise a nullity." The statement came out as early results indicated a lead for candidate Hakainde Hichilema. President's Lungu claims were refuted by statements of domestic observers, civil society and legal organisations.¹⁸² Six presidential candidates issued a joint letter to President Lungu citing the unequal conditions they competed in and asking him to accept the results and concede defeat.¹⁸³

The immediate post-election period saw attacks on PF offices across the country, some revenge acts, and isolated clashes between PF and UPND cadres.¹⁸⁴ In most cases, suspected UPND cadres attacked PF offices at bus stations and marketplaces in Lusaka and other parts of the country, with property destroyed or stolen. Despite calls by prominent UPND officials, the attacks continued for several days. On 17 August, President-elect Hakainde Hichilema asked outgoing President Lungu to take measures and ensure law and order and declaring his government would not tolerate such groups controlling public spaces. Several city councils, including Lusaka and Copperbelt, responded by reclaiming control at bus stations and markets.

President Lungu conceded defeat on 16 August, some nine hours after the release of the final results.¹⁸⁵ The same day he met with Hakainde Hichilema. The talks were hosted by former President Rupiah Banda, the former Tanzanian President Jakaya Kikwete, and the former President of Sierra Leone, Ernest Bai Koroma. In his inauguration speech, Hakainde Hichilema emphasised the importance of national unity and pledged to "foster a better democracy." The inauguration ceremony of the President-elect took place on 24 August and was attended by several African leaders.

The state-run TV changed its tone immediately after the announcement of results with giving more coverage to the President-elect than ever before. The same change of coverage was observed on online media pages which previously served the interests of the PF. The newly elected National Assembly is set to convene on 10 September.

¹⁸¹ These claims reiterated an initial 12 August statement, in which President Lungu was also reported to have directed military reinforcement to the three provinces. The reference to violence was based on the murder of the PF chairman in North-Western province. An angry mob killed him after being falsely suspected of bringing pre-marked ballot papers into a polling station.

¹⁸² See CCMG statement; <https://ccmgzambia.org/ccmg-preliminary-statement-on-the-2021-general-elections/>, and LAZ, <https://twitter.com/MabvutoPhiri/status/1426628376379396099?s=20>.

¹⁸³ The letter was signed by H. Kalaba, F. M'membe, N. Mumba, Ch. Kateka, S. Tembo and Bishop Trevor Mwamba.

¹⁸⁴ Post-election violence has been reported in Lusaka, Muchinga, Eastern, Western and Copperbelt provinces with more than a dozen violence cases, including looting by criminals, beating and destruction of property.

¹⁸⁵ Tension decreased, and the first celebration started late at night on 15 August, when the release of early results showed Hakainde Hichilema winning the elections even without the votes in the three provinces regarded by President Lungu as problematic.

XVIII. RECOMMENDATIONS

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
LEGAL FRAMEWORK					
1	There is a lack of clear rules and timelines for different stages and aspects of the electoral processes. Such as rules on the exercise of the special vote, registration of persons with a mental disability, second-round presidential election procedures and certain nominations rules if the Constitutional Court annuls an election. Modalities and timelines for access to key information, candidate nomination forms, declarations of assets and liabilities and comprehensive results information are insufficiently specified. (page 14)	Revise the law and regulations to ensure clear, coherent and transparent rules and timelines for each stage of the electoral process. Effective revisions requires addressing candidate nominations, second round processes and providing for prompt access to information of public interest, including results.	Legislation (Electoral Process Act, 2016 (EPA)) ECZ Regulations & Procedures	National Assembly ECZ	<p>Rule of law - Transparency and access to information</p> <p>African Charter on Democracy, Elections and Governance (ACDEG), Chapter 3, art. 3: “<i>State Parties shall implement this Charter in accordance with [...] Transparency and fairness in the management of public affairs [...]</i>”</p> <p>ICCPR, art. 25</p> <p>ICCPR, Human Rights Committee (HRC) General Comment (GC) 25, para. 19: “[...] elections must be conducted fairly and freely on a periodic basis within a framework of laws guaranteeing the effective exercise of voting rights.”</p>
ELECTORAL ADMINISTRATION					
2	Almost all political parties and civil society expressed dissatisfaction at the level of	Promote transparency through improved clarity	Legislative	National Assembly	Transparency and access to information

This report contains the findings of the EU Election Observation Mission (EU EOM) on the general elections. The EU EOM is independent from the European Union institutions, and therefore this report is not an official position of the European Union. The report is available only in English.

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	<p>consultations and communication with the ECZ at each stage of the electoral process. The ECZ failed to fully satisfy concerns about delays and restricted time for voter registration in some areas and, closer to elections, regarding observer accreditations. Civil society was excluded from consultations at several stages of the election process. Access to the results verification at the national results centre was allowed only to political parties' agents. (page 16)</p>	<p>and consultation on decisions and decision-making processes. Establish and enforce improved mechanisms for genuine, inclusive and formalised consultations with political parties, civil society and media throughout all stages of the electoral process.</p>	<p>Enactment</p> <p>(Electoral Commission of Zambia Act, 2016)</p> <p>ECZ</p> <p>Regulations</p> <p>&</p> <p>Procedures</p>	<p>ECZ</p>	<p>ICCPR, art. 25</p> <p>ICCPR, HRC GC 25, para. 20: “[...] supervise the electoral process and to ensure that it is conducted fairly, impartially [...]” and para. 23: “[...] affirmative measures may be taken [...] persons holding public service positions are free from political interference or pressures.”</p> <p>ACDEG, Chapter 7, art. 17(1): “[...] strengthen independent and impartial national electoral bodies responsible for the management of elections” and Chapter 9, art. 38(1): “[...] fostering participatory political systems with well-functioning [...] inclusive institutions.”</p>
3	<p>The Constitution provides for ECZ structures to be decentralised at the provincial and district levels. This has not been done. The ECZ relies on local administration with provincial and district officers playing an <i>ad hoc</i> role without</p>	<p>Implement decentralised ECZ structures with professional electoral staff, clearly prescribed functions and responsibilities, and an</p>	<p>Legislation</p> <p>(EPA & ECZA)</p> <p>ECZ</p> <p>Regulations</p>	<p>National Assembly</p> <p>ECZ</p>	<p>Rule of Law</p> <p>ACDEG, Chp. 7, art. 17(1): “State Parties shall establish and strengthen independent and impartial national electoral bodies responsible for the management of elections”</p> <p>SADC Principles, 2(2): “SADC Member States shall adhere to the following principles in the conduct of democratic elections: 2(1)(7):</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	<p>precise legal basis. As such, full oversight of electoral processes and the assurance of standardised practices are not guaranteed. EU EOM observers noted diverging implementation of procedures at different stages of the process and varying levels of efficiency. (page 17)</p>	<p>adequate budget.</p>	<p>& Procedures</p>		<p><i>Independence [...]of the electoral institutions; and SADC Principles, 7(3): “Establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel [...]”</i></p>
4	<p>The ECZ made information of public interest, including media briefs and notifications swiftly available on its website, or its Facebook page. However, various important public information was not always readily accessible, in particular the legal framework was only partially accessible through the ECZ website. Key legal documents were difficult to locate and scattered in other government and non-government sources. (page 17)</p>	<p>Ensure prompt and easy access to key information on electoral processes for all stakeholders. Compile and publish in unified manner and accessible format, on-line and in print, all relevant legal instruments and guidelines.</p>	<p>ECZ Regulations & Procedures</p>	<p>ECZ</p>	<p>Transparency and access to information</p> <p>ICCPR, art. 19 & 25</p> <p>ICCPR, HRC GC 25, para. 12: “...Information and materials about voting [...] should be adopted to ensure that illiterate voters have adequate information on which to base their choice...” and para. 20: “[...] Electors should be fully informed [...].”</p> <p>ICCPR, HRC GC 34, para. 18: “[...] embraces a right of access to information held by public bodies”.</p> <p>UN Convention on the Rights of Persons with Disabilities (CPRD), art. 21(a) “(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
					<i>additional cost...</i>
5	<p>There was a lack of long-term engagement on voter education by the ECZ, with activities only conducted during a limited two-month period prior to the elections. The COVID-19 pandemic limited voter education to voter information activities carried out by the ECZ and civil society organisations with small-scale meetings, and door-to-door activities. Only two weeks before election day dissemination of voter information was partially enhanced by additional sensitisation via traditional and social media. The ECZ did not use other digital tools like, an election-related mobile app, SMS messages, short, engaging videos that can be shared on TikTok or WhatsApp to reach broader public, including the youth, and to promptly address any outstanding questions voters</p>	<p>Develop continuous, effective and broad-reaching voter education, including clear messages on key stages of the electoral process, specially tailored for youth, women, persons with disabilities, prisoners and marginalised groups. Ensure consistency of voter education messages across traditional and online media. The ECZ could enhance use of varied digital tools.</p>	<p>No legal changes required</p>	<p>ECZ</p>	<p>Transparency and access to information</p> <p>ICCPR, art. 19(2): “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds.”</p> <p>ACDEG, Chp. 5, art. 12(4): “[...] to implement programmes and carry out activities designed to promote democratic principles and practices as well as consolidate a culture of democracy [...]”.</p> <p>ICCPR, art. 25</p> <p>ICCPR, HRC GC 25, para. 11: “Voter education [...] campaigns are necessary to ensure the effective exercise of article 25 rights [...]” and para. 20: “[...] Electors should be fully informed [...].”</p> <p>SADC Protocol on Gender and Development, art. 12(2): “[...] States Parties shall ensure that all legislative and other measures are accompanied by public awareness campaigns [...]”</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	might have. (page 18)				
DELIMITATION OF ELECTORAL BOUNDARIES					
6	<p>The ECZ is mandated by law to delimit electoral boundaries based mainly on population data. Zambia’s last census was in 2010. There is a broad inequality of the vote between constituencies. For example, Lufubu (Central province) has 11,411 registered voters, while Kanyama (Lusaka Province) has 177,495. After a detailed boundaries review in 2019, the ECZ proposed revising the number of national assembly constituencies from 156 to 246. However, necessary legal reforms were not enacted, thus limiting the ECZ’s ability to enhance equality of the vote ahead of the 2021 elections. Large disparities between constituencies remain.(page 15)</p>	<p>Guarantee periodic delimitation of electoral boundaries through an independent, inclusive and transparent process establishing equality in voting and representation on a timeline compatible with the electoral calendar and underpinned by effective access to judicial remedy.</p>	<p>Legislation ECZ Regulations & Procedures</p>	<p>National Assembly ECZ</p>	<p style="text-align: center;">Equal suffrage</p> <p>Banjul Charter, art. 13(3): “Every individual shall have the right of access to public property and services in strict equality of all persons before the law.”</p> <p>ICCPR, art. 25(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage”</p> <p>ICCPR, HRC GC 25, para. 21: “[...] The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters [...]”</p> <p>ACDEG, art. 10(3): “State Parties shall protect the right to equality before the law and equal protection by the law as a fundamental precondition for a just and democratic society.”</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
VOTER REGISTRATION					
7	By law, ECZ registers voters. Stakeholders overall expressed confidence in the quality of the new voter register established prior to the 2021 elections. However, some questioned its inclusiveness. All stakeholders criticised the ECZ for inadequate planning, lack of broad consultations and limited time and opportunity for citizens to register. (page 20)	Involve all stakeholders in the planning process of future reviews of the voter register.	ECZ Practice and Procedures	ECZ State agencies (for civil registration, population data) Civil Society	<p style="text-align: center;">Right to Vote</p> <p>ICCPR, art. 25</p> <p>ICCPR, HRC GC, 25 para. 11: “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right”.</p> <p>ICCPR, HRC GC 25, para. 11: “Where registration of voters is required, it should be facilitated [...]”.</p> <p>Banjul Charter, art. 13(1): “Every citizen shall have the right to participate freely in the government of his country”</p>
REGISTRATION OF CANDIDATES AND POLITICAL PARTIES					
8	The Constitution foresees a law on political parties. It also requires political parties to promote and practice internal democracy through regular, free and fair internal elections (primaries). No such law has been enacted. The registration	Enact a law on political parties stipulating registration requirements and guaranteeing internal party democracy, inclusivity, transparency and accountability, with adequate institutional	New Law	National Assembly	<p>Right and opportunity to participate in public affairs and hold office</p> <p>ICCPR, art. 25</p> <p>ICCPR, HRC GC 25, para. 26: “[...] ensure that, in their internal management, political parties respect the applicable provisions of article 25 in</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	<p>of political parties takes places under an outdated and inadequate Societies Act of 1958. Interlocutors reported that the selection of candidates for parliamentary and local government elections were chaotic, lacked transparency and were marred by malpractices and corruption. The lack of inclusivity in the process was demonstrated by the low number of female candidates. For example, of 7,003 candidates in all elections, only 787 women were sponsored by parties. (page 21)</p>	<p>oversight.</p>			<p><i>order to enable citizens to exercise their rights thereunder.”</i></p> <p>SADC Principles, 4(1)(6): “[...] <i>funding of political parties must be transparent [...]</i>”</p> <p>Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), Committee, General Recommendation (GR) 23, para. 28: “[...] <i>political parties also have a responsibility to ensure that women are included in party lists and nominated for election...</i>”</p> <p>ACDEG, art. 3(11): “<i>Strengthening political pluralism and recognising the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law.</i>”</p>
9	<p>Some administrative and legal provisions impede the right to stand. Although there are lower candidate registration fees for women and other under-represented groups, many aspirants still considered the fees excessive. Fees are also non-refundable though the law does not stipulate it. Candidates for all elections</p>	<p>Revise candidacy requirements to enhance the right and the opportunity to stand by ensuring registration fees do not deter participation and are refundable, and removing educational requirements for the right to stand.</p>	<p>Constitutional amendment</p>		<p>Right and opportunity to participate in public affairs and hold office</p> <p>ICCPR, art. 25</p> <p>ICCPR, HRC GC 25, Para. 15: “[...] <i>Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, [...].</i>”</p> <p>Banjul Charter, art. 13(1): “<i>Every citizen shall have</i></p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	<p>were required to evidence the same educational qualifications. This legal requirement is not consistent with Zambia's international commitments. (page 21)</p>		<p>(Articles 70(1)(d), 82(2)(d), 100(1)(e), and 153(4)(c)</p> <p>ECZ Regulations</p>	<p>National Assembly</p> <p>ECZ</p>	<p><i>the right to participate freely [...]</i></p> <p>ACDEG, art. 3(3)(7): “[...] <i>Effective participation of citizens in democratic [...] processes [...]</i>”</p> <p>SADC Protocol on Gender and Development, art. 5, “States Parties shall put in place affirmative action measures with particular reference to women in order to eliminate all barriers which prevent them from participating meaningfully in all spheres of life and create a conducive environment for such participation.”</p> <p>Protocol to the [Banjul Charter] on the Rights of Women in Africa (Maputo Protocol), art. 9 (1): “<i>States Parties shall take specific positive action [...] to ensure that: (a) women participate without any discrimination in all elections [...]</i>”</p>
10	<p>If a candidate in any constituency dies, resigns or becomes disqualified before the election date, the ECZ is obliged by law to cancel all nominations for that election and restart the entire process. This entails uncertainty for the</p>	<p>Amend the law to avoid postponement of elections and new nomination processes for already registered contestants due to a resignation, death or disqualification of a</p>	<p>Constitutional Amendment (Article 52(6))</p>	<p>National Assembly</p>	<p>Rule of Law</p> <p>Right and opportunity to participate in public affairs and hold office</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	<p>holding of elections and unnecessary additional costs for both candidates and the ECZ. Twelve constituency nomination processes (six parliamentary, one council chair and five for local council) were restarted due to such circumstances. After the new nominations, those elections proceeded on 12 August. However, at least two local council elections were deferred due to time constraints. (page 22)</p>	<p>candidate.</p>	<p>Legislation</p>		<p>ICCPR, art. 25</p>
CAMPAIGN ENVIRONMENT					
<p>11</p>	<p>The outdated Public Order Act (POA) of 1955, which mandates notification of public gathering to police, was selectively applied to restrict freedoms of assembly, movement, and expression contrary to international standards. In a 2014 legal action, the Supreme Court noted earlier reforms of the law were <i>'half hearted'</i> and did not change the way the police</p>	<p>Repeal the Public Order Act and ensure in law adherence to regional and international standards for freedom of assembly, movement and expression.</p>	<p>Repeal of Public Order Act</p>	<p>National Assembly</p>	<p>Freedom of Assembly, Movement, Expression</p> <p>Banjul Charter, art. 9: “Every individual shall have the right to receive information [...] to express and disseminate his opinions within the law.”</p> <p>ACDEG, art. 6: “State Parties shall ensure that citizens enjoy fundamental freedoms and human rights taking into account their universality, interdependence and indivisibility.”</p> <p>ICCPR, art. 21: “[...] No restrictions may be placed on the exercise of this right other than those</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	<p>applied the POA. The law remains as it was. During the 2021 campaign, restrictions involved excessive use of force by the police to curb opposition campaigning and initiate arrests. (page 12)</p>				<p><i>imposed in conformity with the law and which are necessary in a democratic society [...].”</i></p> <p>SADC Principles, 7(4): “Safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes [...].”</p>
12	<p>The Code of Conduct, embedded in the EPA, regulates key aspects of campaigning but exempts the President and the Vice-President from restrictions on the use of state-owned transportation and facilities in connection with their offices. The law makes no clear distinction between official action and political campaigning, thus entailing an undue advantage for incumbents and weakening the prohibitions on partisan activity by public officials. Further, the President and Vice-President are exempted</p>	<p>Remove from the law undue campaign privileges for the President and Vice-President to ensure equal campaign conditions for all candidates.</p>	<p>Legislation (EPA, Code of Conduct, s. 15(1)(k) & The Public Order Act, s. 5(6))</p>	<p>ECZ</p>	<p>Level playing field – Equality in Campaign</p> <p>Banjul Charter, arts. 13(2) & (3): “[...] Every individual shall have the right of access to public property and services in strict equality of all persons before the law.”</p> <p>ICCPR, HRC GC 25, para. 19: “...Persons entitled to vote must be free to vote for any candidate for election... without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector’s will. Voters should be able to form opinions independently, free of [...] or manipulative interference of any kind.”</p> <p>UNCAC, art. 17: “[...] establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	<p>from the POA provisions mandating the notification of public gatherings, which amplified the uneven playing field in the campaign. Media reports confirmed that senior civil servants and traditional leaders campaigned openly for the ruling party and were offered rewards for such canvassing. The ECZ did not appear to sanction such breaches of the Code. (page 25)</p>				<p><i>by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.</i></p> <p>SADC Principles, 7(4): “Safeguard the human and civil liberties of all citizens including [...] campaigning [...]”</p>
CAMPAIGN FINANCE					
	<p>There are no meaningful accountability mechanisms for political finance and campaign spending in the legal framework. Whereas a few broad provisions on financial accountability exist in different laws, they lack coherent oversight, and obligations for timely publication of financial information. The EU EOM observed massive monetisation of the campaign, distorting the level playing field. However,</p>	<p>Enact a law on campaign finance including reporting requirements for political parties, candidates, and traditional and social media. Mandate standardised, timely disclosure before and after elections. Income and expenditure reports have to be audited by a competent, independent body with investigative, sanctioning, and enforcement powers.</p>	<p>New Legislation</p>	<p>National Assembly</p>	<p>Transparency – Prevention of corruption - Accountability</p> <p>ICCPR, art. 25 -</p> <p>ICCPR, HRC GC 25, para. 19: “...Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.”</p> <p>UNCAC, art. 7(3): “Each State Party shall also consider taking appropriate legislative and</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
13	in the absence of clear regulation, the funding sources and expenditure of parties, candidates and third-party agencies during campaigns are unknown to voters. (page 28)				<p><i>administrative measures [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.” and art. 7(4): “Each State Party shall [...] endeavour to adopt, maintain and strengthen systems that promote transparency.”</i></p> <p>SADC Protocol on Corruption, art. 4: “h) [...] mechanisms to ensure that publicly held companies and other types of associations maintain books and records which, [...] have sufficient internal accounting controls to enable the law enforcement agencies to detect acts of corruption; i) mechanisms to encourage participation by the media, civil society and non-governmental organizations in efforts to prevent corruption; and j) mechanisms for promoting public education and awareness in the fight against corruption. 2. Each State Party shall adopt such legislative and other measures under its domestic law to prevent and combat acts of corruption committed in and by private sector entities.”</p>
MEDIA					
14	The Penal Code empowers the President to ban publications, including on a discretionary basis, publications deemed contrary to "the public interest". Defamation of the President is	Protect freedom of expression by repealing the powers of the President to ban publications and by decriminalising defamation in favour of		National Assembly	<p style="text-align: center;">Freedom of Expression</p> <p>ICCPR, art. 19: “Everyone shall have the right to freedom of expression [...]”</p> <p>African Union (AU) Declaration of Principles on</p>

