



**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

FINAL REPORT

Uganda Presidential, Parliamentary and Local Council Elections

18 February 2016



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European Union Election Observation Mission

Uganda Presidential, Parliamentary and Local Council Elections, 18 February 2016

EXECUTIVE SUMMARY

APRIL 2016

The 2016 elections in Uganda took place in a challenging political environment, exposing significant division between the state apparatus and large parts of the population. Voters expressed a remarkable determination to engage in the democratic process. Civil society scrutinised the campaign environment and election day and firmly called for state actors' accountability. For the first time in Uganda's political history, a presidential debate with all candidates including the incumbent took place. The campaign period was vibrant, and election day was generally calm and peaceful, with a few notable exceptions caused by the late arrival of electoral material.

At the same time, the Electoral Commission (EC) lacked independence and transparency, whereupon the elections fell short of international standards for the conduct of democratic elections at key stages. Furthermore, state actors were instrumental in creating an intimidating atmosphere for both voters and candidates, and police used excessive force against opposition, media and the general public, justifying it as a "preventive measure". This violated fundamental freedoms of movement, expression and assembly, and curbed access to information.

The third multi-party elections were held against the backdrop of a long-standing overlap between the ruling party and the state. President Yoweri Museveni, the leader of the ruling National Resistance Movement's (NRM), who has been in power for 30 years, was standing for his fifth consecutive term and had access to funding and means, including public media, which were not commensurate with those available to his competitors.

Fundamental rights and freedoms related to elections are enshrined in the Constitution. However, a restrictive implementation of the controversial Public Order Management Act in 2013 has paved the way for reinforcing state control, and throughout the electoral period was instrumental in curbing the constitutionally provided freedoms of assembly, association and expression.

Vital electoral reforms did not take place prior to the 2016 elections. Proposed amendments to the electoral legislation, compiled under the 'Uganda Citizens Compact', aimed at enabling the conduct of democratic elections, including to increase transparency in the appointment of the EC's members, to restore presidential term limits and to improve parties' financial accountability, were disregarded by the executive. Consequently, the legal framework contains gaps and ambiguities and therefore, in several instances, falls short of international principles for holding genuine democratic elections.

The EC narrowly interpreted its mandate by limiting itself to the organisation of the technical aspects of the elections, and even then failed to introduce robust operational procedures. As a consequence, some key parts of the electoral process were open to discretionary decisions taken at the regional and district level.

Prior to the 2016 elections, 52 new parliamentary constituencies were demarcated. The population ratio was effectively neglected, resulting in profound population discrepancies between electoral constituencies. This violated the principle of equality of the vote, provided for by the International Covenant for Civil and Political Rights (ICCPR).

The newly introduced voter registration system improved inclusiveness and accuracy of the voter register (VR). The final VR contained 15.277 million voters. However, establishing the cut-off date of 11 May 2015 for inclusion in the voter register disenfranchised approximately half million potential voters who turned 18 after this date.

The right to stand for election is constitutionally guaranteed. However, the requirement for parliamentary candidates to hold advanced educational qualifications overly restricts the right to candidacy, and the high nomination fees exclude a substantial part of the population from the possibility of being a candidate. In total, 13 of the 29 registered parties nominated candidates. The presidential elections had eight contestants; 1,749 candidates ran for parliamentary seats.

The campaign environment was tense and apprehensive about post-electoral developments. Hostile statements were repeatedly voiced across the political spectrum. While a peaceful atmosphere prevailed during campaign events, excessive use of force by police, including the use of teargas and assault rifles to disperse crowds during presidential candidates' Kizza Besigye's (Forum for Democratic Change (FDC) and Amama Mbabazi's (Democratic Alliance (TDA)/Go Forward) rallies, was observed on several instances. Intimidation and harassment of opposition by law enforcement bodies, including arrests of opposition supporters and voters, were reported from more than 20 districts. In the run-up to the elections, the large scale nationwide recruitment of crime preventers, acting outside of a clear legal framework, was broadly perceived as further adding to an intimidating pre-electoral atmosphere.

The orchestrated use of state resources and personnel for campaign purposes was observed. Government officials took an active role in the NRM campaign, with several Resident District Commissioners and high-ranking security officials openly endorsing the candidacy of President Museveni and the NRM campaign. Thus, candidates' equality of opportunity was not respected.

