



## **PRELIMINARY STATEMENT**

### **Wide voter participation and citizen engagement mark democratic headway, although fundamental legal reform remains key concern**

**Banjul, 6 December 2021**

*This preliminary statement of the EU election observation mission (EU EOM) is delivered before the completion of the entire electoral process. The EU EOM is now only commenting on observation undertaken to date, and will later publish a final report, including full analysis and recommendations for electoral reform. The EU EOM may also make additional statements on election-related matters, as appropriate.*

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#### **Summary**

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- The 4 December 2021 presidential election took place in a competitive and vibrant campaign environment, with all candidates meeting with voters throughout the country to convey their messages. It promoted the democratic tendencies within Gambian society and a growing transitional perspective. This tendency, however, was disconnected from the structural deficiencies and lack of fundamental reform. The monetisation of the campaign and the advantage of incumbency also led to an unlevel playing field between contestants. Polling and counting were well administered during a peaceful election day. The extensive participation of citizen observers, including fact checking initiatives, helped voters navigate the process and contributed to its transparency.
- The legal framework provides a minimal basis for conducting democratic elections, although there are critical gaps, restrictions, and legal uncertainties that require significant reform. As no comprehensive constitutional or electoral reform has taken place, previous EU EOM recommendations in key areas, including restrictions on the right to vote and stand, challenges to candidate nomination, and campaign finance rules, remain unaddressed.
- The IEC has been held in high esteem by stakeholders since the 2016 presidential election. This public standing was, however, diminished after court findings that the IEC had acted unlawfully. The duties of the IEC are very broad, but the capacity of the institution is modest. There have also been concerns raised by various interlocutors about a lack of transparency on aspects their work, with minimal information put into the public domain.
- The IEC announced that just 6 nominations had been accepted; the other 15 aspirants had been rejected. There had been a brief period of public scrutiny during which objections to candidacies could be made by voters. Interested parties, however, were granted access for just five minutes. This exercise was not meaningful, as voters did not have a real opportunity to scrutinise the documentation and gather the information required to make grounded objections.
- Throughout the campaign, freedoms were largely respected, and campaigning was issue-based, although highly personalised. Social media was employed widely. Throughout the country, campaigns met with voters extensively at large rallies in towns, down to small meetings at the village level. Women took an active part, although they were rarely in leadership positions.
- Lack of campaign finance regulation added to an unlevel playing field. This was exemplified by widespread distribution of goods and gifts, giving the incumbent an undue advantage.

- Despite journalists and citizens being able to voice their opinions, the media legal framework severely restricts freedom of expression. In practice, the allocation of TV licences to business conglomerates undermined media freedom and pluralism. The Media Rules on campaign coverage provide for free airtime and the right to purchase airtime, but unduly restrict candidates' right to free speech. EU EOM media monitoring results show that the Gambia Radio and Television Services (GRTS) provided rather balanced news coverage of contestants' campaign, while commercial TV stations displayed significant bias towards the incumbent.
- Facebook, with some half a million users was the prime online discussion forum on elections. WhatsApp was instrumental in mobilising the electorate, while also accelerating the spread of false news that distorted the campaign environment. The Gambia's top 10 news/infotainment pages on Facebook upheld a vigorous and pluralistic debate. However, disinformation confused voters, while tribal rhetoric shrank the space for a fact-based debate. National fact-checking fostered transparency and strengthened electoral integrity.
- Women have been active, although their role in the presidential race has been limited. One woman aspired to nomination but was rejected. Further affirmative action is needed to address barriers to political participation for marginalised groups.
- Election day was calm and voter turnout high, with long queues throughout the day. The overall performance of polling staff was assessed as good, although limited difficulties were observed, some of which undermined the secrecy of the vote. Counting procedures were not always followed and results forms were not always publicly posted or provided to candidate agents. The collation was accessible, and results were announced progressively by constituency, which promoted transparency, although disaggregated polling station results were not published.