NO.	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL COMMITMENTS
	<p>also criminalised, and sanctions include imprisonment. These clauses generate self-censorship, limit freedom of speech and stifle free expression of citizens and the media. (page 29)</p>	<p>proportionate civil sanctions.</p>	<p>Legislation (Penal Code, s. 53 and 69)</p>		<p>Freedom of Expression in Africa (DPFEA), Principle 2(3): “States shall repeal laws that criminalise sedition, insult and publication of false news. States shall amend criminal laws on defamation and libel in favour of civil sanctions which must themselves be necessary and proportionate.” and principle 10: “[...] the right to seek, receive and impart information [...] an indispensable component of democracy.”</p> <p>SADC Principles, 7(4): “Safeguard the human and civil liberties of all citizens including the freedom of [...] expression [...] as well as access to the media</p>
15	<p>The Ministry of Information and Broadcasting oversees the state-run ZNBC TV and radio. The board is appointed by the minister, subject to ratification by the National Assembly. The Act provides limited security of tenure to the ZNBC’s management. A large part of ZNBC’s budget is subjected to a yearly allocation by the National Assembly. The legal and regulatory framework does not guarantee ZNBC’s editorial independence and it led to an overwhelming coverage of the President, the government and</p>	<p>Transform state media into a genuine public service outlet by appointing ZNBC’s management in a transparent and inclusive manner and establishing legal safeguards for editorial and financial independence, and operational sustainability.</p>	<p>Legislation (ZNBC Act)</p> <p>ZNBC</p> <p>Practice and Procedures</p>	<p>National Assembly</p> <p>ZNBC</p>	<p>Freedom of opinion and expression</p> <p>Banjul Charter, art. 9 1. “Every individual shall have the right to receive information. 2. Every individual shall have the right to express and disseminate his opinions within the law.”</p> <p>AU DPFEA, principle 13: “States shall establish public service media governed by a transparently constituted and diverse board adequately protected against undue interference of a political, commercial or other nature. 2. The senior management of public service media shall be appointed by and accountable to the board. 3. The editorial independence of public service media shall be guaranteed. 4. Public service media shall be adequately funded in a manner that</p>

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	the ruling party, curbing voters' access to diverse, factual and pluralistic information.(page 31)				<i>protects them from undue interference.” and principle 13(6): “[...] the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receives adequate politically balanced information, particularly during election periods.”</i>
16	The law does not set a limit on paid campaign political advertisement. Most of political broadcasts, including talk-shows and call-in programmes, were paid for by parties or candidates. The legal gap disadvantaged contestants with less financial resources. Such programming also interfered with voters' ability to make an informed choice, as policies expressed in paid-for shows were not subject to journalistic scrutiny. Voters were unaware of who paid for political programmes due to unregulated campaign finance. (page 30)	Protect freedom of opinion, including voters' informed choice by setting a reasonable limit on the amount of hourly paid political advertising on broadcast media in line with international best practice.	Legislation IBA Amend SOPs	National Assembly IBA	<p align="center">Freedom of Opinion and expression</p> <p>ICCPR, art. 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”</p> <p>AU DPFEA, Principle 12(3): “States shall develop regulatory environments that encourage media owners and media practitioners to reach agreements to guarantee editorial independence and to prevent commercial and other considerations from influencing media content.”</p> <p>ICCPR, HRC GC 34, para. 41: “[...] private media must not be put at a disadvantage compared to public media in such matters as access to means of dissemination/distribution and access to news.”</p>
17	Government officials often refused to answer questions asked by media and did not				<p align="center">Freedom of opinion and expression</p>

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	disclose requested data. It affected the accuracy of news and hindered voter's ability to make an informed choice. The Constitution does not expressly protect the right to seek information, however there is no legal instrument to state institutions to promptly publish information of public interest. Such law would enhance accuracy in media's reporting and provide for transparency and independent scrutiny of government institutions, in line with international standards. (page 30)	Introduce legislation protecting the right to information of public interest.	New Legislation	National Assembly	<p>ICCPR, art. 19: "Everyone shall have the right to freedom of expression [...] this right shall include freedom to seek, receive and impart information and ideas of all kinds [...]"</p> <p>Banjul Charter, art. 9: "Every individual shall have the right to receive information."</p> <p>ICCPR, HRC GC 34, para. 18: "...embraces a right of access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored."</p> <p>ICCPR, HRC GC 34, para. 19: "States parties should proactively put in the public domain Government information of public interest."</p>
DIGITAL COMMUNICATIONS AND SOCIAL MEDIA					
18	The Zambia Information and Communications Technology Authority (ZICTA) is the regulatory body for the ICT sector. The Information and Communication Technology Act and the Cyber Security and Cybercrimes Act (CSA) grant broad powers to the ZICTA without mandating	Amend the legal framework for the ICT sector to prescribe clear and exhaustive criteria for only exceptional blocking or restricting access to Internet, to decriminalise defamation and publication of false content, and to narrow the	Legislation - The Cyber Security and Cybercrimes Act (Art. 2 (definitions); Art 5,6 and 7 (transparency and	National Assembly Ministry of Transport and Communications	<p style="text-align: center;">Freedom of Expression</p> <p>AU Convention on Cybersecurity, art. 25(3): "In adopting legal measures in the area of cybersecurity and establishing the framework for implementation, each State Party should ensure that the measures [...] will not infringe other basic rights, such as freedom of expression."</p>

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	<p>transparency and accountability in its actions. None of the laws provide a clear procedure or exhaustive criteria for blocking access to the Internet or selected online platforms. Further, several clauses in the Penal Code and the CSA unduly restrict freedom of expression and do not conform with the strict test of necessity and proportionality. Defamation and publication of false information are criminal offences punishable with imprisonment. Criminalised “hate speech” exceeds permissible restrictions on freedom of expression. (page 33)</p>	<p>legal definition of hate speech. Ensure that enhanced transparency and accountability in ZICTA’s decision-making process are central to the review.</p>	<p>accountability); Art.54,63 and 65 (respective cybercrimes)</p> <p>The Penal Code (Art.69 and Chapter XVIII (defamation), Art.67 (false news))</p> <p>The Information and Communication Technology Act (Part II, Art. 5.6. and 7. (functions, independence and authority of ZICTA)</p>	<p>Ministry of Justice</p>	<p>AU DPFEA, Chp. I, Principle 9(2): “States shall ensure that any law limiting the rights to freedom of expression and access to information is overseen by an independent body in a manner that is not arbitrary or discriminatory.”</p> <p>ICCPR, HRC GC 34, para. 15: “State parties should take all necessary steps [...] to ensure access of individuals thereto (online media)”.</p> <p>UN, OSCE, OAS, ACHPR, Joint Declaration on Freedom of expression and the Internet, para. 6(a): “Access to the Internet is also necessary to promote respect for other rights, such as [...] the right to assembly and association, and the right to free elections.”</p>
19	<p>Facebook did not act to preserve electoral integrity on the platform. The company did not introduce its key transparency tool for political advertising <i>Ad Library Report</i> prior to the elections, did not hire a sufficient number of</p>	<p>Formalise cooperation between the ECZ, civil society and main social media platforms to develop an efficient mechanism ensuring transparency of online</p>	<p>No legal changes required</p>	<p>ECZ</p> <p>Government</p>	<p>Freedom of opinion and expression/ Genuine elections that reflect the free expression of the will of voters</p> <p>Right and opportunity to participate in public affairs/Transparency and access to information</p> <p>ICCPR, HRC GC 25, para. 19: “Voters should be</p>

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	<p>content moderators in local languages, and did not meaningfully and timely engage with the ECZ or civil society. Hate speech was not removed from the platform, posts containing false information, were not labelled as such, and they were even promoted as paid-for advertisement, distorting the online debate to the detriment of voters. (page 36)</p>	<p>campaigning, including its financing and countering hate speech and disinformation. Civil society in coordination with the ECZ could initiate signing of an agreement ensuring that social media platforms, including Facebook, introduce best practices in Zambia, including engagement with the ECZ, employment of content moderators, and prompt removal of damaging and dangerous content.</p>		<p>Ministry of Transport and Communications</p> <p>Civil Society Organisations</p>	<p><i>able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.”</i></p> <p>UN Guiding Principles on Business and Human Rights (HRC, 2011), art. 13: <i>“The responsibility to respect human rights requires that business enterprises [...] seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services [...] even if they have not contributed to those impacts.”</i></p> <p>UN, OSCE, OAS, ACHPR, Joint declaration on Freedom of Expression and “fake news”, Disinformation and Propaganda by, para 4: <i>“Intermediaries should [...] review their advertising models to ensure that they do not adversely impact diversity of opinions and ideas.”</i></p>
PARTICIPATION OF WOMEN					
20	<p>Despite various international and regional commitments, including the 50 per cent target for equal representation under the SADC protocol on gender and development, Zambian women remain severely underrepresented in political life including within political</p>	<p>Enhance the right and opportunity for women’s equal participation in elections by operationalising the 2015 Gender Equity and Equality Act to promote non-discrimination and wide-ranging affirmative</p>	<p>Administrative Action/ Regulation</p>	<p>National Assembly</p> <p>ECZ</p> <p>Civil Society</p>	<p>Right of participation</p> <p>ICCPR, article 3: <i>“[...] Equal right of men and women to the enjoyment of all civil and political rights [...]”</i></p> <p>CEDAW, article 4(1): <i>“Adoption by State Parties of temporary special measures [...]”</i> and article 7: <i>“State parties...ensure to women...the right... (a) To</i></p>

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	<p>parties, as candidates and as successful election contestants. The Gender Equity and Equality Act, 2015 has yet to be fully actioned and as such exemplifies lack of legal supports, affirmative actions and some legal barriers on inclusivity and access to political decision making roles. (page 37)</p>	<p>actions.</p>			<p><i>vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government [...].”</i></p> <p>CEDAW Committee, GR 23 para. 22: “[...] Political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates.”</p> <p>SADC, Protocol on Gender and Development, section 13 (2): “States parties shall ensure the equal participation of women and men in decision making[...].”</p>
CIVIL SOCIETY AND INTERNATIONAL OBSERVATION					
21	<p>The law provides for observation by national and international observers as well as media and party agents accredited by the ECZ. The ECZ introduced a decentralised accreditation process at the district level, setting a tight deadline that was later extended twice. The procedures were published late and included cumbersome requirements for</p>	<p>Embed in ECZ regulations clear and transparent procedures for timely and inclusive accreditations of observers, party agents and media, ensuring unhindered access to all aspects of polling, counting and tabulation, including at the national results centre.</p>	<p>ECZ Regulations & Procedures</p>	<p>National Assembly ECZ</p>	<p>Right and opportunity to participate in public affairs and hold office/ Transparency and access to information</p> <p>ACDEG, art. 19(2): “Each State Party shall guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission.”</p> <p>ICCPR, art. 25: “[...] the right and the opportunity [...] without unreasonable restrictions (a) to take</p>

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	<p>the accreditation of national observers, such as certified copies of the national registration card and the physical presence of the observers at the accreditation centres. EU EOM observers noted that the district electoral officers implemented the procedures in an inconsistent manner. Access to the verification process at the National Results Centre was restricted except to some political party representatives. (page 38)</p>				<p><i>part in the conduct of public affairs”</i></p> <p>ICCPR, HRC GC 25, para. 20: “[...] There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes [...]” and para. 25: “[...] This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.”</p> <p>SADC Principles, 7(8) “Ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and/other observers/monitors;”</p>
POLLING, COUNTING AND TABULATION					
22	<p>The EU EOM noted long densely packed queues of voters in and at many urban polling stations. Voters waited for excessively long periods to vote and in some cases late into the night. This contrasted with calmer and more orderly voting in rural areas. Several polling stations were packed into</p>	<p>Designate additional suitable in size premises in a timely manner to avoid congestion at and in polling stations, especially in urban areas.</p>	<p>No legal changes required</p>	<p>ECZ</p>	<p>Right to Vote/ Good Practice</p> <p>ICCPR, HRC GC 25, para. 20: “[...] voters should be protected from any form of [...] arbitrary interference with the voting process [...].”</p> <p>ICCPR, HRC GC 25, para. 22: “[...] describe the laws and procedures which ensure that the right to vote can in fact be freely exercised by all citizens and indicate how the secrecy, security and validity of</p>

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	<p>unsuitable building spaces. Electoral staff were faced with undue delays and had difficulty managing crowds. (page 41)</p>				<p><i>the voting process are guaranteed by law...</i></p> <p>CRPD, art. 29: “[...] guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others”</p> <p>SADC Principles, 7(6): “Ensure the availability of adequate logistics and resources for carrying out democratic elections [...]”</p>

Presidential results

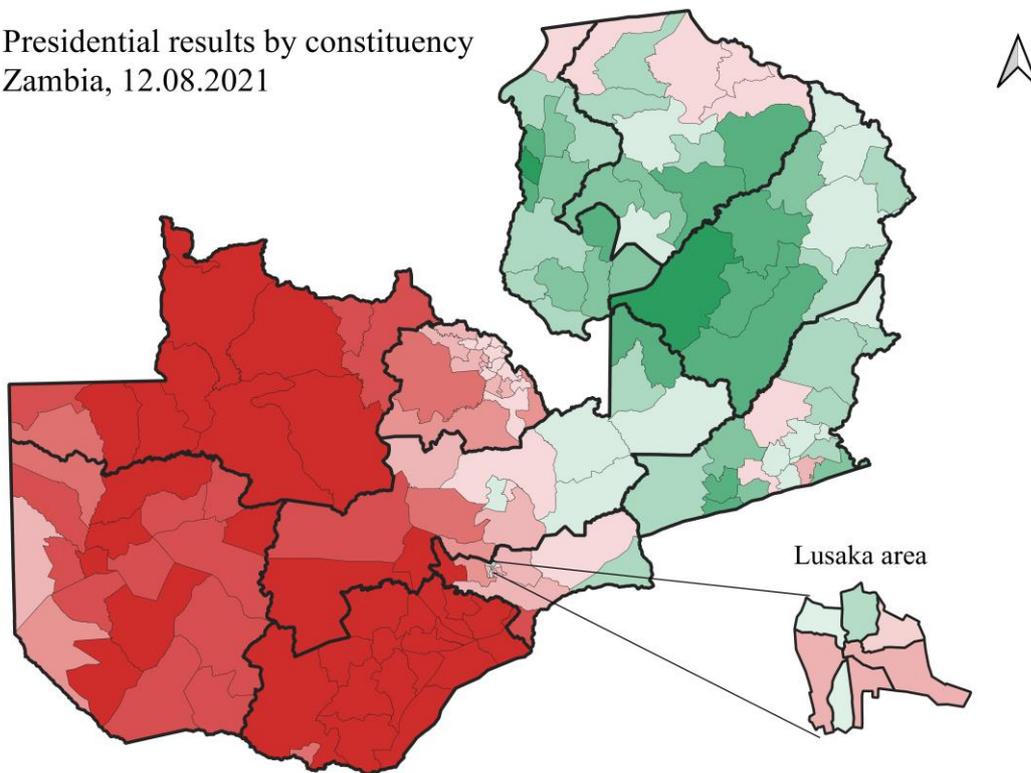
Presidential results (overall)

Candidate	Party	CENTRAL	COPPERBE LT	EASTERN	LUAPULA	LUSAKA	MUCHINGA	NORTHERN	NORTH- WESTERN	SOUTHERN	WESTERN	Total	% of total votes
HICHILEMA Hakainde	UPND	276 674	420 443	213 707	119 550	442 253	86 581	151 389	263 473	601 998	276 280	2 852 348	59,02%
LUNGU Edgar	PF	158 598	300 413	308 520	233 129	357 674	172 601	231 831	27 118	36 255	44 641	1 870 780	38,71%
KALABA Harry	DP	1 210	3 065	2 598	9 525	2 468	1 507	2 020	563	1 398	877	25 231	0,52%
BANDA Andyford	PAC	1 330	1 576	7 324	2 024	1 075	1 731	2 573	731	676	897	19 937	0,41%
M'MEMBE Fred	SP	1 552	1 466	2 530	1 600	1 874	2 152	2 940	501	528	1 501	16 644	0,34%
HAMUDUDU Highvie	PNUP	984	1 247	1 543	608	945	526	949	820	1 731	1 127	10 480	0,22%
KATEKA Chishala	NHP	528	868	1 880	1 241	815	636	1 434	233	186	348	8 169	0,17%
CHANDA Charles	UPPZ	398	620	2 213	694	350	546	1 022	197	205	298	6 543	0,14%
CHISELA Lazarus	ZUSD	333	308	1 807	501	184	494	795	231	320	280	5 253	0,11%
MUMBA Nevers	MMD	370	813	949	302	1 288	352	433	121	195	145	4 968	0,10%
TONGA Enock	3RD LM	220	172	1 190	335	142	259	366	104	112	212	3 112	0,06%
MWAMBA Musonda	UNIP	211	303	844	258	385	254	429	87	157	108	3 036	0,06%
TEMBO Sean	PEP	131	86	732	166	111	174	236	33	67	77	1 813	0,04%
NYIRENDA Stephen	NAREP	119	160	755	153	245	72	96	53	67	88	1 808	0,04%
MWENDA Kasonde	EFF	90	145	386	137	119	128	177	51	51	61	1 345	0,03%
SILUMBE Richard	LM	76	121	328	128	121	75	263	41	83	60	1 296	0,03%
Total valid votes		442 824	731 806	547 306	370 351	810 049	268 088	396 953	294 357	644 029	327 000	4 832 763	
Invalid votes		14 009	13 748	20 947	11 977	13 814	10 804	14 425	6 481	11 777	8 562	126 544	
Total ballots		456 833	745 554	568 253	382 328	823 863	278 892	411 378	300 838	655 806	335 562	4 959 307	
Voter Register		666 600	1 025 897	896 339	567 003	1 243 619	401 658	606 346	386 677	782 067	447 293	7 023 499	
Turnout		68,53%	72,67%	63,40%	67,43%	66,25%	69,44%	67,85%	77,80%	83,86%	75,02%	70,61%	
Invalid ballots		3,07%	1,84%	3,69%	3,13%	1,68%	3,87%	3,51%	2,15%	1,80%	2,55%	2,55%	

Presidential results by constituency

Darker colour means higher advantage of one candidate over the other. Green colour means advantage of Edgar Lungu (PF), red colour – of Hakainde Hichilema (UPND)

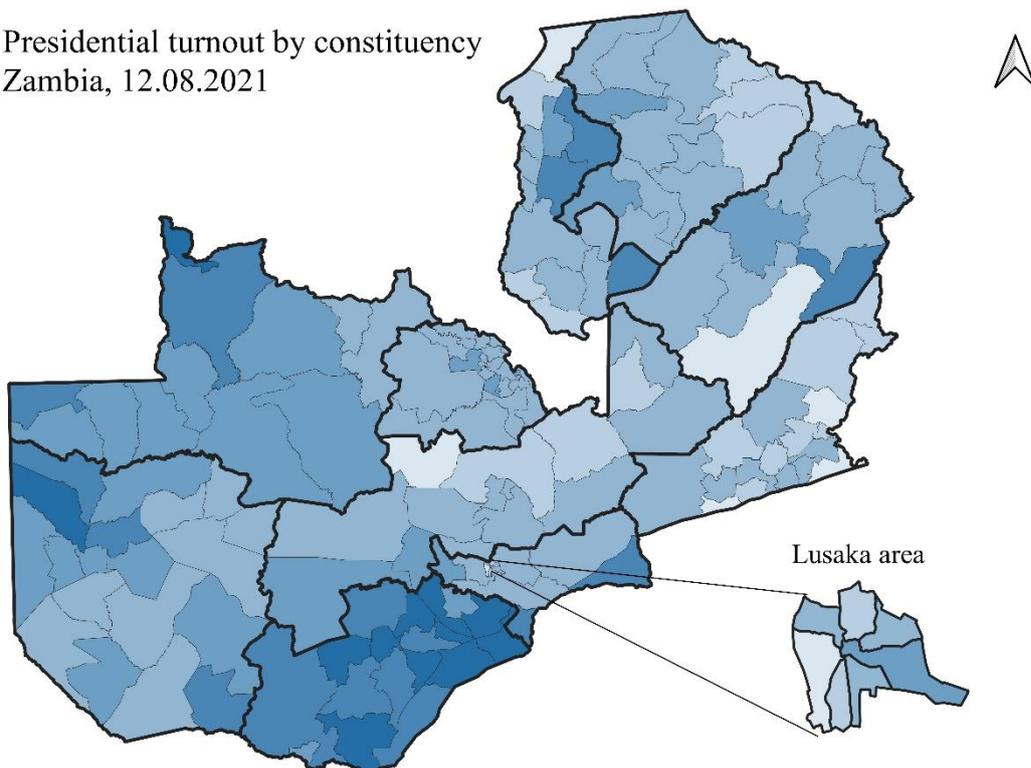
Presidential results by constituency
Zambia, 12.08.2021