There were no legal measures to ensure a level playing field in the campaign. Access to funds, including those attached to the president's office as permitted by law, led to disproportionate expenditure on behalf of the ruling party and incumbent. The European Union Election Observation Mission (EU EOM) compared over 15,000 visible campaign expenditures elements, concluding that the Museveni/NRM logo was over six times more frequent than those of all others combined. This distorted the fairness of the campaign and undermined voters' free choice. While legislation contains provisions on reporting and disclosure of political finance, these are neither followed by parties and candidates, nor enforced by the EC. This lack of transparency weakens the credibility of the elections.

A small number of outspoken commercial media offered a pluralistic discourse, with the two first ever presidential debates as its highlight. However, the overall reporting environment was conducive to self-censorship, and yielded coverage overwhelmingly in favour of the incumbent. State actors interfered with local radio stations' programming and the police took retributions against controversial publications. The EU EOM observed violations of freedom of expression in

some 20 districts. Thus, despite the fact that more than 300 media outlets operate in Uganda, the variety of information available across the media landscape was constrained, limiting voters' ability to make an informed choice.

The Uganda Broadcasting Corporation (UBC) failed to fulfil its specific duties as a public broadcaster and was subservient to the NRM and the President. Within the UBC TV's news segments, the President's, the NRM's and the government's joint share of exposure reached 89 per cent of total time devoted to electoral matters. The EC and the broadcasting sector's regulatory body remained silent on this breach. EU EOM media monitoring also unveiled the monetization of media content and explicitly negative coverage of the opposition in some regional radio stations.

Civil society organizations (CSOs) displayed a commendable commitment to democratization. The CSOs scrutinised the electoral process, including candidate's campaign expenditures and the conduct of media, and carried out extensive voter education. The EC accredited a few thousand domestic observers, representing several CSOs. However, security vetting by the District Security Committee was a mandatory accreditation prerequisite, posing unwarranted obstacles on observers.

Women face socio-economic and political obstacles that hinder full enjoyment of equal rights. One of the eight presidential candidates and seven per cent of parliamentary candidates for constituency seats were women. In addition, 406 women were running for 112 reserved district seats. In total, 35 per cent of newly elected Members of Parliament are women.

Voters showed remarkable determination on election day, waiting long hours to cast their ballots. The markedly late arrival of electoral material in certain areas marred an otherwise calm election day. The EC failed to address growing tensions among people deferred from voting. Instead, an imposing presence of police in the vicinity of polling stations was observed. Further shortcomings, such as unsealed ballot boxes in 20 per cent and compromised secrecy of vote in 11 per cent of polling stations visited, were observed by the EU EOM. Positively, party agents and domestic observers were mostly present in polling stations visited by the EU EOM.

Counting was generally assessed as transparent. However, in 20 per cent of polling stations observed, the numbers in the Declaration of Result Forms (DRF) did not reconcile. This can be attributed to malpractice, negligence and/or numerical errors. The latter two were widespread due to the absence of provisions or guidelines on the conduct of reconciliation at the polling station level. The safety and integrity of the DRF was not ensured in 30 per cent of polling stations observed.

The entire tallying process lacked transparency and checks against electoral malpractice. The EU EOM saw shortcomings that precluded observers and party agents from ascertaining the veracity of the results. In 85 per cent of the District Tally Centres (DTCs) observed, the printed sub-county results, broken down to polling station level, were not handed out or publicised. The Electronic Result and Transmission System, used to transmit the collated results from districts to the EC, did not contain key anti-fraud measures. In several districts, the electronic transfer did not take place; the results were brought to the EC by the district returning officer in person. The final tallying for these districts could not be observed, further undermining the integrity of the process.

The EC failed to communicate and declare final results of presidential and parliamentary elections in a comprehensive, timely and transparent manner. The announcements of the presidential

election's preliminary results started while voting was still ongoing in parts of Kampala and Wakiso. The final results were declared within the legally binding 48-hour deadline, but they did not contain data from seven per cent of all polling stations, and therefore excluded some 675,000 votes cast. The EC delayed the publication of the final results broken down by polling station till 25 February and uploaded them on its website in a manner that did not allow for easy access or use. The EC also did not publish the scanned copies of the DRFs online although they were readily available in electronic format, thus further reducing voters' access to information of public interest and in contravention of the principles outlined in the ICCPR.