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*The European Union Election Observation Mission (EU EOM) has been present in The Gambia since 27 October 2021 following an invitation from the Independent Electoral Commission (IEC). The Mission is led by Chief Observer, Norbert Neuser, Member of the European Parliament (Germany). While the EU EOM deployed locally recruited short-term observers (LSTOs), the deployment of STOs and the EP Delegation from Europe was not possible prior to election day because of the proliferation of COVID-19. In total, the EU EOM deployed 40 observers from 17 EU Member States, including Canada, Norway and Switzerland across the country to assess the whole electoral process against international obligations and commitments for democratic elections as well as the laws of The Gambia. On Election Day, observers visited over 170 polling stations and 20 counting centres in all parts of The Gambia to observe voting and counting.*

*This preliminary statement is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, in particular, the handling of possible post-election day complaints and appeals. The EU EOM remains in country to observe post-election developments and will publish a final report, containing detailed recommendations, within the coming months of the conclusion of the electoral process.*

*The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.*

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## Preliminary Findings

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### Background and Electoral System

The victory of Adama Barrow in the December 2016 election brought an end to the 22 year rule of former president Yahya Jammeh and his Alliance for Patriotic Reorientation and Construction (APRC). Adama Barrow won the election as an independent candidate supported by the Coalition 2016. Four months later, The Gambia held competitive National Assembly (NA) elections where the coalition parties won a constitutionally important two-thirds majority of the seats in the parliament.

The political environment has changed significantly since 2016, opening the way for democratic transition. Respect for fundamental freedoms improved. Political friction among the coalition leaders resulted in the demise of the coalition in 2019 and the formation by President Barrow of the National People's Party (NPP), attracting many United Democratic Party (UDP) supporters, including 10 of their NA members. Democratic reform has not been institutionalised, as political disagreement over retroactive application of presidential term limits and limits on executive power halted progress.

The president is elected by direct vote to a five-year term, without term limits, in a simple majority contest in one nationwide constituency. In this election, the main contenders were the incumbent, Adama Barrow (NPP) and Ousmainou Darboe (UDP), whose party has the highest number of NA seats and mayors/chairpersons in regional municipal councils. The other candidates were Mama Kandeh, whose GDC represents the third most popular party based on the 2017 election results; the PDOIS leader, Halifa Sallah; Essa Faal, a recognised former TRRC lead counsel; and Abdulai Jammeh, a chairperson of the recently formed the National Unity Party (NUP). The former ruling APRC party leadership did not nominate a candidate, declaring its support for the incumbent. A smaller APRC faction backed by Jammeh has joined forces with the GDC leader. The Gambian diaspora (some 200,000) plays an important role in the country's political and economic life; all registered parties note some support coming from their chapters abroad.

### Legal Framework

The country is a state party to the main international human rights treaties related to democratic elections and the Constitution provides for the fundamental freedoms of association, assembly, and speech. It affords, however, greater discretion for legislative restrictions, beyond the permissible limitations set out in international standards. The 2021 presidential election was held under provisions of the 1997 Constitution, the 1996 Elections Act, other election-related laws, subsidiary legislation, and other non-statutory instruments, including IEC media rules and a code on election campaign ethics for parties and candidates. These subsidiary elements are without clear appeal procedures or sanctioning mechanisms and so are variably applied.

The legal framework provides a minimal basis for conducting democratic elections, although there are critical gaps, restrictions, and legal uncertainties that require significant reforms. The legal framework remains largely unchanged since the 2016 election, except for a reduction in the presidential candidacy fee and a lifting of the age limit for presidential candidates, provisions amended in 2017. Certain legal provisions are either ambiguous, contradictory, or incoherently drafted, which may lead to discriminatory implementation. Others pertaining to freedom of assembly and expression may be overly restrictive and not in line with international standards.