Turnout by constituency

Darker colour means higher turnout in a given constituency

Presidential turnout by constituency
Zambia, 12.08.2021



Constituency	Edgar Lungu	Hakainde Hichilema	Other	Invalid votes	Constituency	Edgar Lungu	Hakainde Hichilema	Other	Invalid votes
BAHATI	18 377	10 203	3 000	917	LUNTE	9 953	7 455	789	805
BANGWEULU	25 475	9 598	2 771	1 065	LUPOSOSHI	16 229	6 092	616	720
BWACHA	18 647	16 360	474	904	LUSAKA CENTRAL	26 318	38 835	905	690
BWANA MKUBWA	18 536	18 980	479	637	MAFINGA	15 408	9 910	1 110	1 202
BWEENGWA	309	21 497	129	331	MAGOYE	830	24 992	227	513
CHADIZA	10 754	16 369	1 474	1 534	MALAMBO	13 347	16 169	931	1 059
CHAMA NORTH	12 062	8 968	814	955	MALOLE	35 042	11 538	2 734	1 399
CHAMA SOUTH	10 059	6 775	468	620	MAMBILIMA	11 438	3 915	349	440
CHASEFU	18 222	15 551	2 163	1 267	MANDEVU	56 579	41 591	1 306	1 663
CHAVUMA	2 925	13 758	251	336	MANGANGO	1 969	9 987	306	402
CHAWAMA	31 967	23 938	576	1 008	MANSA CENTRAL	26 939	16 493	1 611	1 356
CHEMBE	6 014	3 994	1 070	404	MANYINGA	1 588	17 566	215	431
CHIENGE	15 075	18 884	1 530	1 449	MAPATIZYA	620	29 859	383	700
CHIFUBU	17 253	19 932	437	582	MASAITI	9 499	12 138	366	730
CHIFUNABULI	20 087	5 815	3 004	1 160	MATERO	51 832	40 612	1 200	1 272
CHIKANKATA	966	29 749	278	456	MAZABUKA CENTRAL	5 468	39 928	340	665
CHILANGA	14 791	30 873	518	1 190	MBABALA	363	26 940	167	486
CHILILABOMBWE	14 705	24 913	463	761	MBALA	14 821	15 477	1 045	1 408
CHILUBI	18 493	13 855	1 378	1 732	MFUWE	8 953	2 669	420	430
CHIMBAMILONGA	12 212	7 861	552	639	MILANZI	10 929	8 888	1 734	956
CHIMWEMWE	16 866	23 570	997	717	MILENGE	10 018	5 163	907	538
CHINGOLA	18 219	30 451	558	1 004	MITETE	2 181	8 700	234	342
CHINSALI	26 620	10 079	1 183	1 304	MKAIKA	14 265	13 004	1 514	1 077
CHIPANGALI	22 732	12 965	1 615	1 182	MKUSHI NORTH	16 546	14 509	663	1 277
CHIPATA CENTRAL	24 285	24 017	1 057	907	MKUSHI SOUTH	7 569	7 478	285	820
CHIPILI	10 047	4 789	460	575	MONGU CENTRAL	2 895	35 089	534	487
CHIRUNDU	2 992	20 543	250	554	MONZE CENTRAL	1 974	47 427	275	673
CHISAMBA	9 620	18 011	396	876	MOOMBA	194	14 320	387	254
CHITAMBO	12 089	4 347	610	585	MPIKA	29 237	9 930	1 111	1 198
CHOMA CENTRAL	4 086	53 973	499	1 007	MPONGWE	8 724	20 509	842	1 103
CHONGWE	23 374	37 995	883	1 699	MPOROKOSO	11 334	6 734	466	488
DUNDUMWEZI	262	27 883	243	534	MPULUNGU	16 252	19 359	763	1 630
FEIRA	6 537	4 450	273	224	MSANZALA	15 688	8 021	1 203	836
GWEMBE	416	23 147	197	466	MUCHINGA	6 357	5 823	563	717
IKELENG'I	1 301	13 958	206	229	MUFULIRA	10 110	12 594	346	413
ISOKA	12 748	12 000	701	1 120	MUFUMBWE	2 279	22 162	289	663
ITEZH-ITEZHI	2 443	26 069	348	956	MULOBEZI	1 448	9 647	199	278
KABOMPO	1 490	17 411	279	285	MUMBWA	4 126	28 081	393	983
KABUSHI	19 176	16 961	444	514	MUNALI	47 039	54 002	1 267	1 369
KABWATA	29 095	45 363	905	622	MWANDI	1 759	9 554	165	173
KABWE CENTRAL	20 924	23 463	595	741	MWANSABOMBWE	13 274	4 493	443	544
KAFUE	20 183	33 647	600	1 124	MWEMBEZI	2 918	22 836	275	611
KAFULAFUTA	4 957	9 589	346	492	MWENSE	17 261	4 174	366	640
KALABO CENTRAL	3 117	16 040	471	510	MWINILUNGA	2 170	36 240	359	752
KALOMO CENTRAL	1 401	41 028	408	847	NAKONDE	19 735	18 086	1 134	1 884
KALULUSHI	18 857	29 139	678	782	NALUKWANDA	1 614	10 400	285	382
KAMFinsa	14 866	18 936	516	528	NALOLO	2 305	13 744	433	827
KANCHIBIYA	18 650	2 651	811	1 102	NAMWALA	1 376	34 992	306	828
KANKOYO	6 721	8 104	175	219	NANGOMA	1 424	18 775	262	394
KANTANSHI	9 717	12 364	344	262	NCHANGA	14 764	19 045	456	545
KANYAMA	39 994	61 892	1 127	1 669	NCHELENGE	26 274	15 152	1 072	1 274
KAOAMA CENTRAL	2 725	17 886	297	448	NDOLA CENTRAL	18 486	23 414	531	902
KAPIRI MPOSHI	23 883	30 979	1 090	2 062	NKANA	15 321	22 912	496	494
KAPOCHE	17 607	7 141	1 737	1 169	NKEYEMA	1 305	15 834	266	647
KAPUTA	13 181	13 207	566	810	NYIMBA	21 288	11 446	1 371	995
KASAMA CENTRAL	26 358	17 649	1 128	1 199	PAMBASHE	10 139	5 816	453	584
KASEMPA	2 060	24 190	419	594	PEMBA	320	29 470	223	571
KASENENGWA	17 334	12 711	2 016	1 143	PETAUKE	31 232	10 970	1 667	2 116
KATOMBOLA	1 358	42 466	502	1 250	ROAN	8 560	15 106	351	242
KATUBA	11 903	24 119	406	993	RUFUNSA	6 973	8 512	312	730
KAUMBWE	10 728	3 773	790	831	SENANGA	1 249	22 191	306	423
KAWAMBWA	14 080	6 529	354	581	SENGA HILL	10 673	13 017	1 948	1 395
KEEMBE	7 787	25 064	543	1 190	SERENJE	9 887	7 085	436	620
KWACHA	18 980	24 391	642	960	SESheKE	2 548	15 642	214	439
LIUWA	1 856	10 082	240	298	SHANGOMBO	4 671	11 874	520	817
LIVINGSTONE	13 273	45 368	581	680	SHIWAN'GANDU	19 129	5 513	1 154	989
LUAMPA	2 831	11 857	300	485	SIIVONGA	1 356	20 625	229	405
LUANGENI	15 482	10 817	946	730	SIKONGO	4 965	9 075	377	415
LUANSHYA	14 915	21 993	535	643	SINAZONGWE	1 683	48 334	402	1 111
LUAPULA	8 631	4 532	282	450	SINDA	9 811	10 856	864	1 375
LUBANSENSHI	17 182	8 907	690	987	SIOMA	799	14 009	232	295
LUENA	1 867	15 653	284	300	SOLWEZI CENTRAL	6 966	47 946	570	1 033
LUFUBU	2 475	3 675	213	280	SOLWEZI EAST	1 575	11 582	312	636
LUFWANYAMA	6 483	17 718	485	761	SOLWEZI WEST	1 631	33 301	427	868
LUKASHYA	30 101	10 238	1 058	1 213	VUBWI	10 421	4 813	606	822
LUKULU EAST	2 537	19 016	416	594	WUSAKILE	14 698	17 684	463	457
LUMEZI	20 072	11 267	1 655	1 110	ZAMBEZI EAST	1 393	18 271	259	428
LUNDAZI	24 323	14 929	1 736	1 838	ZAMBEZI WEST	1 740	7 088	180	226
					TOTAL	1 870 780	2 852 348	109 635	65 182

ANNEX B: EU EOM Media Monitoring Results

The EU EOM conducted qualitative and quantitative broadcast media monitoring from 9 July to 11 August 2021 inclusive. The mission measured the time allocated to political actors, including candidates and political parties, as well as the tone of the coverage. The mission also monitored the use of paid airtime, and gender balance in political communication in the media. In total, the EU EOM monitored 12 broadcast media: four TV and eight radio stations.

1. RADIO

Radio is the popular medium of communication in Zambia, especially in rural areas. Therefore, the EU EOM monitored eight radio stations selected based on popularity, audience reach and geographical/regional coverage. The sample included:

- 1) **ZNBC Radio 1** - The main state-owned radio with country wide coverage, embodying Zambia's cultural diversity by broadcasting content in several different local languages.
- 2) **Hot FM** - A private, commercial radio station based in Lusaka, with an audience of approximately four million.
- 3) **Sky FM** - A private, commercial radio station broadcasting from Monze, Southern Province.
- 4) **Spice FM** - A private, commercial radio station located in Kabwe, Central province.
- 5) **Radio Mano** - A regional community radio station located in Kasama, Northern Province. Its mission is to foster citizen participation for sustainable development.
- 6) **Radio Icengelo** - A popular community radio station in the Copperbelt, based in Kitwe, run by the catholic church since 1995.
- 7) **Radio Liseli Oblate** - A popular christian radio station based in Mongu, Western Province.
- 8) **Radio Yangeni** - A popular radio station owned by the Catholic Church of Mansa and the Catholic Diocese in Luapula Province.

Monitoring periods

All radio stations were monitored from 06:30 – 08:00 hours, and 17:30 – 19:30 hours daily.

- ZNBC Radio 1, Hot FM, Sky FM, Radio Yangeni and Spice FM from 8 July until 11 August 2021
- Radio Mano, Radio Icengelo and Radio Liseli Oblate from 17 July until 11 August 2021

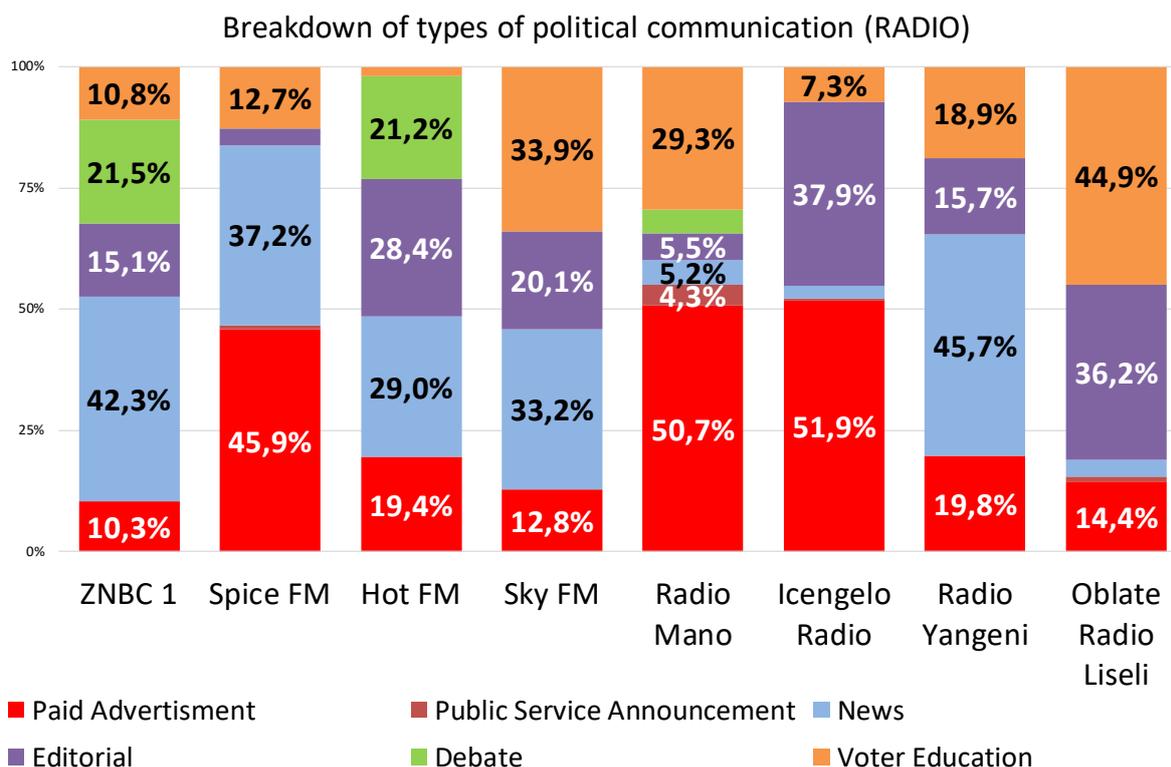
The total radio time coded was 868 hours.¹ The total time allocated to political communication was 123 hours and 54 minutes, representing 14 per cent of the monitored time.

¹ The number of monitored days per radio station varied from 24 to 35 days, due to power cuts and technical transmission issues that prevented audible radio recording in some cases.

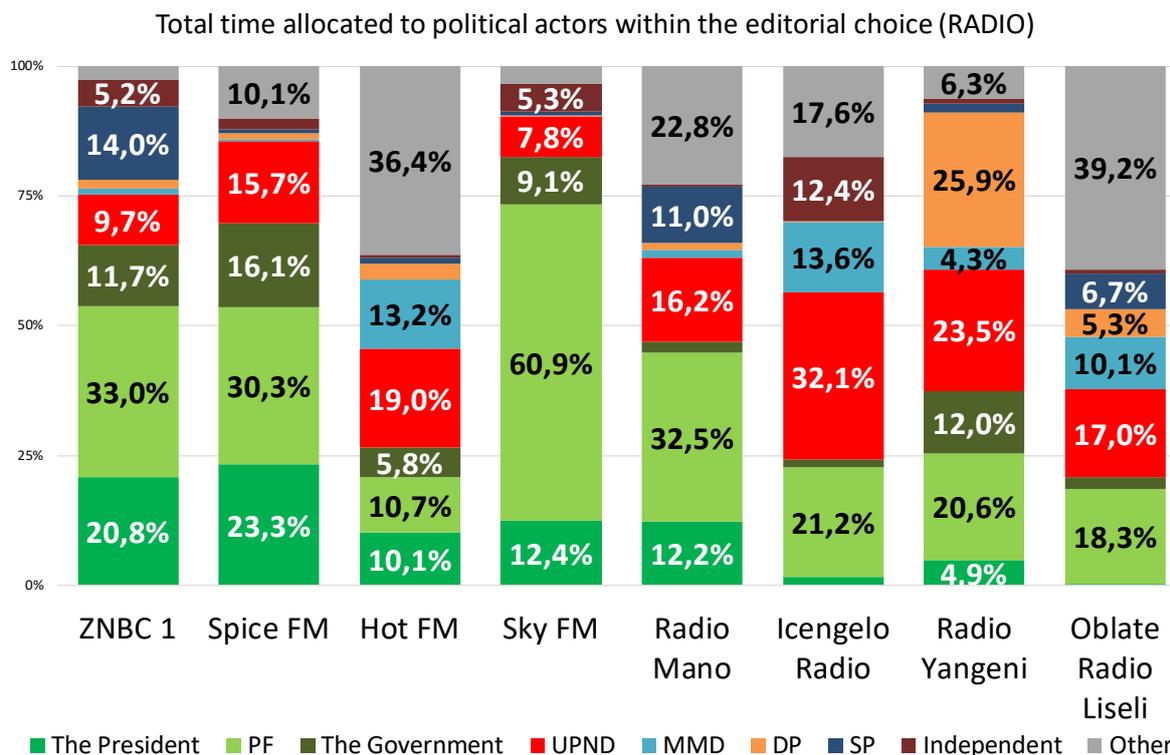
1.1 Total time allocated to political communication in radio stations' prime time programming:

	Language of broadcasts	Percentage of total time coded	Time allocated to political communication
ZNBC Radio 1	English, Bemba, Tonga, Nyanja, Luvale, Lozi, Kaonde, Chewa, Nyanja and Lunda	19 per cent	23 hours 18 min
Hot FM	English, Nyanja and Bemba	12 per cent	15 hours 05 min
Sky FM	Tonga and English	5 per cent	6 hours 24 min
Spice FM	English, Bemba, Tonga, Nyanja, Luvale, Lozi, Kaonde and Lunda	17 per cent	19 hours 48 min
Radio Mano	Bemba and English	21 per cent	20 hours 12 min
Radio Icengelo	Bemba, Lamba and English	15 per cent	12 hours 54 min
Radio Liseli Oblate	English and Lozi	19 per cent	16 hours 01 min
Radio Yangeni	English and Bemba	9 per cent	10 hours 18 min

1.2 Breakdown of types of political communication on RADIO stations' primetime programming



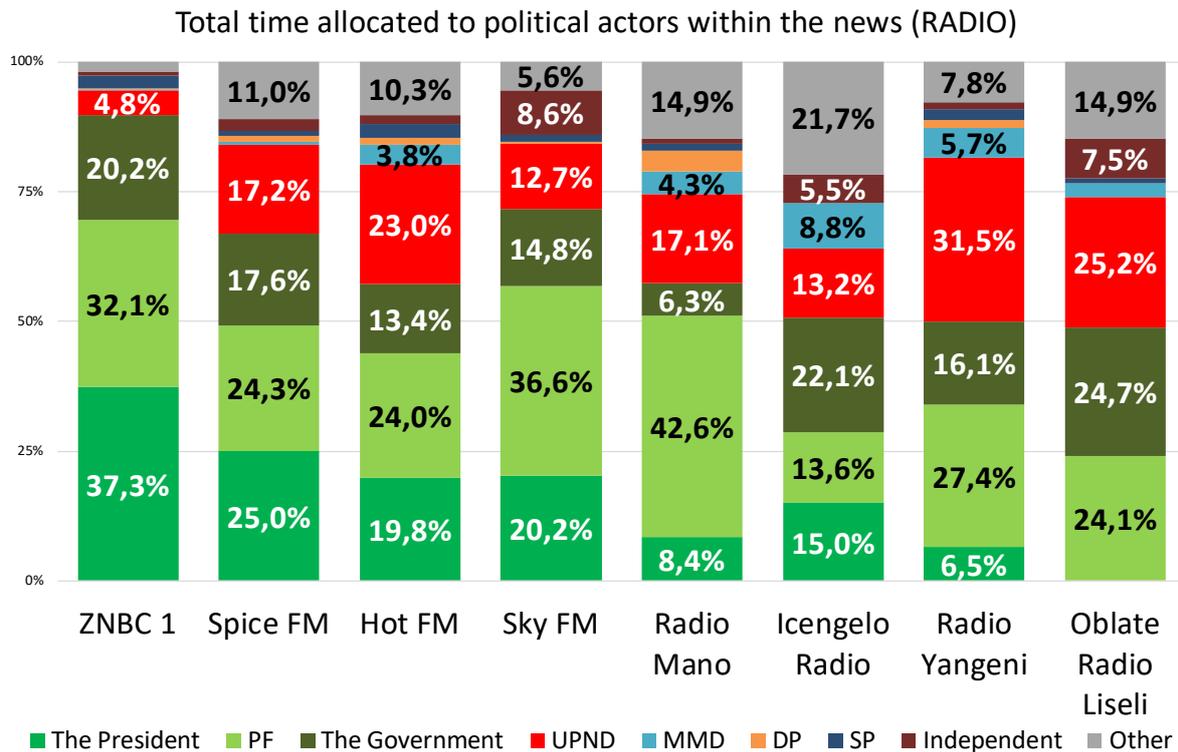
1.3 Total time allocated to political actors within RADIO EDITORIAL CHOICE (News, Debates, Editorial Programmes)



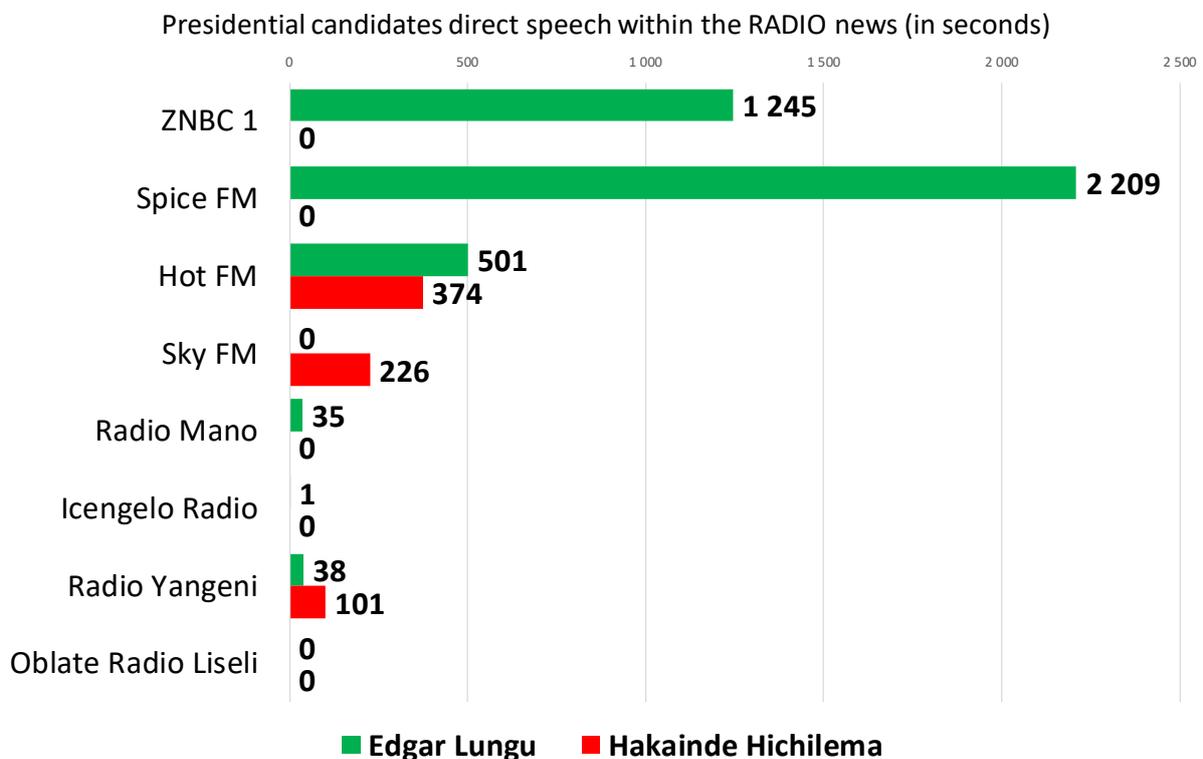
1.4 Total time allocated to political actors during primetime programmes of editorial choice. (All programmes of electoral and political matters, excluding political advertisements and voter information spots.)