The post-election period was dominated by repressive actions aimed at subduing critical voices. While the opposition rejected the results, the President declared the elections to be successfully concluded. The police targeted the opposition. From 19 February onwards, and until the day after the Supreme Court ruling on the presidential election petition, presidential candidate Kizza Besigye was restricted in his movements and precluded from meeting a wide range of electoral stakeholders. Opposition candidates and supporters were arrested and their offices raided in some eight districts. Furthermore, some 15 journalists were arrested, including during live broadcasts. Thus, the state agencies acted in clear contradiction to the ICCPR General Comment (GC) No.34, paragraph 23, which reads: "*States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression.*"

The presidential and parliamentary election results can be challenged in court, yet the conditions for filing a petition markedly differ between the elections. While a presidential candidate has only 10 days to collect the evidence substantiating the claim, the legislation gives 30 days to parliamentary candidates. For the presidential petitions, the law does not require any specific threshold to annul the elections, and what constitutes evidence remains undefined.

On 1 March, presidential candidate Amama Mbabazi submitted a petition to the Supreme Court challenging the validity of the elections results on the grounds that there was non-compliance with electoral law in the conduct of the elections and offences were committed by the EC and the elected President Museveni. On 31 March 2016, the Supreme Court unanimously dismissed the petition for lack of, or insufficient, evidence produced by the petitioner and declared President Museveni duly elected.

PRIORITY RECOMMENDATIONS

The EU EOM would like to submit a number of recommendations for the consideration of the Ugandan stakeholders in view of improving the electoral framework for future elections. All legislative and administrative changes to the electoral framework be agreed as early as possible in the new legislature, avoiding late preparations and information gaps.

The EU EOM considers the key areas for improvement to be the following:

1. Establish an inclusive and transparent selection, appointment and removal mechanism for the EC commissioners and key executives at the central, regional and district levels. The EC's integrity be

further strengthened by engaging civil society in the selection process and subjecting proposed candidates to public scrutiny.

2. The Electoral Commission be granted sole regulatory power to further regulate essential parts of the electoral process, including voter registration, polling, tallying and the electoral dispute system prior to and during elections.

3. The boundary delimitation provisions be reviewed to ensure equality of the vote. A reasonable, legally binding maximum deviation from the national average number of voters per constituency be established, and new boundary delimitation conducted accordingly.

4. Clear and detailed provisions for collection and tallying of results be established well before elections and systematically implemented at all stages of the process. The integrity of results be further strengthened by subjecting the tallying of results at all levels to systematic checks and by publishing the full results online, broken down to polling station level, in due time.

5. The Public Order Management Act (POMA) provisions which is interpreted to grant the Police the right to disperse meetings be repealed in order to align the act with the Constitutional Court decision of 2008 declaring unconstitutional a similar provision in the police act. Consideration be given to clarify POMA provisions so that instead of a special authorisation for public meetings the provision is unequivocally clear that only a notification to the police is required.

6. Steps be taken to clearly differentiate the state from the ruling party in an electoral context. An effective sanctioning mechanism against the misuse of state resources, including administrative and security apparatus, during the election period be established and implemented with active involvement of the EC in the process. The role of the government during the election period be strictly limited to caretaker functions.

7. A state subsidy be introduced for both presidential and parliamentary candidates to ensure the level playing field. Equal state subsidies could be paid as reimbursement for candidates who obtain a certain threshold, i.e. a percentage of votes cast, in parliamentary and presidential elections in order to refund serious candidates with adequate support. All state subsidies, as well as other donations be subjected to genuine scrutiny conducted by the EC and relevant information be shared with the public in a comprehensive manner.

8. The voters and electoral contestants be provided with conditions that enable them to participate in public affairs freely without being subject to pressure or intimidation: (a) Any instances and allegations of pressure or intimidation be thoroughly investigated and, if appropriate, be subject to prosecution by the relevant authorities; (b) The measures to ensure police accountability be implemented; (c) Policing of the elections should be done strictly within the legal framework by law enforcement agencies without employing any illegal security structures.