The constitutional review initiated in June 2018 stalled in September 2020 and the Elections Bill 2020 was not enacted. As a result, previous EU EOM recommendations in key areas, including restrictions on the right to vote, rules to challenge candidate nomination, and campaign finance rules, remain unaddressed. The 'Access to Information Act', adopted in July 2021 enhances transparency and accountability. The 'Persons with Disabilities Act', passed subsequently, enshrines the UN Convention on the Rights of Persons with Disabilities (CRPD) principles of participation and accessibility.

The principle of gender equality is enshrined in the Constitution. There have been legislative efforts supporting the participation of women. The Women's Act of 2010 (amended in 2021) aims to incorporate provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Nevertheless, parties remain overwhelmingly male dominated and have yet to address gender inequality in their programmes.

The EU EOM noted limited awareness of the law and the legal avenues available amongst interlocutors. Frequency of amendments, lack of codified texts, unavailability online, and the absence of any official law database limit access and increased uncertainty of stakeholders as to the content and application of the law.

Political party and campaign financing remain largely unregulated. There is no public funding for political parties and foreign and corporate donations are prohibited by law. However, contributions from citizens (including abroad) are allowed. No ceilings apply to contributions or spending and there are no disclosure requirements, including on the origin of funding, creating an uneven playing field. There is no oversight authority nor monitoring or enforcement mechanisms in place. Candidates are required to declare their assets upon nomination, but there is no obligation of publication.

### **Electoral Administration**

The IEC is a constitutional body that has the responsibility of administering elections. There have been concerns raised by various interlocutors about a lack of transparency on many aspects of their work. The IEC has a chairperson and four members, although one member is lacking. All IEC structures are male-dominated, and all IEC members are men. Appointments and removals are made by the president; the process is not inclusive and does not guarantee impartiality.

The IEC has been held in high esteem by stakeholders since the 2016 presidential election. This public standing was, however, diminished after court findings that the IEC had acted unlawfully. There have also been concerns raised by various interlocutors about the way in which the IEC has operated, with minimal information put into the public domain.

Logistical preparations have proceeded without difficulty. Technical preparations were completed as planned, although there were very few deadlines set within the brief operational electoral calendar published by the IEC. Recruitment and training of staff, procurement and painting of ballot drums, identification of polling station locations, and distribution of materials were all completed in time.

A succession of successful legal challenges to aspects of their work has established breaches of the Constitution and the law by the IEC during preparations for this election. It is a fundamental requirement of international standards that election management bodies operate within the law. In the case of 'Gambia Participates',<sup>1</sup> the IEC was found to be acting unlawfully in facilitating voter registration attestations by an elected politician in Banjul, despite a clear legal prohibition on the practice. In the case of Bakary Bunja Dabo,<sup>2</sup> the IEC conceded their failure to comply with the constitutional obligation to register citizens living outside of the country. In the court cases challenging candidate rejection, the IEC was found to be violating fundamental rights.

There are vast lacunae in subsidiary regulation of the electoral process, despite the principal law being in place since 1996. This law confers on the IEC the power to make rules, including to prescribe procedures for the effective conduct of elections. Procedures have not been introduced for the handling of complaints and appeals throughout the electoral process, denying access to timely remedy and to documentation of the same. There are also insufficient procedures for voting, counting and tabulation.

Other powers of the IEC are also unused. Obligations on political parties to submit annual audited accounts to the IEC are unenforced. Sanctions are not imposed for non-compliance, despite the annual

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<sup>1</sup> Gambia Participates & Ors v IEC & Ors, HC/380/21/MF/122/FI 13 July 2021.

<sup>2</sup> Bakary Bunja Dabo & Others v AG & IEC, SC 001/2020, Supreme Court of The Gambia, 17 March 2021.

submission being a condition precedent to continued party registration. Powers to oversee and publish advertising invoices for broadcast media are also not used.

The IEC was opaque, engaging in limited public communication. The preferred means of releasing information is by press release, eschewing engagement with the media. The IEC has put comprehensive information about voter registration on their website, as well as all press releases related to this election. Engagement with political parties, civil society and other stakeholders is limited to briefings. There is a lack of transparency about all aspects of the work of the IEC, with minimal information put into the public domain. International standards protect the right of access to information as well as transparency of public institutions, standards not well respected by the IEC.