	ZNBC Radio 1	Hot FM	Sky FM	Spice FM	Radio Mano	Radio Icengelo	Radio Liseli Oblate
Total time devoted to political actors	18h 24 min	11h 54 min	3h 25 min	8h 1 min	3h 12 min	5h 12 min	6h 24 min
	Radio Yangeni						
Total time devoted to political actors	6h 18 min						

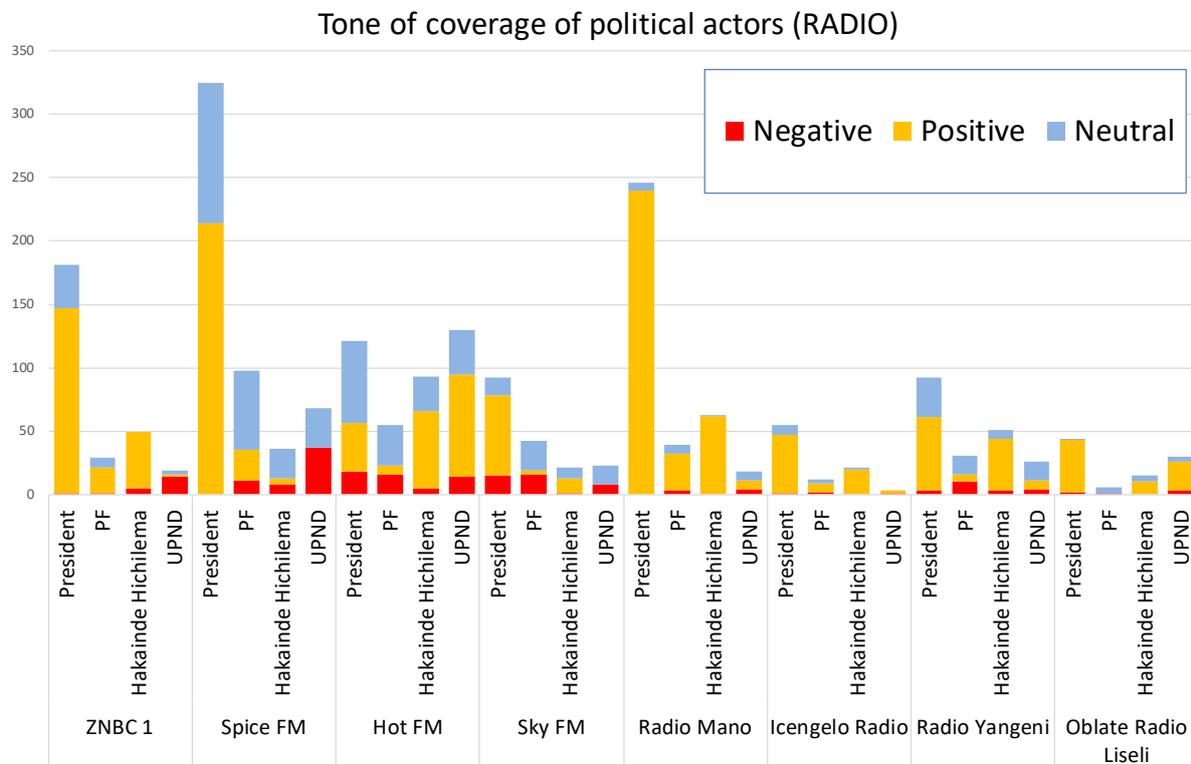
1.5 Total time allocated to political actors during RADIO NEWS



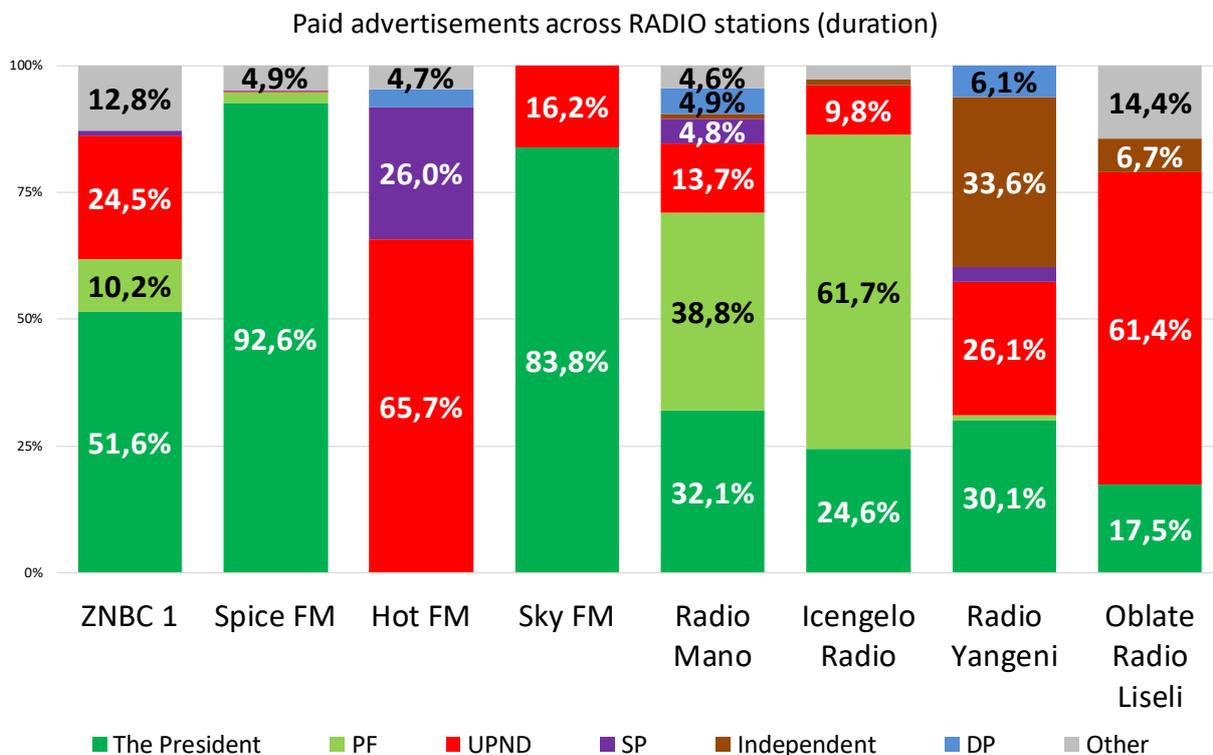
1.6 Total time afforded to direct speech by presidential candidates during RADIO NEWS



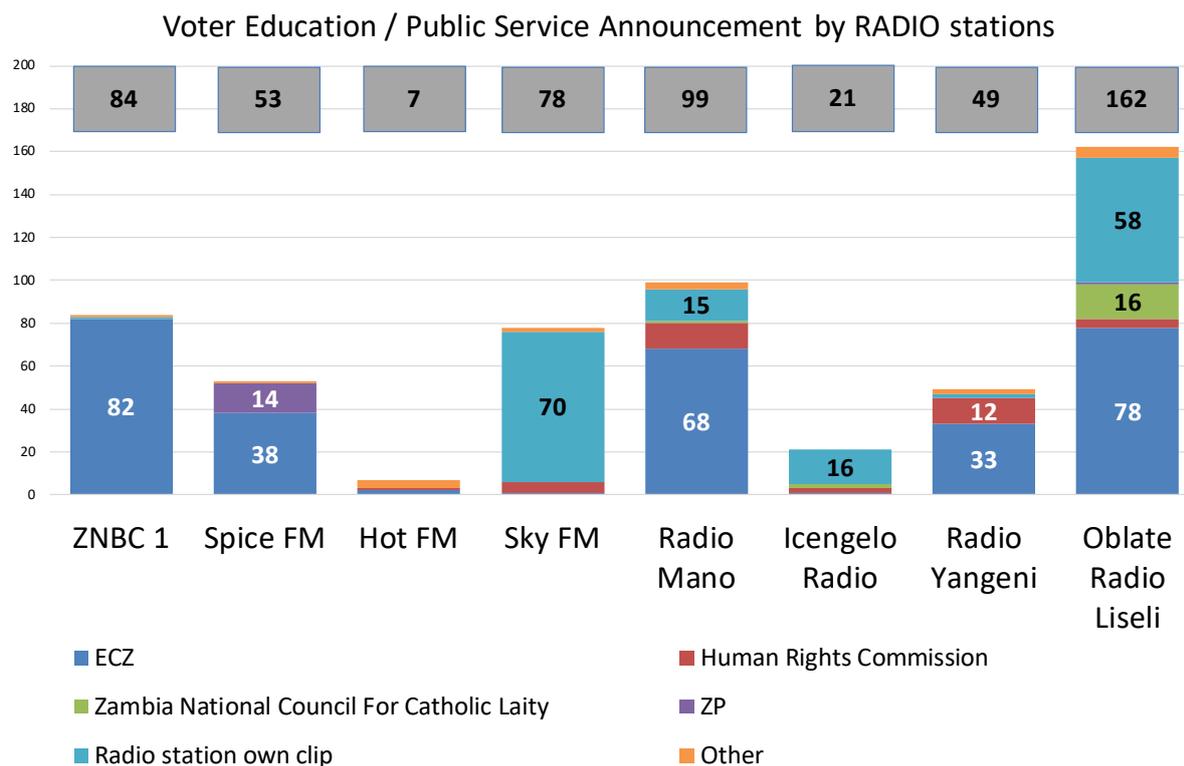
1.7 Tone of coverage across RADIO stations (all editorial choice programmes, excluding advertisements and live political publicity events)



1.8 Paid advertisements by RADIO stations



1.9 Voter education and PSA on RADIO stations



2. TELEVISION

TV channels are the second most popular source of information when bringing election-related news to the population. Four TV stations with nationwide, or close-to-nationwide coverage were included in the monitoring exercise, based on audience reach. The sample included:

- 1) **ZNBC TV 1** (The main state-run TV with coverage countrywide)
- 2) **ZNBC TV 2** (The state-run entertainment TV channel with news)
- 3) **Diamond TV** (A private TV station established in 2017, with the head office in Lusaka and offices in seven provinces)
- 4) **Muvi TV** (The first private commercial television station in Zambia, established in 2002)

Monitoring periods:

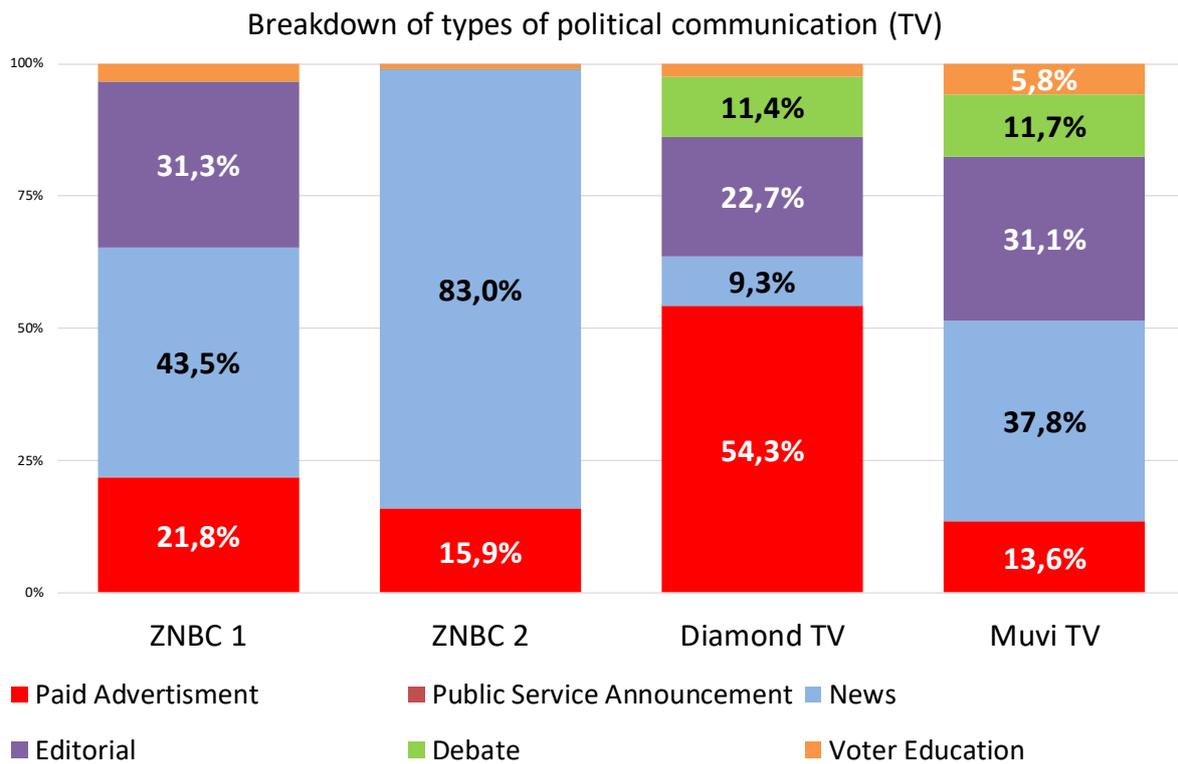
- From 9 July to 11 August 2021, from 18:00 hours to 23:00 hours daily

The total time coded was 675 hours. The total time allocated to political communication was 189 hours, or 28 per cent of the monitored time.

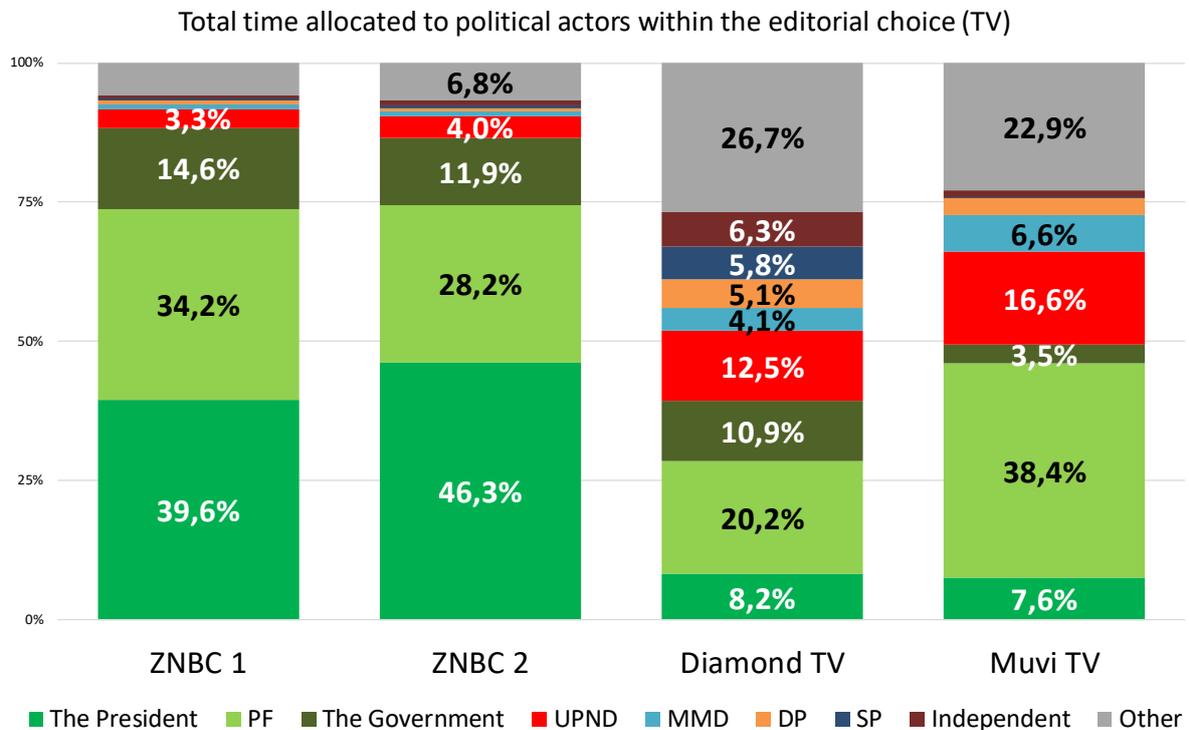
2.1 Total time allocated to political communication in primetime television programming

	Percentage of total time coded	Time allocated to political communication
ZNBC TV 1	29 per cent	49 hours 0 min
ZNBC TV 2	14 per cent	23 hours 12 min
Diamond TV	45 per cent	77 hours 10 min
Muvi TV	22 per cent	36 hours 45 min

2.2 Breakdown of types of political communication in TV stations' primetime programming



2.3 Total time allocated to political actors within TV EDITORIAL CHOICE (News, Debates, Editorial Programmes)

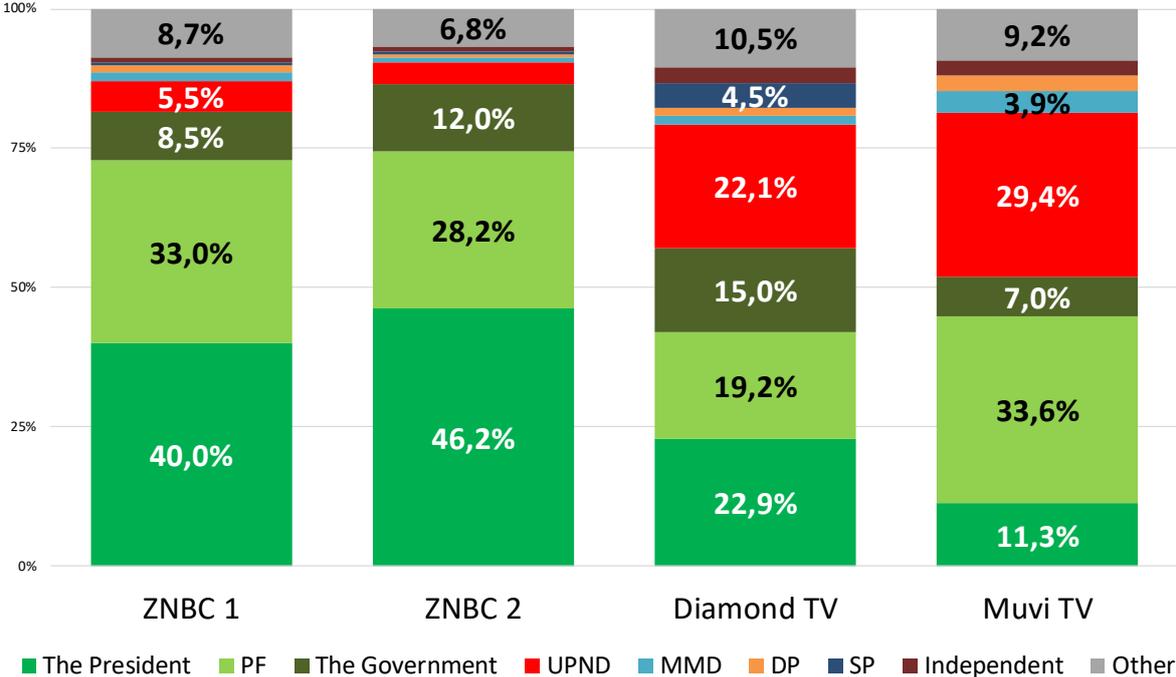


2.4 Total time allocated to political actors during election-related primetime programmes of editorial choice. (All programmes on electoral and political matters, excluding political advertisements and voter information spots.)