9. A comprehensive and effective implementation mechanism granting equal and equitable coverage of the presidential and parliamentary candidates in media be developed and secured in the primary legislation. A mutually beneficial cooperation between the EC and the Uganda Communication Commission be established enabling to undertake timely, resolute and transparent

measures towards media's noncompliance with legal and regulatory provisions as soon as it is established.

10. The detailed complaints and appeals procedures with reasonable time limits for adjudication be enacted, indicating in which instances and at what level the complaint should be submitted.

11. The EC be empowered to address more effectively non-compliance with campaign regulations, as stipulated in the law. A monitoring system be established with information on breaches and sanctions of violations made public in real time, including in regard to misuse of state resources.

I. INTRODUCTION

Following an invitation from the Ugandan authorities, the European Union (EU) established an Election Observation Mission (EOM) on 28 December 2015. The EU EOM was led by the Chief Observer, Mr. Eduard Kukan, Member of the European Parliament (MEP), Slovakia. The mission consisted of 10 experts, based in Kampala, and 30 long-term observers (LTOs), who were deployed on 12 January 2016 and were stationed in 15 locations throughout the country. To broaden the scope of observation on election day and during tallying of results, additional 80 short-term observers (STOs) were deployed on 15 February.

For the 18 February elections, the mission was composed of over 130 observers, drawn from EU member states and Norway. A delegation of seven MEPs chaired by Jo Leinen, Germany, also joined the mission and fully endorsed the Preliminary statement issued on 20 February. On election day, the EU EOM visited 460 polling stations in 46 districts, and during the following days observed the tallying of results in 42 tally centres.

This EU EOM Final Report follows the mission's Preliminary Statement and the Post-Election Day Statement, released on 20 February and 25 February, respectively, and available on the EU External Action Service website.¹ The Final Report was finalized on 2 April and includes recommendations for consideration by Ugandan stakeholders. The EU EOM assessed the compliance of the electoral process in line with international and regional obligations and commitment to democratic elections and with national legislation. 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.

II. POLITICAL BACKGROUND

The 2016 third multi-party elections were held against the backdrop of long-standing overlap between the ruling party and the state. President Yoweri Museveni, the ruling National Resistance Movement's (NRM) flag bearer has been in power for 30 years and was standing for his fifth consecutive term.

¹ http://eeas.europa.eu/eucom/missions/2016/uganda/index_en.htm

In a highly competitive race, eight candidates stood for the presidential elections. Four candidates stood on party tickets while the other four candidates stood as independents. The three most prominent contenders were the NRM incumbent, Yoweri Museveni; the main opposition leader and four-time presidential candidate, Kizza Besigye, from the Forum for Democratic Change (FDC); and Amama Mbabazi, a former Prime Minister, who ran as an independent with the backing of the Democratic Alliance (TDA)/Go Forward.² An independent candidate, Maureen Kyalya, was the only woman contestant.

Parliamentary seats were contested by a total of 1,749 candidates, including 909 independents. NRM candidates were unopposed in nine seats and opposition parties did not field candidates for a further 82 seats, leaving those to be contested by NRM and independent candidates. In total, 13 of the 29 registered parties nominated candidates.

Since 2014, civil society groups have advocated for pivotal changes in the electoral process, proposing legal amendments in 2015, compiled under the ‘Uganda Citizens Compact on Free and Fair Elections’ (Citizens Compact), aimed at increasing respect for fundamental rights and freedoms. However, this initiative was given no consideration by the authorities, and key proposals to increase transparency in the appointment of the Electoral Commission’s (EC’s) members, restore presidential term limits, and improve parties’ financial accountability, were disregarded. As a consequence, the opposition’s and civil society’s lack of trust in the impartiality of key stakeholders, including the EC and the police, became a salient feature of the electoral environment.

The NRM remains the only political force with visible party structures down to the village level, in many instances relying on established state structures, such as local councils and offices of Resident District Commissioners (RDCs). The opposition parties have geographical strongholds, however opposition is only sparsely present in rural areas, with TDA/Go Forward relying on the structures of the parties that constitute the alliance. Deep internal divisions marred the traditional opposition parties, the Democratic Party (DP) and the Uganda People’s Congress (UPC), with factions supporting either the candidacy of Kizza Besigye or that of Amama Mbabazi.