Voter information is an obligation of the IEC, but its delivery by them was quite limited. There were many other actors providing civic and voter education. The National Council for Civic Education conducted community outreach on radio, TV, Facebook, and in person during the entire electoral process. Other government agencies, including the National Youth Council, and NGOs such as *Activista*, were also active.

### **Voter Registration**

Biometric voter registration, for which a photograph and both thumbprints were recorded, took place from 29 May to 11 July, prior to the EU EOM's observation. There was a general social and political consensus that the registration exercise was well conducted by the IEC. The outcome was a voter register with 962,157 entries, an increase of 8.5 per cent from the 2016 register. Women greatly outnumber men, comprising 57 per cent of those registered. Young people, between the ages of 18 and 35, comprise 58 per cent of registrants. Citizens resident abroad were not registered, despite a constitutional requirement and a 2021 Supreme Court ruling to include them.

Registration required an identification document. As many people lack such documentation, an attestation by traditional authorities was also accepted. In the absence of such authorities in Banjul, the Mayor of Banjul issued attestations on documents prepared by the IEC, a practice subsequently found to be unlawful. Apart from these issues, no formal complaints were made.

### **Candidate Nomination**

On 28 October, the IEC announced that 26 people, just one of whom was a woman, intended to contest the election. The potential candidates comprised 13 independents and 13 political party representatives. The IEC established a nomination schedule from 30 October to 5 November. Five of the initial aspirants withdrew prior to formal nomination, leaving a total of 21.

Several nomination requirements are unreasonable, discriminatory and in breach of international standards. Completion of a senior secondary school education is required, as well as ordinary residence for the five years immediately preceding the election. Persons of "unsound mind" are disqualified, in violation of the CRPD. Dual citizens are also disqualified, as are persons compulsorily retired or dismissed from any public office, found guilty of a criminal offence, declared bankrupt or found responsible for misconduct, negligence, corruption, or improper behaviour. Candidates must be 30 years of age and a citizen by birth or descent.

A deposit of 10,000 GMD (165 EUR) was required for nomination, as well as a sworn declaration of assets and a tax clearance certificate. Nominations must also be supported by at least 5,000 registered voters, at least 200 of whom must be from each administrative area. Voters can support only one nomination, although this is against international good practice. Where a voter supports several candidates, the signature delivered first to the IEC will be accepted. The grounds for rejection of 14 of the 15 aspirants included a failure to achieve 200 supporters in all areas.

There was a brief period of public scrutiny during which objections to candidacies could be made by voters. Interested parties, however, were granted access for just five minutes. This exercise was not

meaningful, as voters did not have a real opportunity to scrutinise the documentation and gather the information required to make an objection.

On 6 November, after the close of the nomination period, the IEC announced that just 6 nominations had been accepted; the other 15 aspirants had been rejected. The unsuccessful aspirants did not have an opportunity to rectify the defects in their nomination papers. This is despite a provision in the law that, where a nomination has been rejected, a fresh nomination may be submitted before the close of the nomination period.

Three cases were brought to the Banjul High Court, challenging the IEC nomination process as breaching the fundamental right to stand for election.<sup>3</sup> Proceedings had to be expedited, as the period before the election was short. In the case of Ismaila Cessay the High Court found that the IEC had violated the Election Act in the rejection of their nominations, criticising their “dismal failure to comply with the spirit and the letter of the Act.”<sup>4</sup> Access to effective and timely remedies is crucial to ensuring candidates’ fundamental rights. Notably, on 26 November, the IEC appealed the first judgment, although it was not heard before the election.