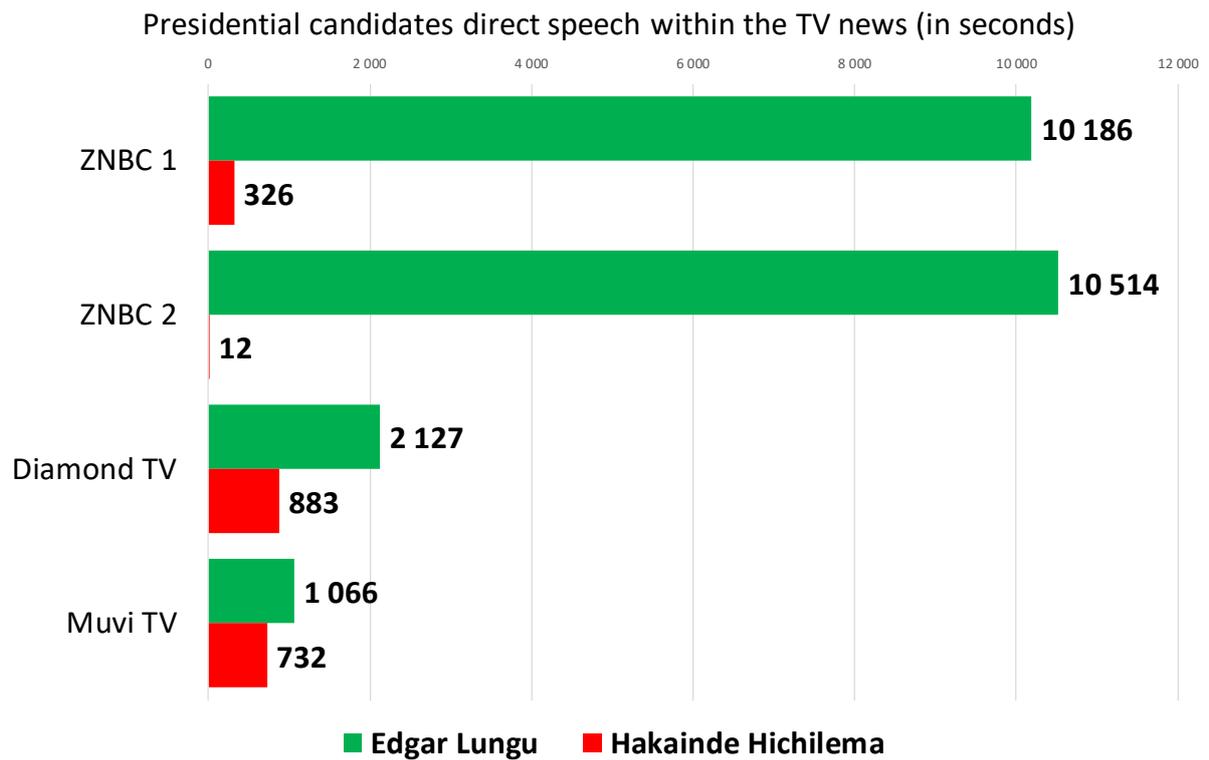
	ZNBC TV 1	ZNBC TV 2	Diamond TV	Muvi TV
Total time devoted to political actors	36h 42 min	19h 21 min	33h 0 min	29h 35 min

2.5 Total time allocated to political actors during TV NEWS

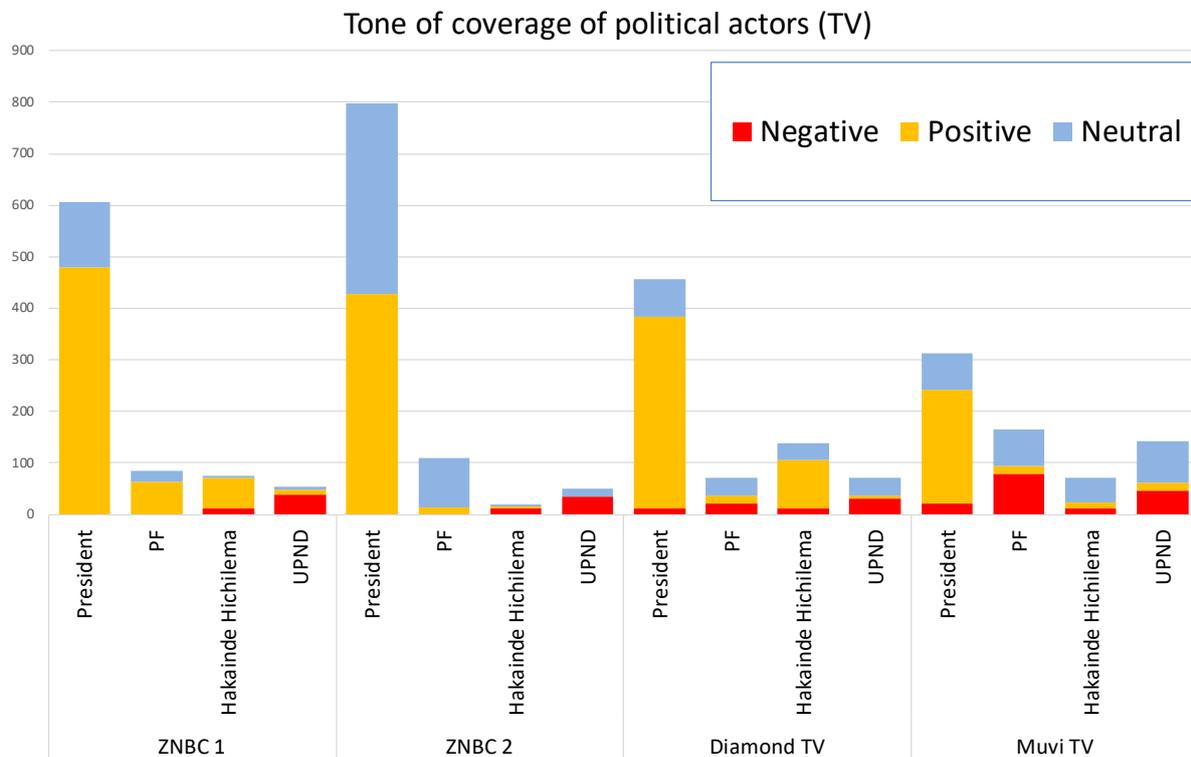
Total time allocated to political actors within the news (TV)



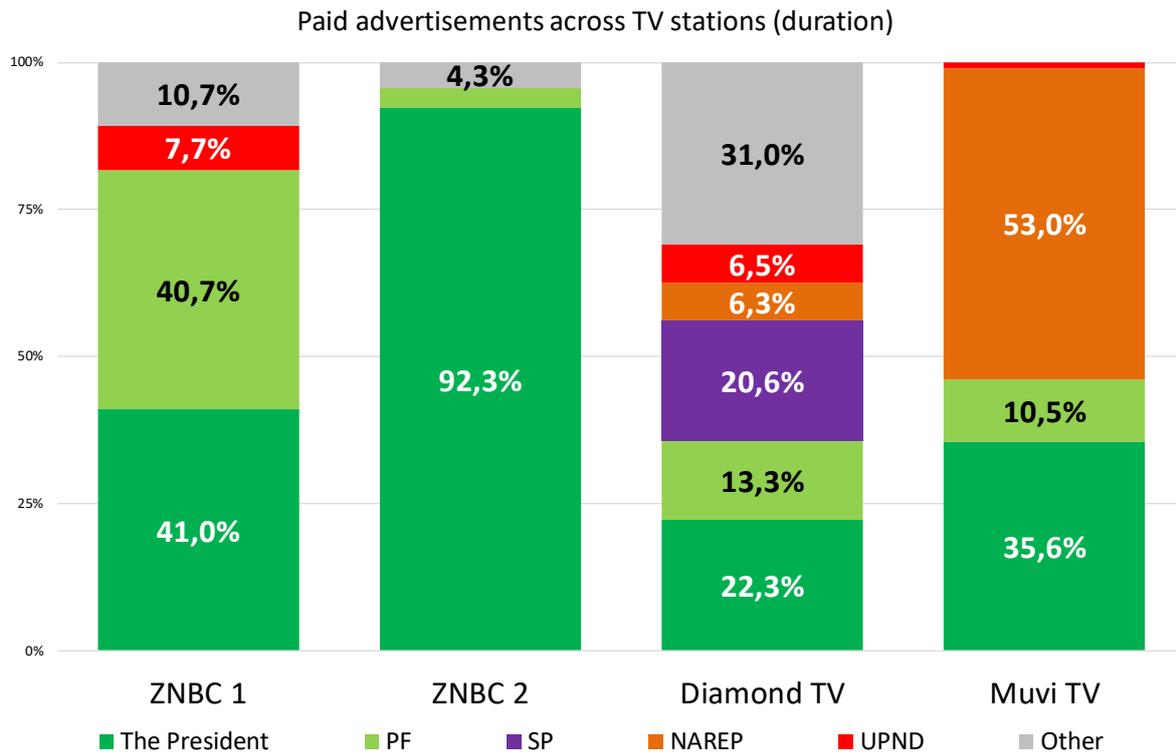
2.6 Total time afforded to direct speech by presidential candidates during TV NEWS



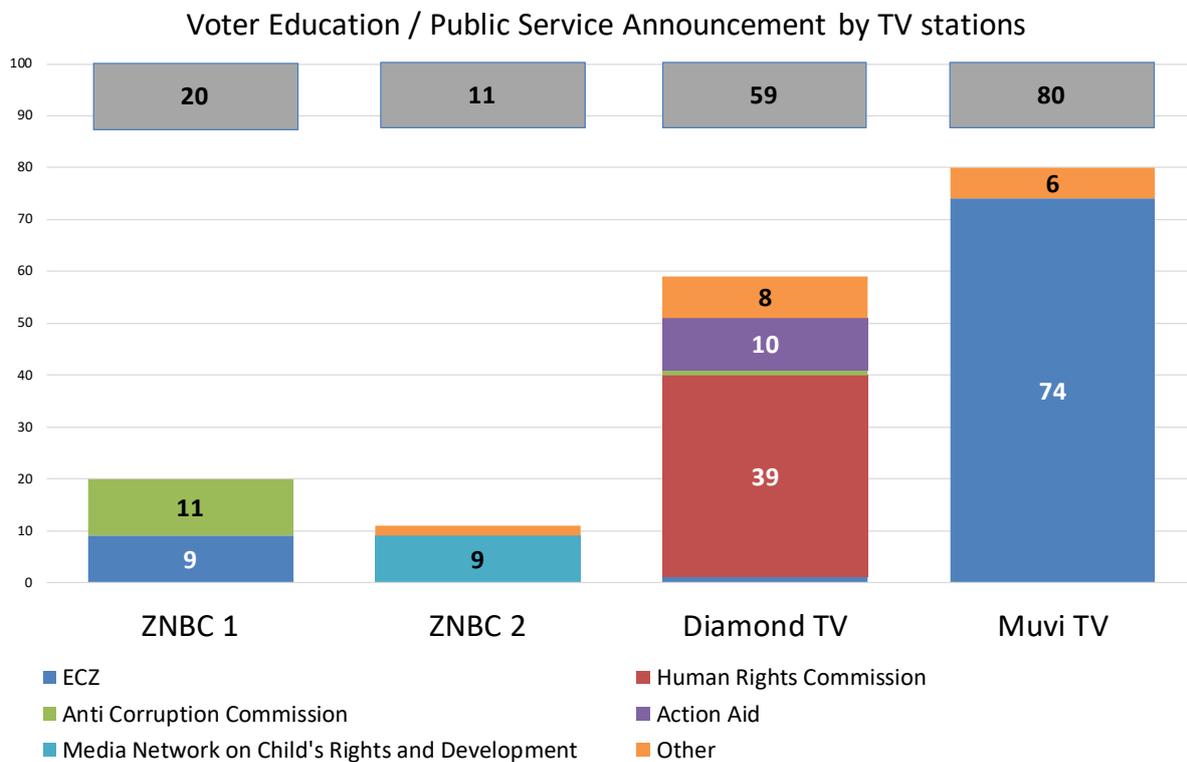
2.7 Tone of coverage across TV stations (all editorial choice programmes, excluding paid advertisements and live political publicity events)



2.8 Paid advertisements by TV stations

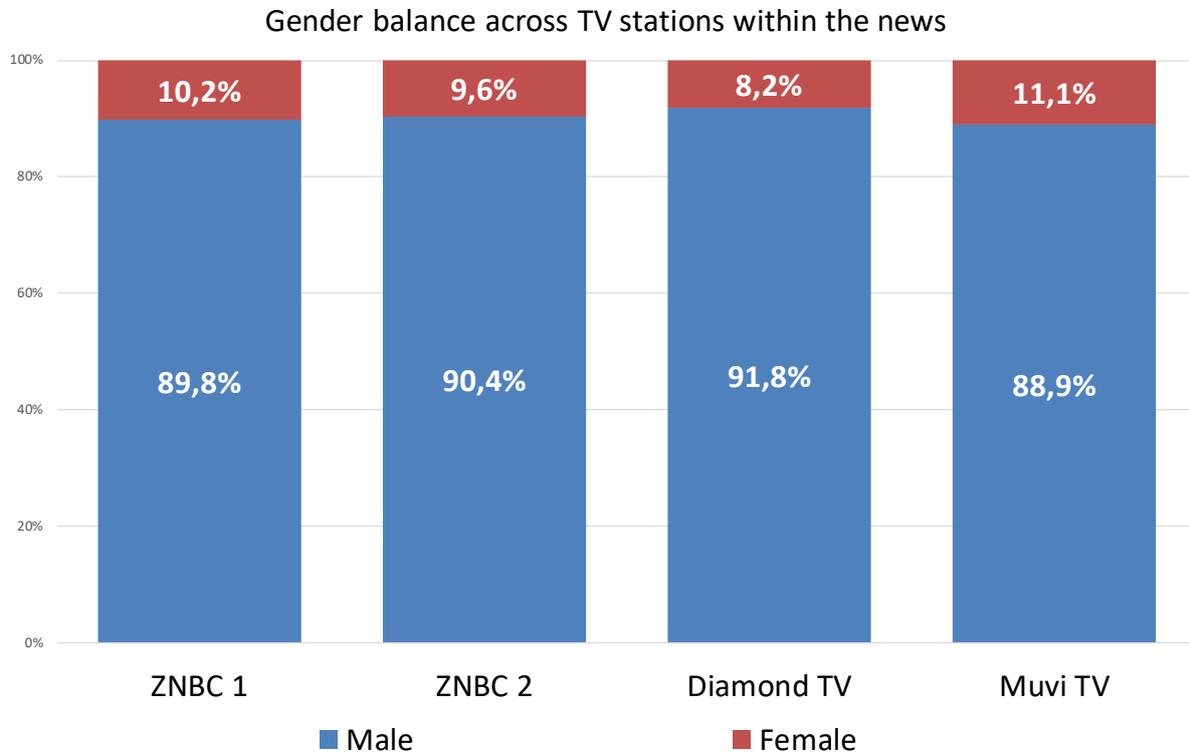


2.9 Voter Education / Public Service Announcements on TV stations

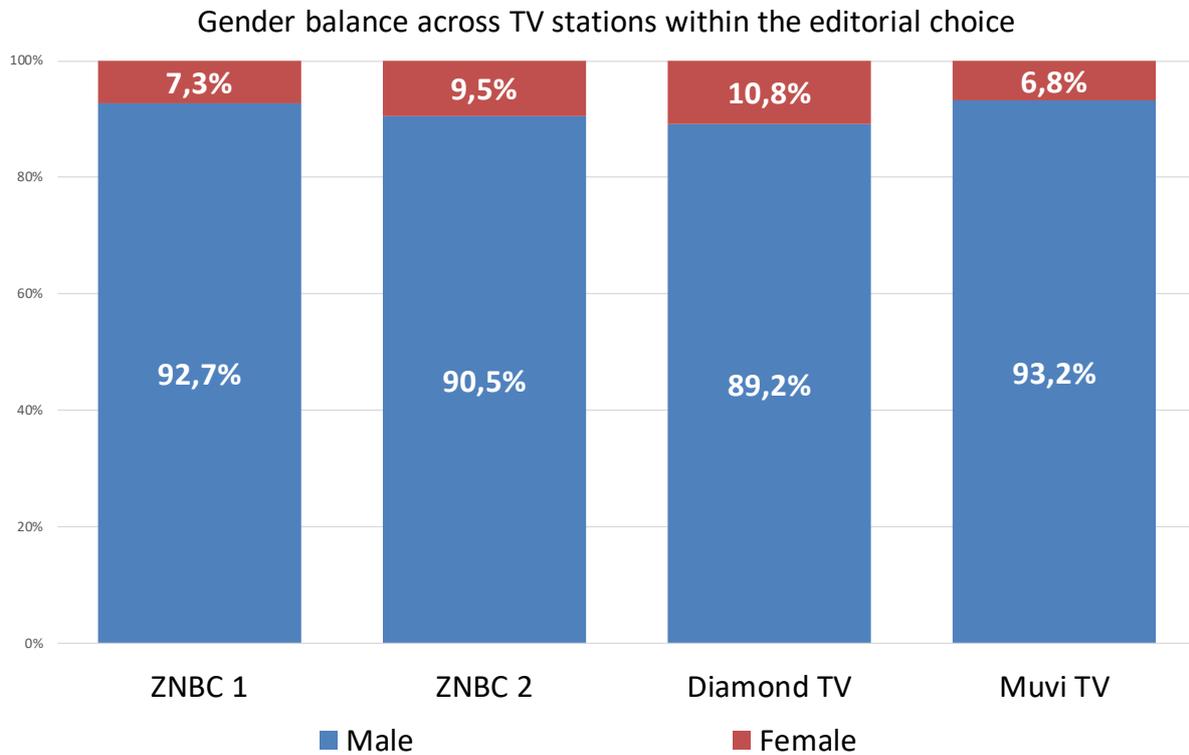


3. GENDER BALANCE ACROSS THE BROADCAST MEDIA

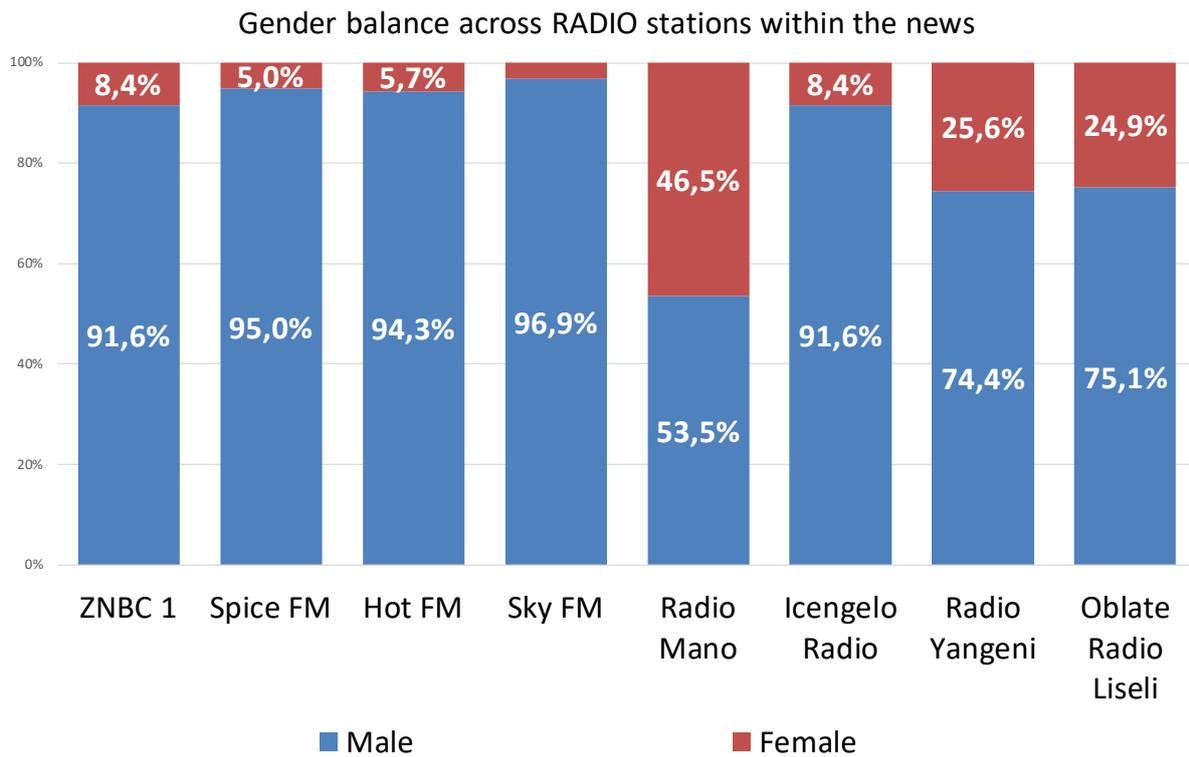
3.1 Time allocated to candidates based on gender – TV NEWS