III. LEGAL FRAMEWORK

Uganda is a state party to key international and regional instruments granting fundamental rights and freedoms and relevant to the conduct of democratic elections.³ The Constitution does not

² The Democratic Alliance (TDA), a loose coalition of opposition parties, was formed in June 2015 with the aim of fielding a single consensual presidential candidate representing the opposition.

³ The International Covenant for Civil and Political Rights (ICCPR) ratified 21 June 1995; Uganda did not sign the optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; The Convention for the Elimination of Discrimination against Women (CEDAW), ratified 22 July 1985; The International Convention against all Form of Racial Discrimination (ICERD), ratified 21 November 1980; The Convention on the Rights of Persons with Disabilities (CRPD), ratified 25th September 2008; Convention against Corruption (CAC), ratified 9 September 2004. Uganda has ratified the African Charter for Human and Peoples’ Rights (ACHPR), 10 May 1986; including the Protocol on the Rights of Women in Africa, 22 July 2010; The African Union Convention on Preventing and Combating Corruption, 31 May 2004; The African Charter on Democracy, Elections and Governance, which entered into force in 2012 was signed, but not yet ratified. Uganda has also committed to the Declaration on the Principles Governing democratic elections in Africa (Durban Declaration).

provide automatic implementation of those treaties, but requires a law enacted by parliament to domesticate international norms. On several occasions, the implementation of those international instruments has proven to be rather slow.⁴

The legal framework for 2016 elections consists of the Constitution of the Republic of Uganda 1995, the Presidential Elections Act (PEA) 2005, the Parliamentary Elections Act (PPEA) 2005, the Electoral Commission Act (ECA), 1997 and the Political Party and Organization Act (PPOA), 2005. Other legal instruments apply indirectly to the elections,⁵ yet were instrumental in curbing the constitutionally provided rights to information, freedom of speech, freedom of assembly and freedom of association.

The interpretation of the Public Order Management Act (POMA) was the most notable example. Certain provisions contained in this Act are vaguely and broadly worded, and by selective interpretation reinforce state control and grant authorities excessive discretionary power. The letter of the law requires only a ‘notification’ of intent to hold a public meeting and not ‘authorisation’. The Police can however, within 48 hours, notify the denial of holding the meeting for reasons specified in the Act.⁶ However, Civil Society Organisations (CSOs) and political actors encountered a ‘heavy hand’ by the police in denying authorisation for holding meetings.⁷

The right to vote is constitutionally granted to every citizen of 18 years of age and above. The Constitution also provides for the right to stand for election. Nevertheless, the PEA and PPEA contain a number of provisions conducive to discrimination based on financial standing and educational qualifications. Namely, despite previous EU EOM recommendations, the requirement for parliamentary candidates to hold advanced educational qualifications has not been removed, and excludes a substantial part of the population from the possibility of being a candidate. Also, the provision requiring candidates to resign from official posts limits the right to stand. Additionally, in late 2015, the Parliament amended the PEA and PPEA to markedly increase nomination fees. For presidential candidates, the fees increased from eight million Ugandan Shilling (UGX) (approximately 2,220 EUR) to 20 million UGX (approximately 5,552 EUR), an increase of 150 per cent, and for parliamentary candidates from 200,000 UGX (approximately 56 EUR) to three million

⁴ Uganda signed the CPRD in 2008 and as a result, the Parliament was supposed to amend the Person with Disability Act of 2006 to comply with the new commitments undertaken. As of today, the relative Amendment Bill is still pending in Parliament.

⁵ The Registration of Persons Act, 2015; Penal Code Act, 1950; Magistrates Court Act, 1971; The Public Order Management Act, 2013; The Persons with Disability Act 2006, The Police Act, 1994; The Civil Procedure Act and Civil Procedure Rules, 1929; The Kampala Capital City Authority Act, 2010; The Local Government Act, 1997; The Anti-Corruption Act, 2009; The Criminal Procedure Code Act, 1950; The Public Service Act, 1999; The Uganda Communications Act, 2013; The Access to Information Act, 2005; The NGO Registration (Amendment) Act, 2006; Uganda Human Rights Commission Act, 1997.