### **Campaign Environment**

The election campaign was intense, vibrant, and competitive. Campaigning activities by some presidential aspirants started several weeks before the official campaign. Five of six registered candidates were touring the country prior to the official nomination, including the president who went on his yearly nationwide tour to inaugurate various infrastructure and development projects. The official campaign started on 9 November and lasted until 2 December. All candidates were canvassing for votes, but the incumbent and the leader of the UDP dominated the scene.

Overall, the campaign freedoms were broadly respected, and the campaign was peaceful without serious incidents of violence. The IEC, in coordination with candidates’ representatives, prepared a nationwide and regional campaign schedule to avoid simultaneous campaign events held by rival groups. These schedules were seen as necessary by political parties and served their purpose however there were a few reports that parties did not always respect the IEC schedule, which caused an overlap, affecting other candidates’ campaigning. Although the scheduling was done with the intention of reducing potential conflict between campaigns, this represented a burdensome bureaucratic exercise, which limited the ability of candidates to exercise their right of assembly fully.

The EU EOM observed 45 campaign events throughout the official campaign period. Among the main negative aspects were distribution of goods and misuse of state resources. The distribution of various goods was directly observed at several rallies held by the ruling party. There were also widespread allegations of distributions of money through village chiefs (*alkalos*) reported to EU EOM observers. These practices are in breach of the IEC code however no action was taken by its representatives. In addition, EU EOM directly observed instances of misuse of state resources at six NPP rallies.

There were significant efforts organised by broader civil society and several institutions in support of issue-based campaigning, to counter concerns that Gambian politics is defined by ethnic divisions. Contestants signed an IEC Code of Campaign Ethics at the start of the official campaign in which they committed to ‘promoting congenial and peaceful atmosphere’. Positively, all main contenders could campaign freely despite the procedural constraints of having to present and coordinate detailed campaign schedules with the IEC. They were able to present their programme agendas, although the campaign remained highly personalised.

Both dominant political parties UDP and NPP organised a high number of campaign rallies across the country, which attracted up to 15-20,000 supporters. While the candidates attracted large crowds in

<sup>3</sup> Namely, by Joseph Joof (Independent), Ismaila Cessay (CA) and Mai Ahmed Fatty (GMC).

<sup>4</sup> Ismaila Cessay and Citizens’ Alliance v. Independent Electoral Commission and Attorney General MISC.APP.NO:HC/682/21/202/F1.

cities, regional mobilisers conducted an active grassroots-level campaign in the villages. Large crowds were also observed at rallies organised by GDC and Essa Faal. These parties/candidates distributed in large numbers various party materials including t-shirts, caps and often provided food for the participants, yet EU EOM observers noted more party regalia being distributed by the NPP.

In addition, those parties utilized highly monetised media and online campaigns. WhatsApp and Facebook were used strategically by the NPP, UDP and Essa Faal. The NPP and UDP had up to 100 WhatsApp groups per region and some 35 symbiotic Facebook pages and groups, each. The UDP pages primarily linked grassroots-level offline and online campaign, while the NPP focused on the paid-for cross-platform promotion of the president and beneficial development programmes completed by the government. The latter obscured the line between governing and campaigning.

Overall, the campaign costs were very high, with the NPP spending far more on political publicity than any other campaign. For example, the party signed contracts with some 40 traditional and online media houses and among all political ads placed on Gambia's top six non-partisan Facebook pages, 60 per cent were for NPP. On the three monitored commercial TV stations Eye Africa TV, Paradise TV and QTV 83 per cent of supposed paid airtime was devoted to the NPP.

With the campaign finance being largely unregulated, with no ceilings on individual donations or expenditure and no public reporting requirements for parties, candidates or service providers, the total cost and sponsors of presidential campaigns are not known. Such lack of transparency, accountability and limitations on campaign spending disadvantaged candidates with less financial means and interfered with voters' right to make an informed choice.

The responsibility to resolve complaints under the IEC Code of Campaign Ethics falls to the IEC. Nevertheless, submission, processing, investigation, and follow-up action on complaints do not have clearly prescribed, codified rules to ensure stakeholder awareness and confidence. The EU EOM is aware of two campaign-related complaints to the IEC. At the regional level, complaints pertaining to campaign schedules or venues were often submitted orally and resolved by IEC regional offices.