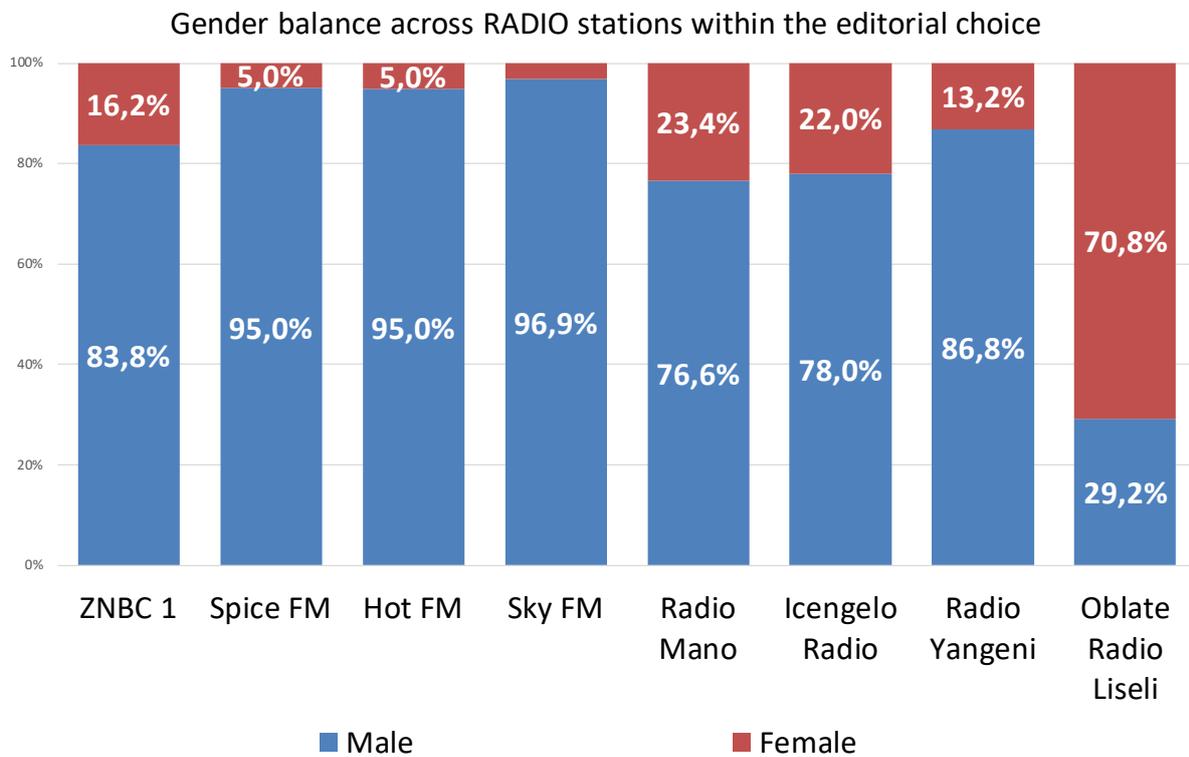
3.2 Time allocated to candidates based on gender – TV EDITORIAL PROGRAMMES



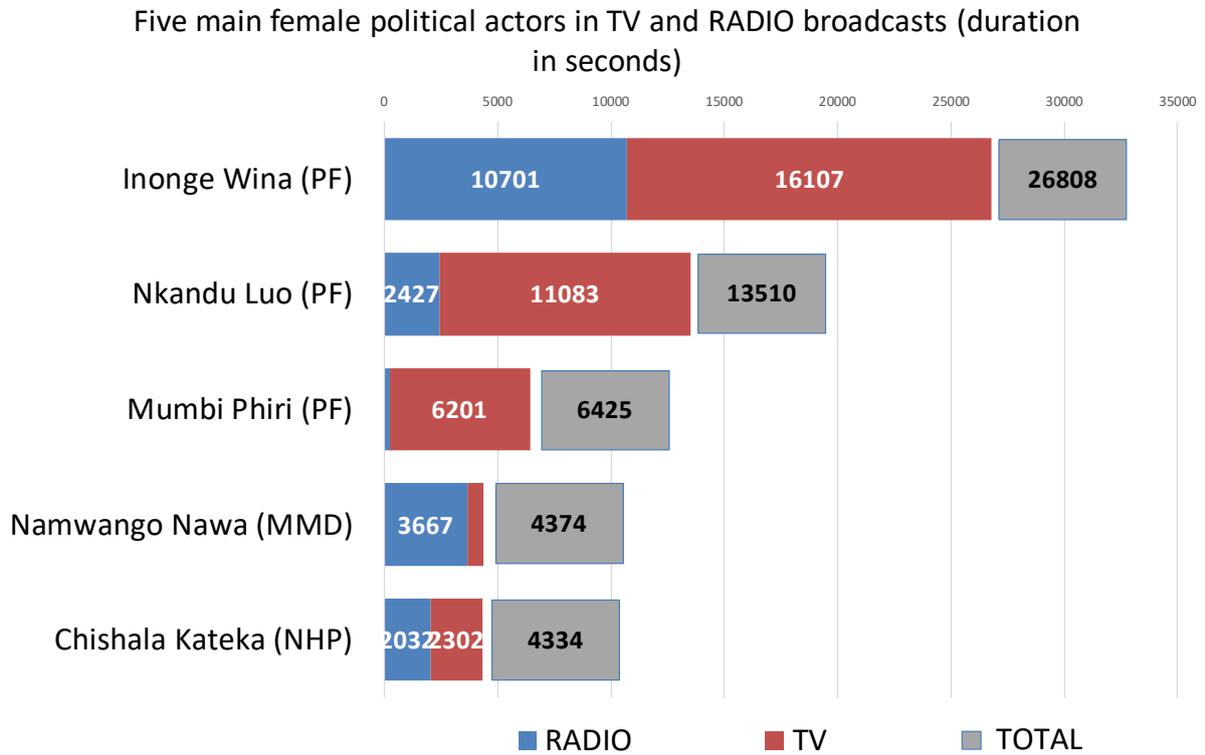
3.3 Time allocated to candidates based on gender – RADIO NEWS



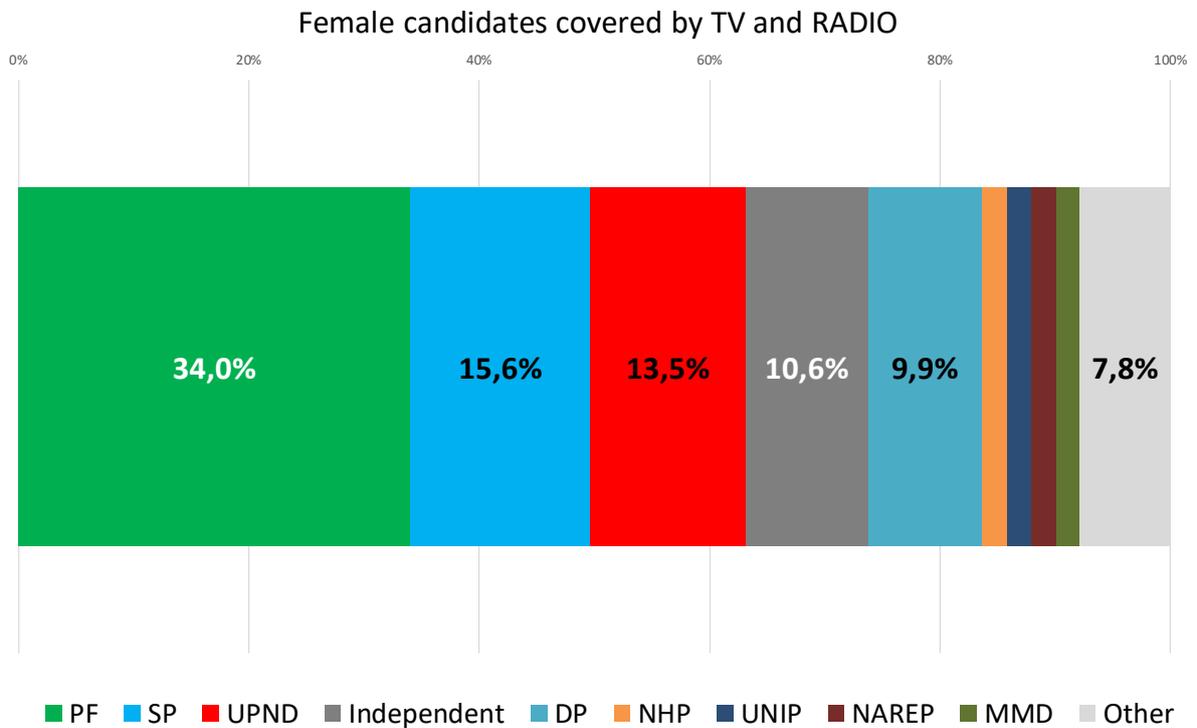
3.4 Time allocated to candidates based on gender – RADIO EDITORIAL PROGRAMMES



3.5 Five most quoted female political actors in TV and RADIO broadcasts - time allotted to DIRECT SPEECH by female candidates within the news segments on electoral matters



3.6 Party affiliation of female candidates in TV and RADIO broadcasts - time allotted to DIRECT SPEECH by female candidates within news segments on electoral matters



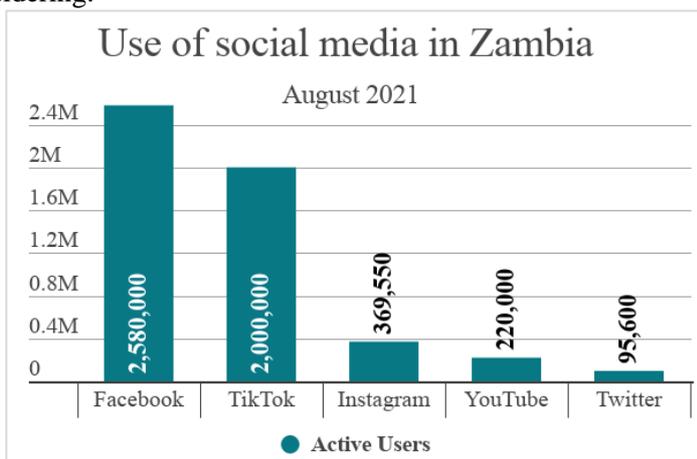
ANNEX C

Social Media Monitoring Results

The EU EOM monitored an indicative set of social media accounts, profiles, groups, and pages, with a nationwide and regional relevance, to capture key campaign trends across various online platforms. The selection of accounts and topics the mission was following was made after assessing the prospective impact a certain online content (or processes) might have on political participation and voting rights. Among the social media platforms, only Facebook had the potential to affect the pre-election discourse, hence the communication on this platform was in mission’s monitoring focus.

The selection of the sample was done considering:

- The reach and impact on the political agenda (number of followers, interaction rate per post, quotation level in traditional media and sum of shares, etc.).
- The content of the page (are topics covering social, political, and electoral issues, is the content original or is it primarily re-shared, is the content controversial, etc.).
- Political affiliation of the account/page/group.
- The dominant language used on the page or by the social media influencer was also considered to obtain a balanced sample of digital content in English, Bemba and Tonga.



Monitoring period – from 18 July to 29 August 2021.

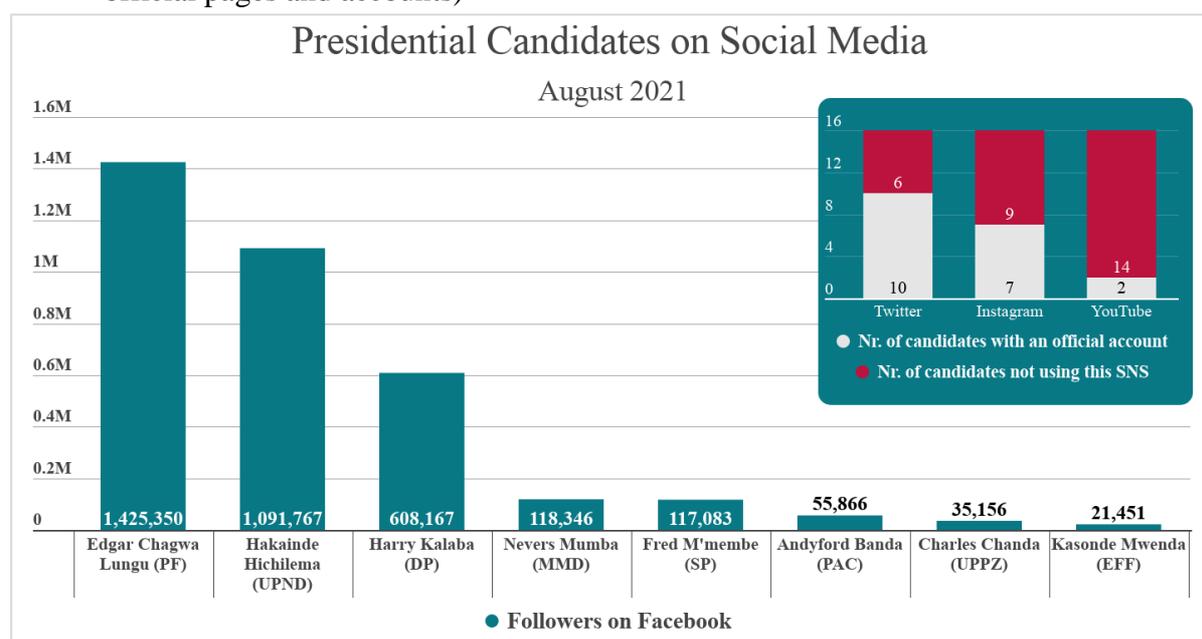
The selected sample of Facebook pages/groups/public accounts¹

NR	CATEGORY	NR. OF PAGES	MAX FOLLOWERS	MIN FOLLOWERS
1	Presidential candidates (official pages)	16	1,425,350	547
2	Political parties (official, national pages)	19	208,040	632
3	Unofficial political pages (PF)	25*	151,820	1193
4	Unofficial political pages (UPND)	88	171,410	1195
5	Social media influencers and rights activists	25	550,500	6,501
6	News media pages on Facebook	80	1,927,766	3,449
7	Political gossip pages	2	250,073	100,860
8	LTO assessment - Facebook pages of all PF and UPND candidates for Parliamentary elections and pages of other high-profile candidates running for lower-level elections	455	353,091	0
TOTAL		710		

*The monitoring sample includes a smaller number of unofficial PF-supporting pages than unofficial UPND-supporting pages as their online campaign strategies differed. The PF’s online campaign was consolidated around a handful of highly active fan pages on Facebook. The UPND had established a webwork of online grassroots-level groups and pages that, while focusing on district and province-level issues also sustained a robust interlink with national-level pages and subsequently, with the national presidential campaign.

¹ The sample does not include social media accounts that were observed and assessed based as a part of a case study. For example, case study of fake news page, case study concerning certain election-related incident.

1. Presidential candidates' presence across social media platforms (includes only official pages and accounts)²



NR	THE CANDIDATE	PARTY AFFILIATION	NR. OF FOLLOWERS
9	Enock Tonga	3RD LM	13,497
10	Richard Silumbe	LM	13,224
11	Sean Tembo	PEP	12,705
12	Highvie Hamududu	PNUP	5,434
13	Chishala Kateka	NHP	5,180
14	Lazarus Chisela	ZUSD	1,310
15	Stephen Nyirenda	NAREP	547
16	Trevor Mwamba	UNIP	0

The EU EOM manually coded content posted on all official accounts of presidential candidates. The observation reveals that negative commentary against the opposing candidate (s) or the government was observed on all accounts, with the exception of the account of Edgar Chagwa Lungu.

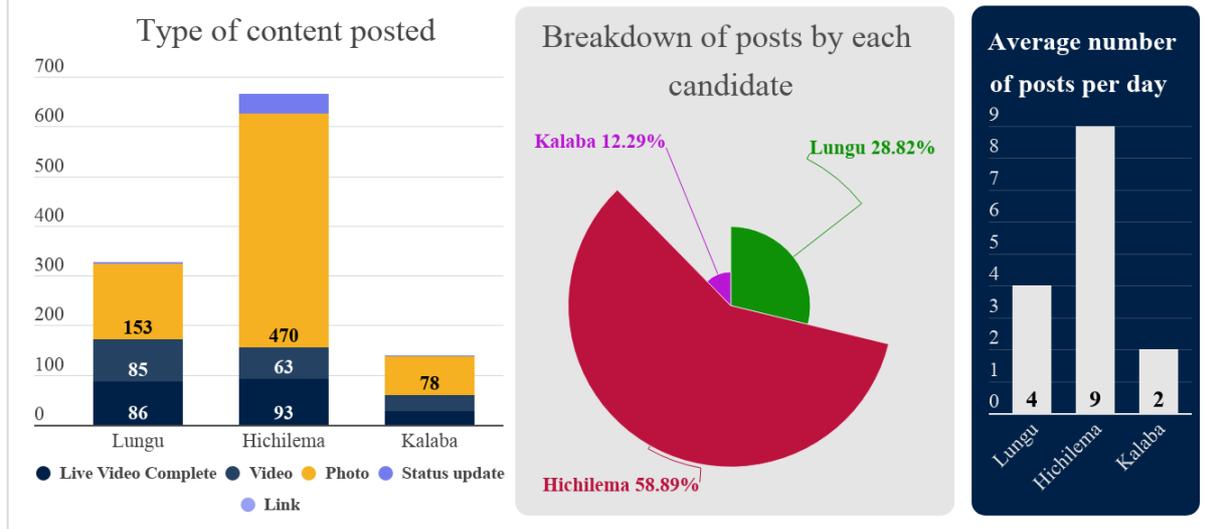
2. Activities observed on official Facebook accounts of the presidential candidates of PF, UPND and DP

Using the social media listening tool CrowdTangle, the EU EOM extracted historical data on all activities recorded on official Facebook accounts of the DP, PF and UPND presidential candidates from 26 May to 10 August (to exclude the campaign silence). The following charts will illustrate the overall activity on those accounts, engagement with the audience and cross-sharing, as well as the relative growth of likes per page. During this period of time, Hichilema's page posted 667 times, Lungu's – 326 times and Kalaba's 139 times.

² Presidential candidate Trevor Mwamba (UNIP) did not have an official Facebook account. He was primarily campaigning from his private page previously used primarily for religious purposes.