⁶ Section 6 POMA ‘... where it is not possible to hold the proposed public meeting for reasons that: a) notice of another public meeting on the date, at the time and at the venue proposed has already been received by the authorized officer; or (b) the venue is considered unsuitable for purposes of crowd and traffic control or will interfere with other lawful business, the authorized officer shall, in writing within forty-eight hours after receipt of the notice, notify the organizer or his or her agent that is not possible to hold the proposed public meeting....’

⁷ See also Amnesty International Report, Rule by Law, Discriminatory Legislation and Legitimised Abuses in Uganda October 2014.

UGX (approximately 833 EUR), an increase of 1,400 per cent.⁸ This amendment, while potentially preventing frivolous candidacy, turned out to be discriminatory for less affluent candidates and potentially women.

One of the 2015 PEA amendments removed the provision requiring presidential candidates to spend at least one day of their campaign activities in each of the districts. With the increase in the number of districts to 112, the EC argued that this rule became too cumbersome, requiring a presidential campaign period of almost four months, as in previous elections. Nevertheless, the removal of this requirement gives undue advantage to the President, as he has had more opportunities to visit any district during his tenure and to appear in the media in his institutional capacity, thus undermining the equality of opportunity to campaign, as outlined in Uganda's international commitments.

The new amendments, however, did not address the previous EU EOMs' recommendations. The main legal instruments demonstrate weaknesses in relevant procedures and leave key aspects of the electoral process, such as voter registration, complaints and appeals, under-regulated. This is mainly due to the lack of a regulatory framework, which is usually enacted by the election authorities to further regulate and interpret the provisions included in the electoral acts. The EC is, in fact, not granted any regulatory powers according to law (though it is usually the case in international practice), but can only establish its own internal procedures. According to the law, regulations related to the electoral process can only be issued by the executive in consultation with the EC, or in the case of complaints and appeals. It would appear that this provision was not fully implemented in past elections, as no regulations have recently been issued by either the executive or by the judiciary.⁹ For the 2016 elections, the EC has only issued a few guidelines, namely, for media in the general elections, for demarcation of electoral constituencies, for election observers, for issuance of voter location slips, and for candidates' campaign meetings. However, those guidelines were not legally binding and neither addressed ambiguities in the legal framework, nor added much clarity to the respective issue.

In the aftermath of the 2011 elections, several opposition political parties, along with civil society organisations (CSOs), established the Inter-Party-Organisation for Dialogue, a forum to discuss key issues relating to electoral reform that would address the shortcomings of the 2011 elections. After several rounds of broad consultations, the 'Citizens Compact' was formulated. It comprised 18 points aimed at establishing a foundation for the conduct of democratic elections. The key proposals envisaged the establishment of a comprehensive and inclusive voter register, revision of the procedures for the appointment and dismissal of the EC's Commissioners, and strengthening the scrutiny of campaign finance. However, the 'Citizens Compact' was largely disregarded by the NRM and the executive, with the establishment of a new voter register being the only exception. A revised voter register, based on the newly established national civil registry, was enacted prior to the 2016 elections. There were further changes in the legal framework, distinguishing it from the

⁸ Income per capita is 2,460,000 UGX, approximately EUR 683

⁹ Section 51 ECA, The Minister may, in consultation with the commission, by statutory instrument, make regulations for the effective performance of the commission's functions under this Act and, in particular, for the registration of voters and the conduct of public elections.

one applied in 2006 and 2011 elections, yet contrary to the objectives of the ‘Citizens Compact’, such as in the increase of the nomination fees and the shortening of polling time, most notably.

The Uganda Human Rights Commission (UHRC), established under the Constitution and aimed at protecting human rights in the country, was not operational between April 2015 and 5 February 2016, due to lack of quorum as the chair and four commissioners were not appointed. Its post-electoral report unveiled a number of irregularities and a firm stance on human rights protection. In its report, the UHCR acknowledged cases of multiple voting, violation of secrecy and intimidation by the deployment of the military, and pockets of violence. The UHCR also urged the police to bring Kizza Besigye to court should they believe they have a case against him.¹⁰