## Media

The Constitution provides limited protection for the right to freedom of expression. Limitations on the constitutional guarantee go beyond permissible limitations as set out in international standards. Furthermore, the media legal framework severely restricts freedom of expression. The Criminal Code and Information and Communications Act both criminalise libel, sedition, and 'false news', providing for imprisonment of up to 15 years. Despite 2018 decisions by the ECOWAS Court of Justice and, subsequently, the Supreme Court calling on The Gambia to repeal these provisions and ruling criminal libel and "false information" online unconstitutional, no legal changes have been enacted.

According to media interlocutors, the ability to speak freely has improved since 2017. No citizen has been convicted on the above provisions and the number of media outlets has increased. Besides GRTS, 5 commercial TV and 41 radio stations, as well as 9 Community Radio Stations operate in the country. However, contrary to international and regional commitments, broadcasting licensing is vested with the Minister of Information and Communication upon advice of the Public Utilities Regulatory Authority (PURA).

EU EOM interlocutors expressed concern that secondary legislation (regulation) and its implementation by PURA does not sufficiently provide for media pluralism, diversity of content and transparency of ownership. In practice, licences were allocated to business holdings, which include TV, radio stations, mobile providers, and other businesses.<sup>5</sup> Generally, a limited advertising market leaves media outlets dependent on subsidies and limits the production of news and other editorial content. PURA Broadcast Service Content regulations require licence holders to provide 'truthful,

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<sup>5</sup> QTV, a commercial TV station with nation-wide coverage, belongs to QGroup, incorporating a number of business interests. Another licence was allocated to the Africell telecom provider, already operating a radio station.

unbiased information' in political broadcasts and news programmes (both in general and during campaign periods). Nevertheless, stakeholders seem to be unaware of these regulations and they are not implemented in practice.

The Election Act and supplementing IEC 2016 Elections Media Rules provide contestants an equal amount of free of charge airtime on state-owned broadcasters and the right to purchase advertising time in commercial broadcasting.<sup>6</sup> Without explicit reference to news, no advantage should be given to the government by undue coverage of institutional events on state broadcasters. Candidates, in advertising, are prohibited from criticising competitors and using “inflammatory, defamatory or insulting” language, among other things. These restrictions are insufficiently defined to constitute a legitimate restriction on freedom of speech and undermine a genuine and robust debate.

The IEC did not conduct monitoring to implement the Media Rules and no media-related complaints were filed. On 12 November, a press release was made by the UDP, accusing the IEC of stifling UDP's right to criticise the incumbent after a UDP Party Political Broadcasts was rejected by GRTS. According to the IEC, GRTS and the UDP, the case was solved informally and UDP's advertising was broadcast on GRTS.

EU EOM media monitoring results show that GRTS provided rather balanced news coverage by devoting 12 per cent to the GDC – Mamma Kandeh, 8 per cent to independent candidate Essa Mbye Faal, 21 per cent to the NPP – Adama Barrow, 12 per cent to the NUP – Abdoulie Ebrima Jammeh, 16 per cent to the PDOIS – Halifa Baboucarr Sallah and 31 per cent to the UDP- A.N.M. Ousainu Darboe, respectively. All news coverage was positive or neutral in tone. In contrast, commercial TV stations monitored displayed significant bias towards the incumbent. Eye Africa TV covered the GDC, the independent candidate, NPP, NUP, PDOIS and the UDP by devoting 9, 8, 40, 6, 24 and 13 per cent of news coverage, respectively. Paradise TV devoted 11, 16, 37, 7, 15 and 15 per cent news coverage to the listed candidates. QTV virtually covered only the NPP by devoting 92 per cent of its news coverage to Adama Barrow. The tone of the coverage was predominantly (89 per cent) neutral or positive. The editorial coverage on monitored state and commercial radio, still considered to be the main source of information, was less biased.