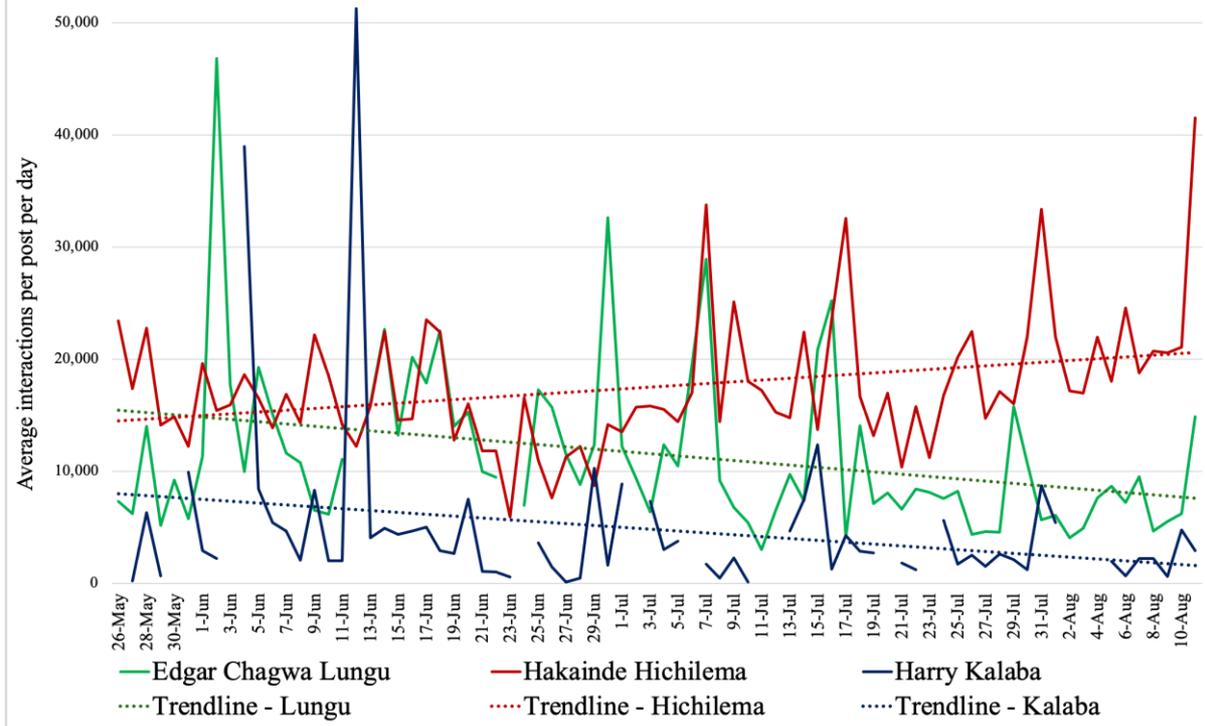
Type of content posted on official pages on Facebook

26 May - 11 August 2021



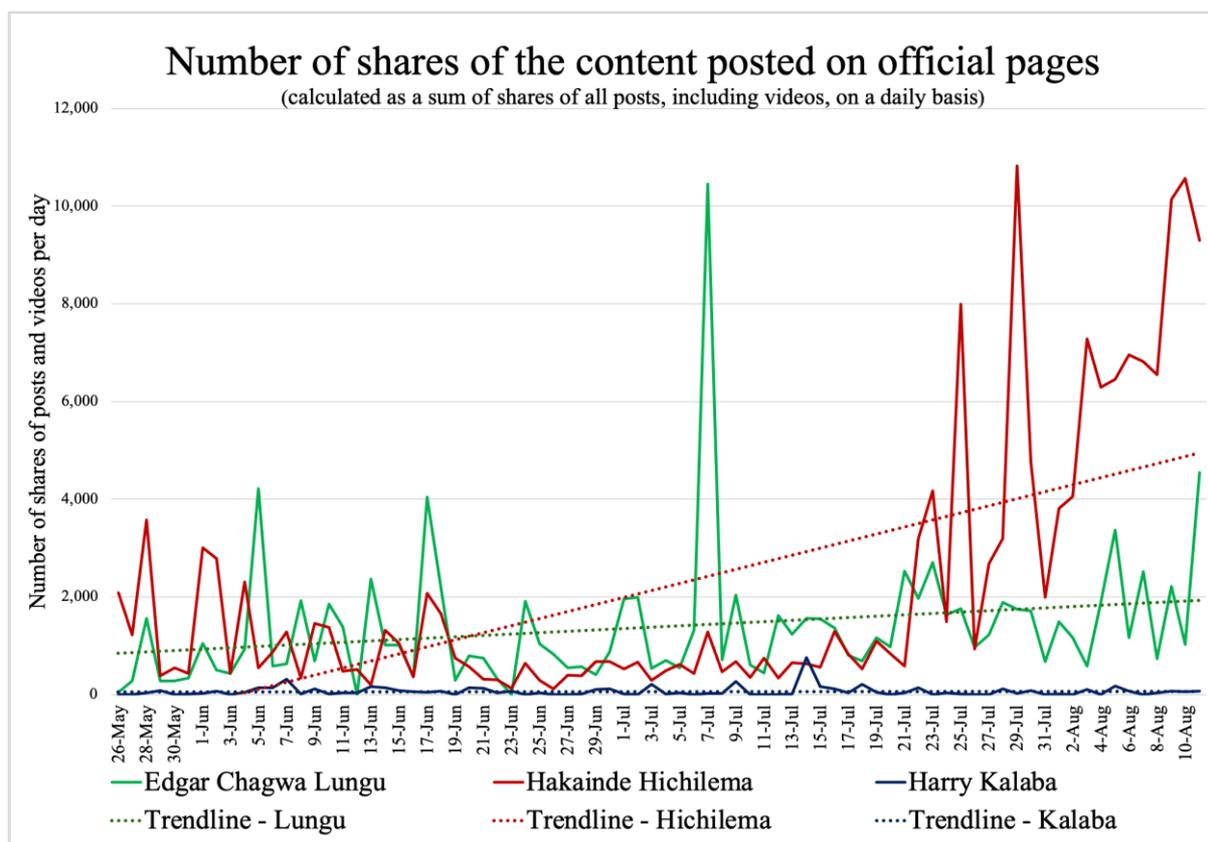
Interaction rate per post on official pages on Facebook

(calculated as an average of interactions (comments, shares and likes) per post on a daily basis)



The trendline in the chart above indicates the growth/decrease of interactions with the respective Facebook account. Despite several spikes indicating high levels of activities on certain days, the posts on Hichilemas page show a steady growing interested from Facebook users from 30 May onwards, while public interest in Lungu's posts was decreasing.

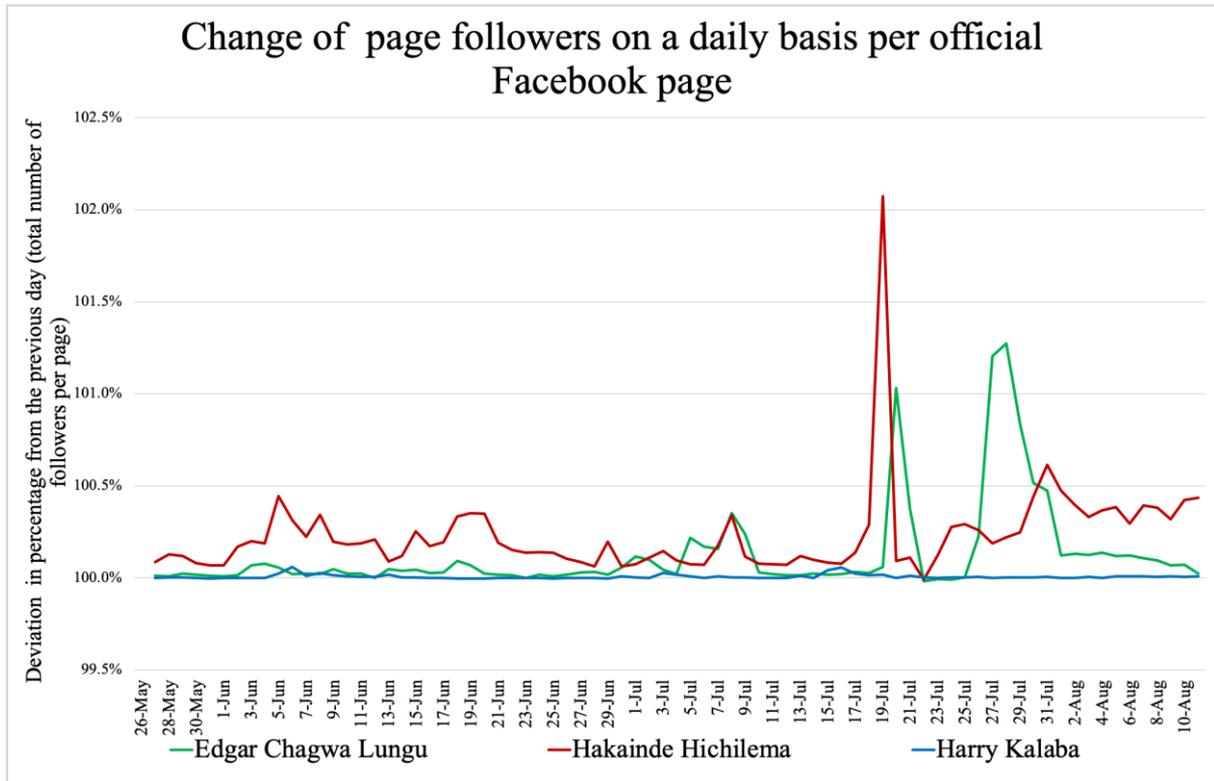
The post with most interactions on Hichilemas page was posted on 10 August (*Its not UPND vs. PF, its Zambians vs. PF* – a total of 61,544 interactions); on Kalaba's - 12 June (his birthday – 51,278 interactions); on Lungu's – 2 June (the birthday of his wife – 43,798 interactions).



The trendline in the chart above indicates the growth/decrease of shares of each post published on the respective Facebook account. Despite several spikes indicating high levels of interest on certain days, the sharing pattern on Hichilemas page show a much quicker growing pace than the one for Lungu’s page with the shift in public interest taking palace on 19 June. The most shared post with most interactions on Lungus page was posted on 7 July (relates to participation in the funeral of late president Kenneth Kaunda– a total of 5,391 shares); on Hichilema’s – 29 July (live video from Chipata airport featuring the police block – 1,528 shares, the video was watched by 298,379 Facebook users).

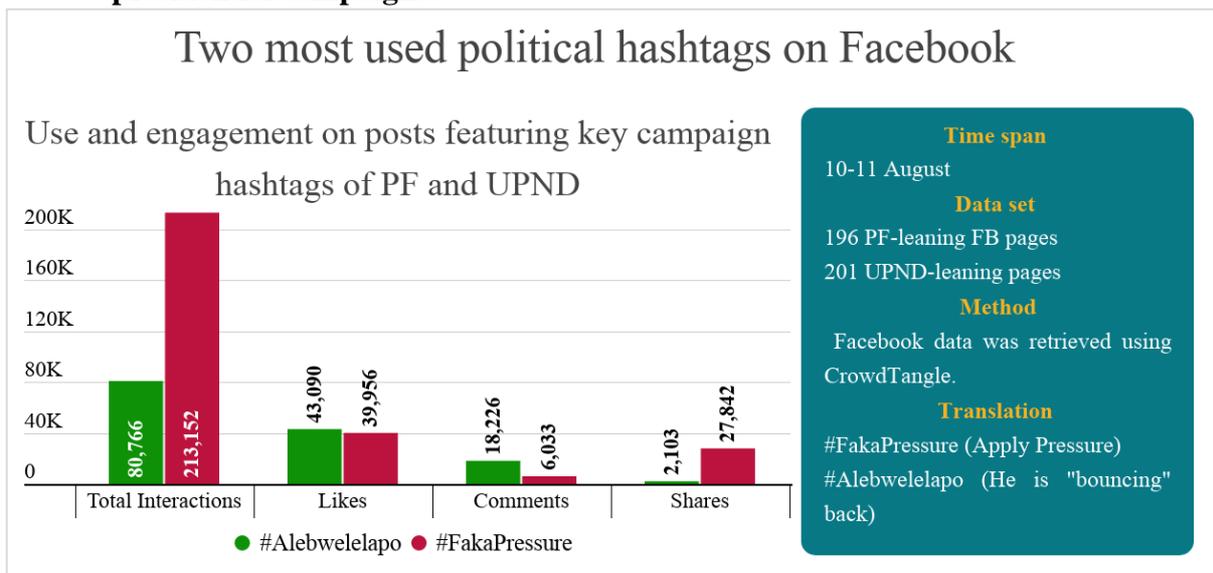
The table below and the next chart illustrates how the number of followers and likes per page changed during the observation period. In the case of Hichilema’s page, one unnatural spike was observed, while in the case of Lungu’s page, three such spikes were observed. The spike is called “unnatural” as a rapid growth of followers and likes occurred during the night, when regular Facebook users are less active, and because it exceeds 1 per cent of the total. Such unnaturally high spikes usually indicate “a purchase” of “likes” and “followers”.

Name of the page	Likes at posting	Followers at posting	Post Created	Time span	Difference in likes	Difference in followers	Difference in % (likes)	Difference in % (followers)
Hakainde Hichilema	850,708	957,281	18 July at 23:26	5 h	17,636	17,705	2.1%	1.8%
	868,344	974,986	19 July at 04:23					
Edgar Lungu	1,075,829	1,305,154	19 July at 18:48	12 h	11,090	11,358	1.0%	0.9%
	1,086,919	1,316,512	20 July at 07:14					
Edgar Lungu	1,093,065	1,338,216	26 July at 22:27	7 h	13,173	13,249	1.2%	1.0%
	1,106,238	1,351,465	27 July at 05:09					
Edgar Lungu	1,106,238	1,351,465	27 July at 18:07	12 h	14,093	14,212	1.3%	1.1%
	1,120,331	1,365,677	28 July at 06:01					



Notably, the rapid change of followers / likes per page did not change the overall engagement pattern observed on those pages. The two smaller spikes, in terms of number of followers on Hichilemas page (25 July (first large-scale mask distribution event in Solwezi) and the rapid growth from 29 July to 31 July), can be explained by campaign events and the use excessive use of force by the police against the UPND. Also the growth happened gradually throughout the day and during the working hours, indicating a genuine increase in online support.

3. Political hashtags used by the UPND and PF to signify posts related to presidential campaigns.

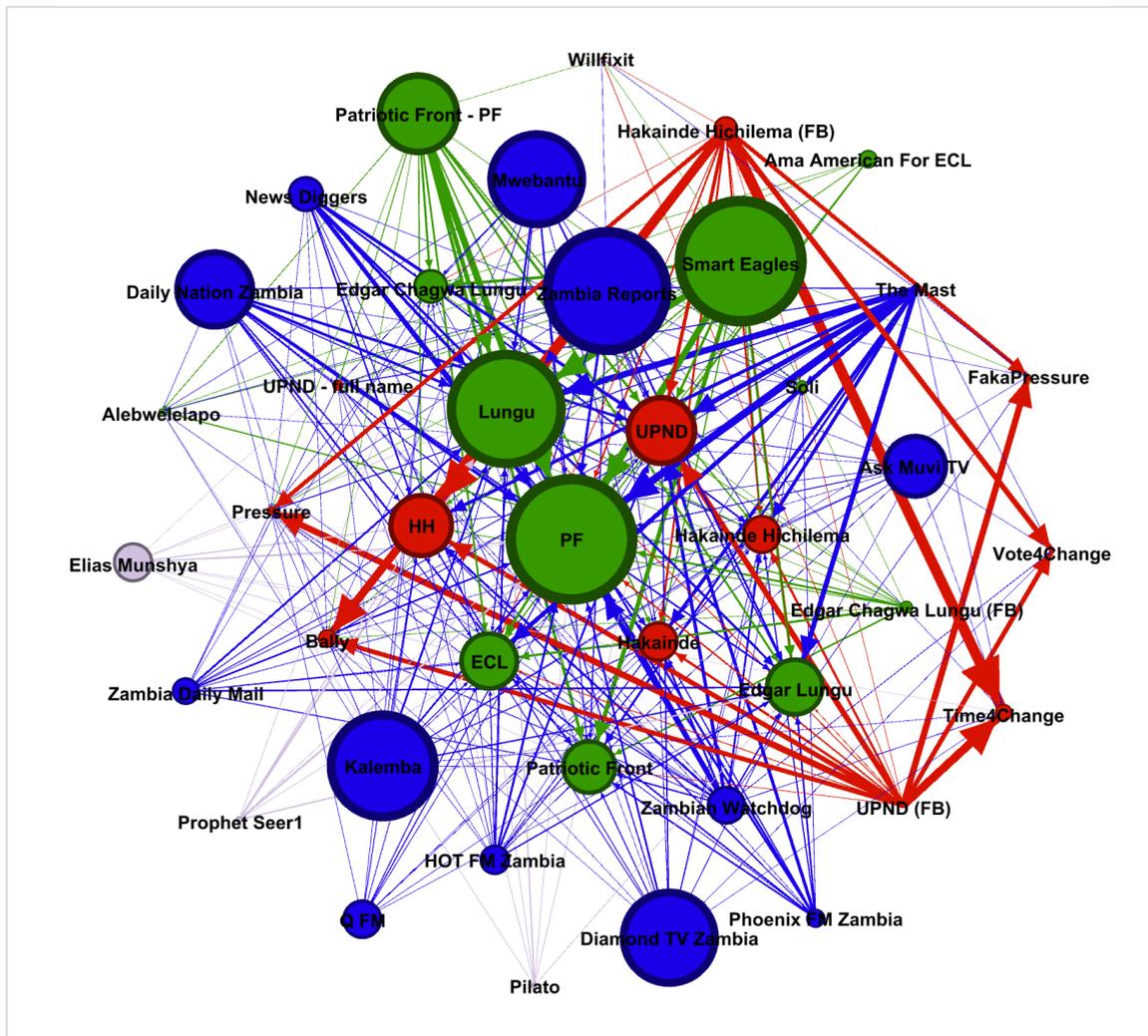


The hashtag FakaPressure was introduced by the UPND on 26 July 2021 to signify all campaign-related events during the last phase of the campaign. It was used by all levels of campaign activities and promoted by party's youth branch. The hashtag Alabwelelapo was introduced by the PF on 10 May 2021 to signify primarily the presidential campaign.

4. Net Analysis of conversations on Facebook (public pages) related to the UPND and PF campaigns.

The EU EOM conducted a net analysis to establish how communication related to both frontrunners is structured and who – news pages, influencers, or official party’s/candidate’s pages – is the driving force behind those conversations. The full net analysis chart shows that while news pages posted about both candidates, the PF was in their focus (determined by the size of green bubbles). The PF media page Smart Eagles was the key promoter of the incumbent (size of respective bubbles), while for the UPND the presidential candidate’s page was the key and signified most of its posts with party’s hashtags or campaign slogans (size of arrow from Hakainde Hichilema to “Bally”, “Time4Change”, “Vote4Change” and “FakaPressure”). More detailed comparison between different types of pages is displayed in charts

Full net analysis of all pages included in the monitoring sample



Blue bubbles – media outlets.

Green bubbles – PF pages and phrases signifying the party.

Red bubbles – UPND pages and phrases signifying the party.

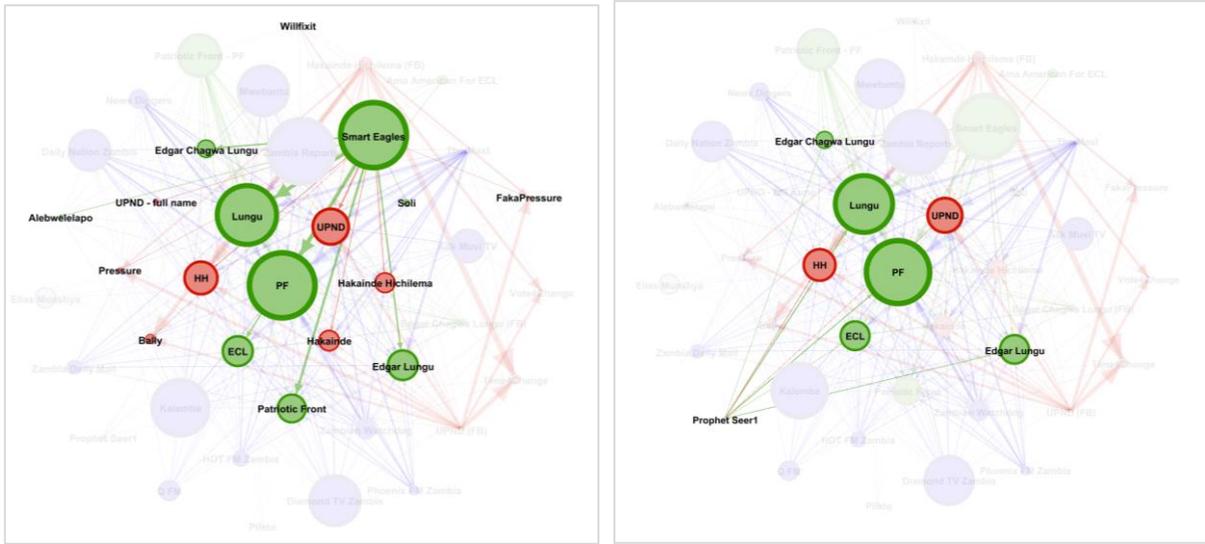
Blue arrows – conversations on media pages.

Red arrows – conversations on UPND pages.

Green arrows – conversations on PF pages.

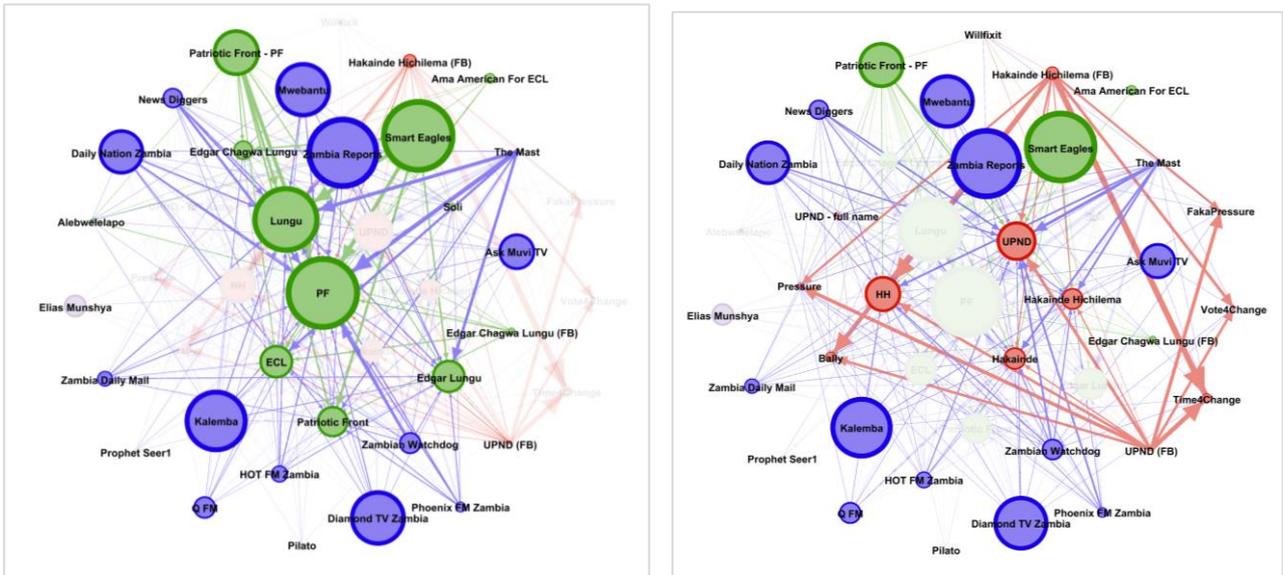
Size of a bubble and size of an arrow illustrates the number of posts with selected key words. More posts mean a bigger bubble or a thicker arrow.