The Constitution provides for affirmative action for marginalised groups such as the army, workers, youth, persons with disabilities, and women.¹¹ The Constitution provides for representation of special groups, including military, youth, workers, and persons with disabilities (PWD) through indirectly elected representatives. While promoting the rights of PWD is desirable, other groups are not usually recognised as needing special protection. This system, through which members of the unicameral parliament are not elected by universal and equal suffrage, is not in line with international best practice. The constitutional provision requiring that the Parliament reviews the representation of women and special interest groups every five years was never implemented.¹²

IV. ELECTION ADMINISTRATION

The Electoral Commission is a body mandated to organise, conduct and supervise all elections and referenda as provided for in the Constitution, Articles 60 to 68 and the ECA. While the Constitution and the ECA guarantees the independence of the EC, the President, with the approval of Parliament, appoints the commissioners for a seven year-term, renewable once. Five of the current six commissioners¹³, including the chairperson and the deputy chair, are serving their second terms and the 2016 general elections have been the third general elections they have supervised. The EC makes its decisions by consensus if possible and otherwise by a majority vote. Due to the appointment system¹⁴, the EC does not reflect the complete political spectrum, and does not enjoy

¹⁰ The UHRC operates through 10 regional offices that carry out the commission’s mandate, which includes investigating on their own initiatives or upon receiving complaints of human rights violations. The regional commissions in Fort Portal, Gulu and Mbale were reportedly not fully implementing their mandate, mainly providing voter education and issuing warnings against accepting bribes. The Central Regional Office, located in Kampala, has received 13 cases, mainly from opposition parties, regarding disappearances of people, torture and molestation of women during the campaign. In Masaka, the local commission informed the EU EOM of cases of police detaining people and arrests without justification.

¹¹ Article 32, 33 Constitution

¹² Article 78 (2) Constitution

¹³ Tomasi Sisye Kiryapawo’s term ended in 2013. His position has not been filled since.

¹⁴ Neither during the first appointment under the movement system in 2002 nor during the reappointment process in 2009 have opposition or civil society actors been consulted

widespread confidence. The EC chairperson's derogatory statements regarding the opposition presidential candidates¹⁵ were a supplementary example of the commission's lack of impartiality.

The EC issued its Strategic Plan 2013-2017 three years ahead of the 2016 elections. The plan included steps meant to strengthen its capacity to deliver a credible electoral process. The most important targets were a new biometric voter register, the consolidation of all guidelines and procedures, as well as timely and comprehensive civic and voter education. The objective of having a comprehensive voter information program was not met, nor was consolidation of procedures and guidelines. Those failures cast further doubt on the EC's efficiency, and proved the commission's inability to compensate for its lack of foundational legitimacy with functional proficiency.¹⁶

The EC planned some new safeguards to enhance the integrity of the process, such as the introduction of a biometric voter verification system (BVVS), a voter location slip (VLS) that contained the polling station's location and discarded the Voter Card, used in previous elections. Neither the BVVS nor the VLS was field-tested, so a profound, informative communication reaching out to all key stakeholders, the EC staff at district level and below, political parties, civil society and the most importantly voters, was of paramount importance to acquire acceptance of those new features across the board. However, the BVVS was presented to stakeholders only in January 2016 and distribution of VLSs took place some two weeks before the election day. Additionally, the late introduction of those new elements was not embedded in a comprehensive communication program. As a consequence, the lack of factual information fuelled fierce speculation in media and beyond, creating an atmosphere of mistrust among all stakeholders.

Throughout the electoral period, the EC lacked transparency and did not address existing uncertainties in a timely manner; neither regarding its accountability to the greater public nor in communicating with electoral stakeholders. For example, the minutes from the EC's meetings where pivotal decisions were taken were never made public and the EC's financial standing and autonomy cannot be independently verified, since neither its budget nor its procurement documentation is disclosed to the public. Moreover, the EC's website was down for several weeks in December and January, and information of public interest was not uploaded on the website in a timely and comprehensive manner. Another deviation from the principle of transparency was the EC's selective approach towards various stages of the electoral process that could be directly observed. An example was the uploading of the voter register onto the BVVS devices, which was conducted without inviting observers or party representatives. The EC's failure to convene the Inter-Party Liaison Committee also negatively affected consensus building and resolution of disputes among stakeholders. The District Peace and Security Committees (DPSC) that were set up in most districts observed by the EU EOM, yielded little difference. Only in a few districts¹⁷ were DPSCs meeting regularly and used as a platform to resolve disputes between stakeholders.