The amount of editorial coverage was limited. Commercial broadcasters reported a dependence on paid content due to a lack of resources to cover all campaign events equally. None of the monitored TV distinguished paid advertising clearly from editorial content. A debate, organised by a national CSO and supported by international donors, was broadcasted live on 20 November on commercial Paradise TV, several commercial radio stations and online. Only Essa Faal and Halifa Sallah, however, participated in the presidential debate.

### **Social Media**

The legal framework unduly restricts freedom of expression online. It has been selectively applied to detain and, in some cases, charge rights activists critical of the government and the president.<sup>7</sup> After vocal online and offline campaigns, charges were dropped in all cases. Yet, such laws and their intimidatory application conflict with regional and international standards. Privacy and personal data are also not protected.

Up to 46 per cent of Gambians are connected to the Internet.<sup>8</sup> Facebook, with some half a million users, was the prime discussion forum on elections and shaped the political discourse in public life.

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<sup>6</sup> GRTS shall offer 10 minutes for 'Party Political Broadcasts' (PPBs) and an equal amount of campaign coverage per day. Commercial broadcasters may sell up to 10 minutes for “party political advertisements” per day.

<sup>7</sup> Those include the arrest of a women in February 2017, arrest of Dr. Ismaila Ceesay in February 2018, arrest of owner of Home Digital FM Pa Modou Bojang and general manager of King FM Gibbi Jallow, arrest of rights defender Madi Jobareth in June 2020 and repeated arrests of leader of TYJ Yankuba Darboe in 2020 and 2021.

<sup>8</sup> Information provided to the EU EOM by the Public Utilities Authority on 11 November 2021.

WhatsApp was instrumental in disseminating the news and in mobilising the electorate, yet it also effectively accelerated the spread of false information that distorted the campaign environment.<sup>9</sup>

The Gambia's top ten news/infotainment pages on Facebook upheld a vigorous and pluralistic debate and tried to hold the IEC to account on transparency issues. They have up to 0.44 million followers each, from across the political spectrum, daily reaching 10 times more unique users than any official page of any presidential candidate. Hence, candidates sought for a visibility on their newsfeed, while party militants used comment sections to discredit rival parties and stir discord.

Partisan pages on Facebook seeded malicious rumours, tainting candidates' reputations and derailing campaign messages. The UDP had to publicly refute false assertions about Darboe's health and alleged death, plans to expel Senegalese and association with witchcraft, while Faal had to debunk rumours about his religious affiliation and purported wealth<sup>10</sup> Barrow was frequently ridiculed by partisan accounts. False information, often in the form of voice messages and doctored images frequently migrated back and forth from Facebook to WhatsApp, and at times also appeared on TikTok in a coordinated manner. Disinformation and false content confused voters and polarised the campaign.

Divisive, derogatory speech featured primarily on anonymous pages where party fans exploited tribal sentiments to instil fear of being marginalised if the rival party wins.<sup>11</sup> The most offensive language that in the local context was perceived as hate speech was used by former president Jammeh during GDC's rallies. Positively, most online outlets omitted videos with his speeches, while investigative journalists proved Jammeh's statements to be false. Tribal rhetoric as such shrank the space for a fact-based debate, eroding voters' capacity to make an informed choice.

Facebook did too little too late to effectively counter damaging practices on the platform.<sup>12</sup> Their key transparency tool for political ads (Ad Library Report) was not introduced. Its capacity to provide content moderation in local languages was very limited and the only fact-checker recognised by Facebook was a Nigerian group without a solid base in The Gambia. National teams from Factcheck Gambia and The Fact Check Centre collaborated with citizen observers, community radio stations and investigative journalists, debunking false news and flagging tribal language. Their findings were published online and shared in some 40 WhatsApp groups. Such national initiatives fostered transparency and strengthened electoral integrity.