Net analysis of party-leaning pages of social media influencers (The most active one per PF and UPND)



While both pages (Smart Eagles – PF and Prophet Sheer1 – UPND) show frequent mention of keywords related to the party they actually support, they also often used hashtags/phrases signifying the opponent, primarily those posts were negative in tone. Negative content towards the opponent was more pronounced on the UPND-leaning page.

Net analysis of frequency of use and source using the selected set of keywords signifying the respective party



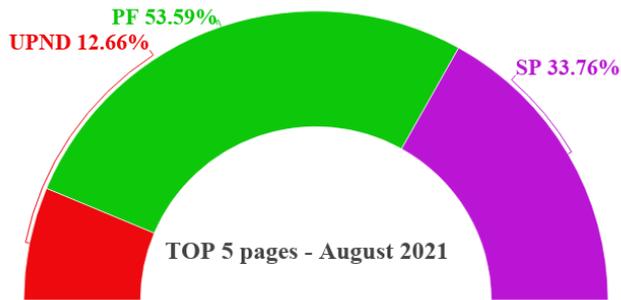
The PF chart shows that keywords signifying party’s campaign were frequently used not only by the party itself but, but also by all top media pages on Facebook. On the other hand, keywords signifying the UPND were primarily used by party official and unofficial pages. The page from The Mast newspaper was a unique example that used keywords of both parties with much higher regularity as any other media

5. Political advertising on Facebook

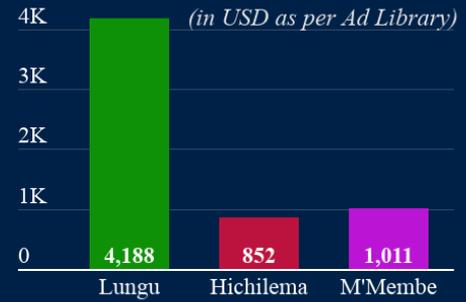
Paid political advertisement on Facebook

July - August 2021

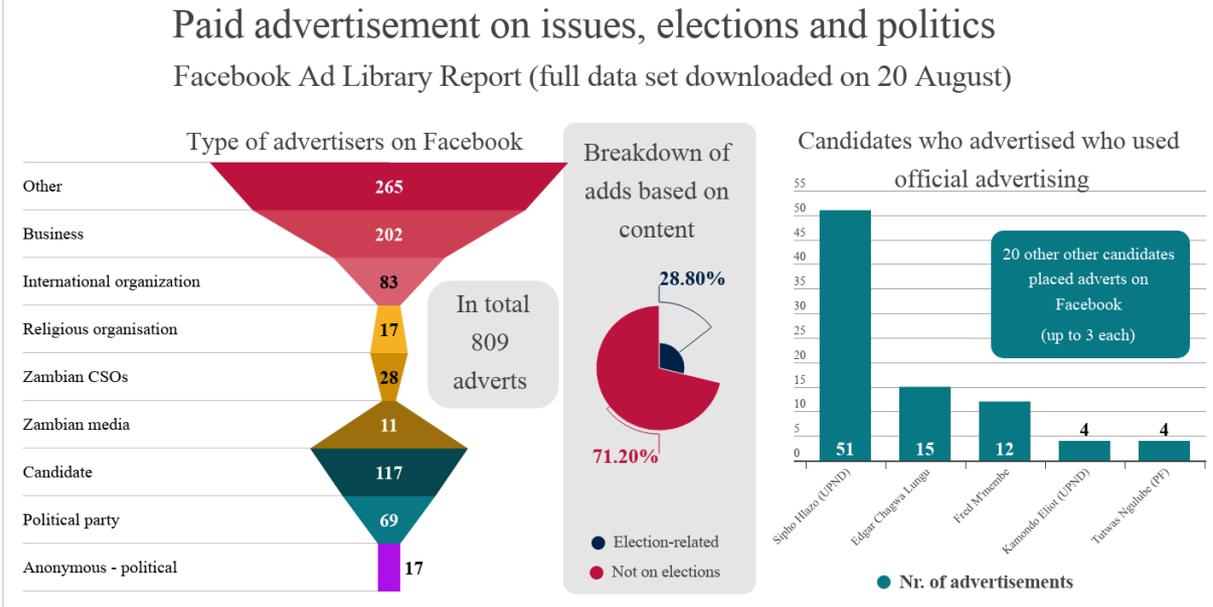
Number of advertisements and paid posts
on media pages on Facebook



Spending
by the official Facebook page



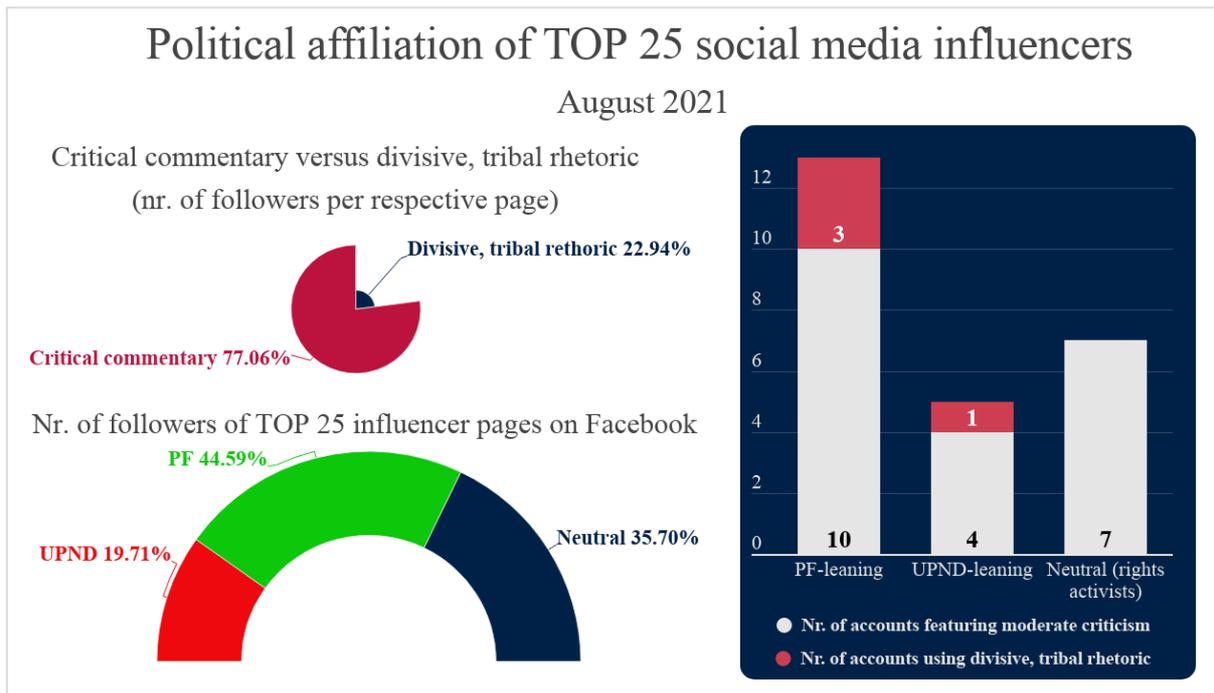
Actual expenditures cannot be calculated, as Facebook Ad Library provides only approximate estimates and media pages on Facebook do not disclose how much they charge for promoting (posting) paid-for content. However, the charts clearly indicate the proportional expenses of three presidential campaigns who frequently used this form and type of campaigning.



Facebook introduced its key transparency tool for political advertising only after the elections. The chart above shows, that despite public assurances, that thorough scrutiny of advertisers/sponsors running advertising on the platform will be performed, only 28.8 per cent of all adds were election related. Further, 67 per cent of all adds indicated by Facebook Ad Library Report as related to Zambia, did not feature a content concerning the country. Seventeen from political advertisements were run by anonymous pages, including four advertisements promoting false content and targeting UPND leader.

Among the parliamentary candidates only the newly elected UPND member of the National Assembly from Chilanga Constituency (Lusaka) Sipho Hlazo consistently used political advertising to promote his campaign activities. All other candidates for the National Assembly placed only one to four advertisements, including one PF candidate who promoted false content targeting the UPND leader.

6. Political leaning of and use of divisive commentary by social media influencers

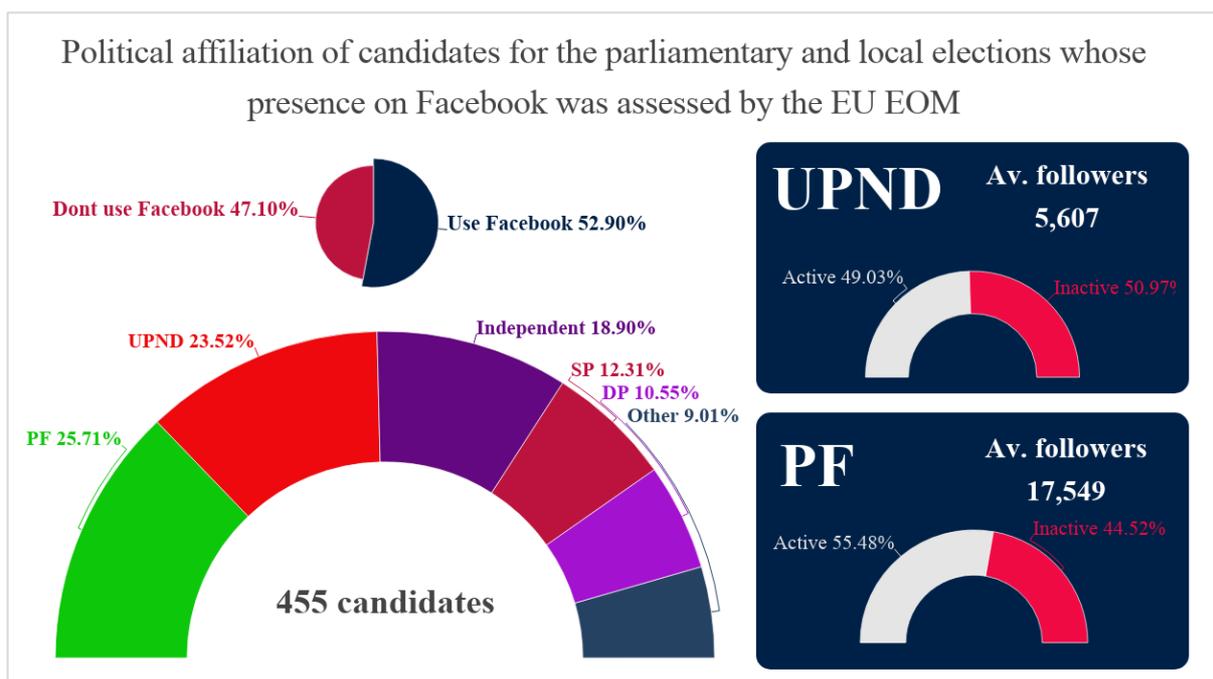


While all rights activists were critical to the PF government, they focused on issues and violations of human rights, without directly advocating to vote for the UPND.

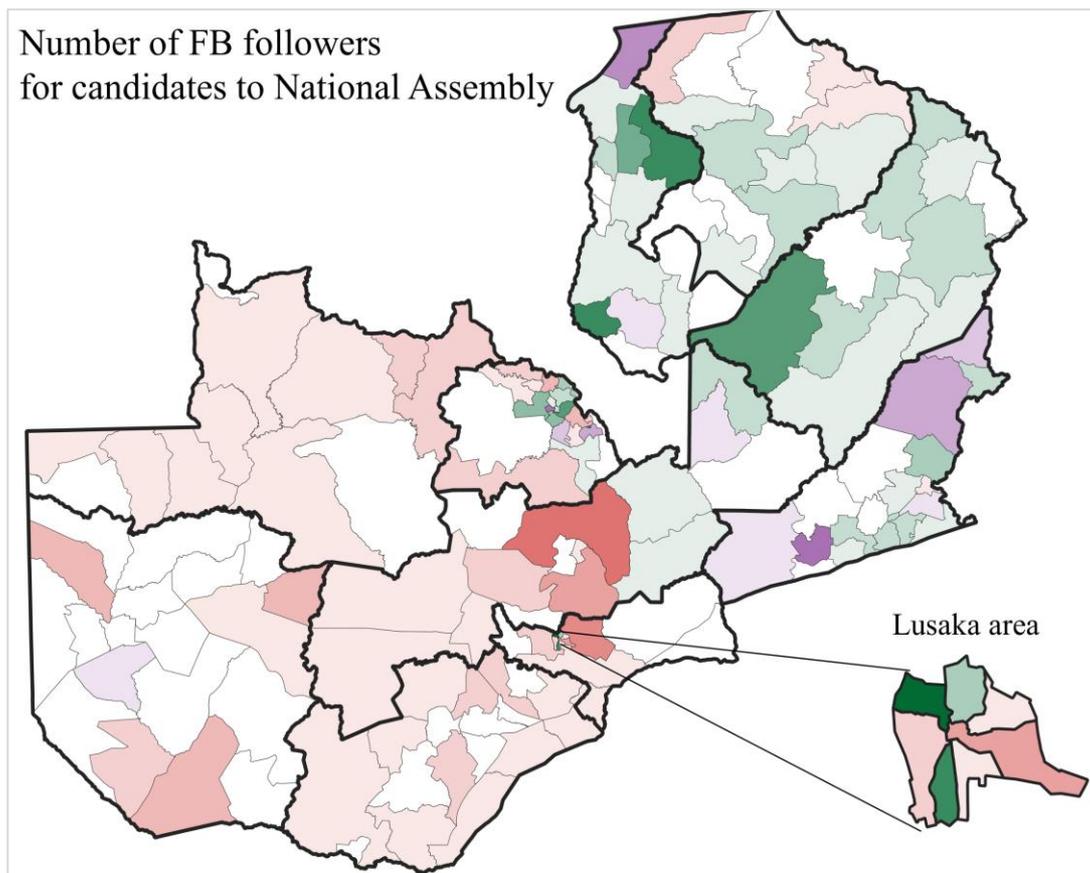
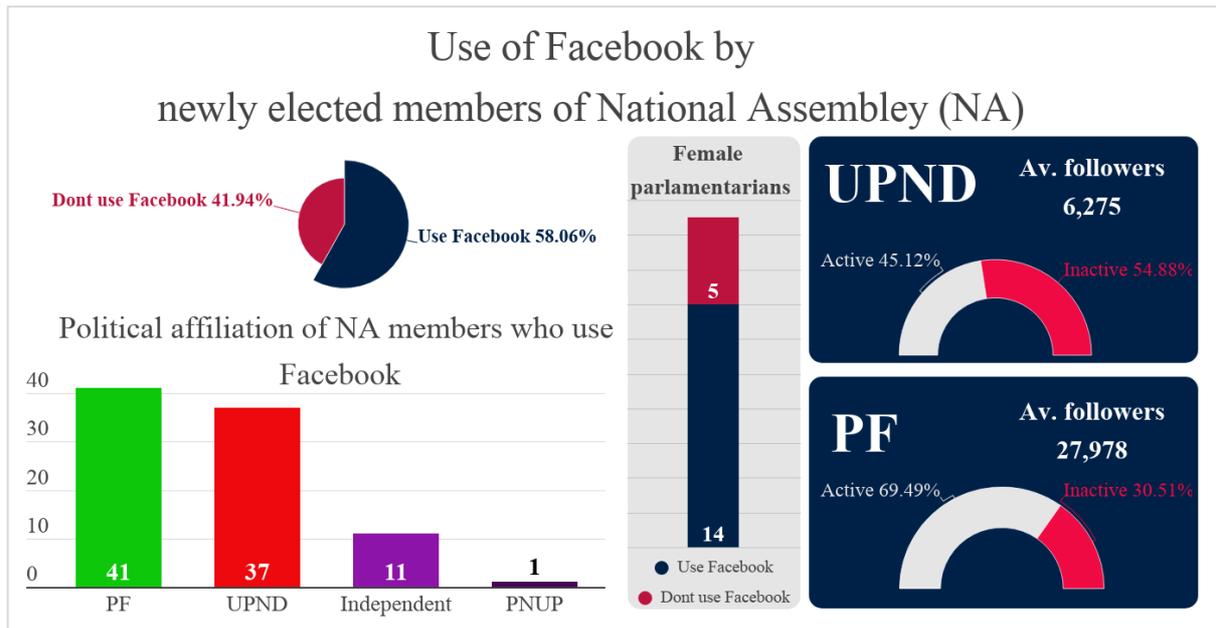
In this context “divisive, tribal rhetoric” means the directly observed use of discriminatory and demeaning language with a reference to a certain tribe. In Zambian context such rhetoric was considered by many interlocutors to constitute hate speech.

7. Online presence of candidates standing for parliamentary and local elections

The EU EOM first assessed a sample of candidates from across the political spectrum standing for parliamentary and local elections. The sample included all PF and UPND candidates standing for election, as well as randomly selected candidates who had visible in-person campaign activities in the constituencies, as identified by EU EOM Long-term observers.



8. Use of Facebook by newly elected members of National Assembly



The heatmap illustrates the number of followers per active account. Darker shade means a candidate elected from the respective constituency has higher number of followers on his or her Facebook page. The white areas mean – a candidate elected from this constituency is not active on Facebook.

ANNEX d : Abbreviations

AA	Administrative Arrangement
ACDEG	African Charter on Democracy, Elections and Governance
ACHPR	African Charter on Human and Peoples' Rights
ADD	Alliance for Democracy and Development
AFP	Agence France Presse
AP	Associated Press
AU	African Union
CC	Constitutional Court (ZMCC)
CCMG	Christian Monitoring Group
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CMCs	Conflict Management Committees
CEO	Chief Election Officer
CO	Chief Observer
COC	Code of Conduct
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organisation
CRPD	Convention on the Rights of Persons with Disabilities
DCO	Deputy Chief Observer
DNRPC	Department of National Registration, Passport and Citizenship
DP	Democratic Party
DPFEA	Declaration of Principles on Freedom of Expression and Access to Information
DSZ	Democracy Strengthening in Zambia
ECL	Edgar Chagwa Lungu
ECTA	Electoral Commissions of Zambia Act
ECZ	Electoral Commission of Zambia
EEM	Election Expert Missions
EFM	Election Follow-up Missions
EISA	Electoral Institute for Sustainable Democracy in Africa
EP	Electoral Process
EU DPR	EU Data Protection Regulation
EU EOM	EU Election Observation Mission
EU ExM	EU Exploratory Mission
EUR	Euro
FDD	Forum for Democracy and Development
FISP	Farmer Input Support Programme
FODEP	Foundation for Democratic Process
GDP	Gross Domestic Product
GEARS	Governance, Elections, Advocacy, Research Services Initiative
HH	Hakainde Hichilema
IBA	Independent Broadcasting Authority
ICCPR	International Covenant on Civil and Political Rights
ICCPR	International Covenant on Civil and Political Rights, Human Rights Committee
HRC GC	General Comment
ICERD	International Convention on the Elimination of Racial Discrimination

ICPRW	International Convention on the Political Rights of Women
ICT	Information and Communications Technology
IFES	International Foundation for Electoral Systems
JCC	Judicial Complaints Committee
LGET	Local Government Election Tribunals
LSTO	Locally Recruited Short Term Observer
LTO	Long-Term Observer
MCE	Movement for Change and Equality
MFC	Movement for Democratic Change
MIB	Ministry of Broadcasting and Information
MISA	Media Institute of Southern Africa
MMD	Movement for Multiparty Democracy
NDC	National Democratic Congress
NDF	National Dialogue Forum
NGO Act	Non-Governmental Organisation Act
NGOCC	Non-Governmental Gender Organisations' Coordinating Council
NRC	National Registration Card
OYV	Operation Young Vote
PEA	Electoral Process Act, No. 35 of 2016
PF	Patriotic Front
POA	Public Order Act
PPCC	Police Public Complaints Commission
PVT	Parallel Vote Tabulation
RPP	Republican Progressive Party
SACCORD	Southern African Centre for Constructive Resolution of Disputes
SADC	Southern African Development Community
SCT	Social Cash Transfer
SNS	Social Network Sites
SOP	Standard Operating Procedures
SP	Socialist Party
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UPND	United Party for National Development
USAID	United States Agency for International Development
TIZ	Transparency International Zambia
ZANIS	Zambia News and Information Services
ZCID	Centre for Inter-Party Dialogue
ZED	Zambia Empowerment and Development
ZICTA	Zambia Information and Communications Technology
ZMK	Zambian Kwacha
ZNBC	Zambia National Broadcasting Corporation
ZNWL	Zambia National Women's Lobby
ZSPM	Zambia Shall Prosper Movement