### **Civil Society and Domestic Observers / Citizen Observation**

Several civil society organisations were actively engaged with election observation and successfully recruited and deployed significant number of accredited election observers. Gambia Participates deployed some 600 election day observers and Peace Ambassadors Gambia (PAG) deployed 460 observers. Both organisations observed the election based on a long-term observation methodology and, positively, published several reports prior to election day on various stages of the election process, including the campaign. A smaller group of observers was accredited under the civil society umbrella, CSO Coalition on Elections. The Coalition deployed 150 observers and monitored the campaign environment regarding incidents of violence. Several international organisations observed the election including the African Union, the ECOWAS, EISA, and the Commonwealth.

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<sup>9</sup> On average, Gambians participate in 5-80 WhatsApp groups each, depending on person's social contacts.

<sup>10</sup> Rumours were spread in a coordinated manner each time applying similar tactics, regardless which party benefited from the disinformation campaign in question. First such post was simultaneously shared up to 20 times per hour from up to three in fact anonymous partisan accounts. Further the post was shared on one of the two (or on both) most followed Gambian discussion groups on Facebook (0.35 and 0.14 million followers and members each, respectively) with an aim to trigger discussion and keep the post on the top of group's newsfeed. Such posts also were inserted in comment sections of trending news posts.

<sup>11</sup> A demeaning statement against the Serahule (Soninke) ethnic group was made by Darboe on 17 October during a rally in Basse and by the founder of the Gambia Action Party (GAP), who during the NPP rally on 17 November in Baja Kunda falsely stated: "*Essa Fall is finished because he goes against the prophet. He's Ahmadiyya*".

## Polling and Counting

Polling and counting were well administered during a peaceful election day. Voter turnout was high with long queues throughout the day. The overall assessment of the opening of polling stations was positive. Opening procedures were mostly followed and the layout was conducive to voting in most polling stations observed, although some one third were not judged to be accessible to PwD.

The overall conduct of voting was positively assessed. The overall performance of polling staff was assessed as very good in almost two-thirds of observations. Difficulties in voting were observed in a limited number of polling stations due to issues with the ballot drum holes. This resulted in some delays, as well as some compromise of secrecy. There were also some variations in the sounds of the bells within polling stations observed, giving rise to a possible undermining of secrecy. Transparency of the voting process was assessed highly. The presence of candidate agents enhanced this. Participation of citizen observers was also significant, and they were present in two-thirds of polling stations visited. Women comprised less than a quarter of presiding officers in polling stations.

The overall assessment of the counting process was good, and the transparency of counting was assessed positively. Procedures in the counting, recording and reconciliation of results were not always followed completely or in the correct order. Unused ballot tokens were not counted in some places and polling staff did not always cross-check seal numbers prior to opening the ballot drums. Polling staff did not always count the number of people who voted in the voter lists and not all candidate agents received copies of polling station results, while results forms were not always publicly posted.

Collation took place at 53 constituency centres and was accessible in visited centres, with candidate agents and citizen observers present. Procedures for the collation and transmission of results were sparse. The conduct was generally assessed well in instances observed. Constituency results were verified by the seven IEC administrative area offices, subsequently by the IEC, and then on TV, radio, and social media. Final results were announced progressively by constituency, which promoted transparency, although disaggregated results were not available by polling station.

## Electoral Disputes

The renewal of the Supreme Court with the appointment of judges since 2017 and a series of recent court decisions at all levels have strengthened public confidence in the judiciary. In this election, the courts' approach to the rules of standing has facilitated public interest litigation, promoting accountability of public bodies, although judgments have tended to be declaratory.

The Supreme Court has exclusive jurisdiction to determine the validity of presidential election results, which may only be challenged by election petition. Political parties and presidential candidates can challenge election results within 10 days, as provided for in the Constitution. Similarly, the Elections Act also includes provisions on challenging election results without specifying the type of election and stipulates a 30-day deadline while offering a broader legal standing.

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[www.eomgambia2021.eu](http://www.eomgambia2021.eu)

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