¹⁵ The chairperson of the Commission expressed regret that he had nominated an opposition presidential candidate; made public remarks on a candidate's family member, and on another occasion described him as not "exactly being a fountain of honour".

¹⁶ When deciding on the petition by opposition candidate Kizza Besigye in 2006, the Supreme Court fell short of annulling the elections, but criticised the Electoral Commission sharply for improper management and incidences of fraud; see Supreme Court of Uganda, <http://old.ulii.org/ug/judgment/constitutional-law-election-petitions/2007/24>

¹⁷ In Abim Amudat, Mbarara Moroto, and Bushenyi.

Prior to election day, the EC largely met its own deadlines in terms of logistical preparations for the conduct of elections, such as the distribution of non-sensitive materials to the sub-county level. The ballot papers arrived in the country in time and representatives of political parties observed the process. The EC issued soft copies of the voter register to the presidential candidates and hard copies to the political parties within the timeframe required by law. The EC also harmonised the campaign schedules of both presidential and parliamentary candidates at different levels. However, the positive effects were severely damaged by the late delivery of sensitive material on election day, and by the staggered communication of results that followed the polling.

To facilitate communication between different levels of the EC and to ensure uniformity in the conduct of elections, 12 Regional Election Officers (REOs), responsible for coordinating electoral activities between the EC in Kampala and the 112 District Returning Officers (DROs) and their Assistant Returning Officers (AROs) were appointed by the Commission. REOs, DROs and AROs are permanent staff of the EC. The DROs appointed 1,403 sub-County and 7,431 Parish Supervisors for a non-permanent long-term duration in early 2014. This positive decision to strengthen the EC's regional structures was marred by the lack of recruitment criteria and absence of legal provisions for these positions.

Another drawback that undermined the positive effects that decentralisation might bring was the EC's failure to issue and consolidate guidelines and robust operational procedures. As a consequence, some key parts of the electoral process remained unregulated and thus open to discretionary decisions taken at the regional and district level. There were no unified and coherent procedures for the dispatch of material, for the collection of results and ballot boxes after counting, or for the intake of sensitive material at the district tally centres. Most importantly, the EC has not foreseen a quarantining of result forms that were not correctly filled in, that contained implausible results, or that were not adequately secured in tamper-proof envelopes. As a consequence, EC staff improvised, and the stakeholder's assessment of the credibility of the conduct of elections varied from district to district, largely depending on the DRO's personal integrity.

For the conduct of the 18 February elections, some 112,000 people were recruited for various positions. Similarly to the appointment of the permanent staff, a lack of clearly defined selection criteria impaired the overall perception of the polling staff's impartiality. Moreover, the late recruitment affected the effectiveness of the training, as it overlapped with a 10-day long period in which stakeholders could challenge polling staff candidates' suitability. The transparency and accountability of the recruitment process thus suffered from the belated start of the recruitment, as once staff were trained, making changes became impractical.

The EC failed to conduct comprehensive voter outreach covering all stages of the process and explaining the innovations aimed at fortifying its integrity of the process. It fell short of both its constitutional mandate to carry out voter information as well as with Uganda's international obligations.¹⁸ The EC contracted four commercial companies to conduct field activities at the

¹⁸ The ICCPR General Comment No. 25 states that "Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community".

district, county and sub-county level. However, the EU EOM observers rarely came across civic educators contracted by the EC. More often, the sub-county and parish supervisors were the ones who disseminated information to voters on their own initiative, either in small meetings or using local radio stations. To offset the lack of the voter information provided by the EC and its contractors, a wide range of CSOs, religious leaders and local media took the initiative and created their own voter information campaigns covering the key issues of the electoral process, such as the peaceful conduct of elections, voters' rights and women, youth and vulnerable groups' participation.¹⁹ However, those spots lacked factual and practical information that could only be conveyed by the EC. One of the few positive EC information campaign's steps was the decision to send some four million voter information SMSs and opening a toll-free number where voters could find out his or her polling station's location. On a special website of the EC, voters could check their voting location by entering the national ID number, yet EU EOM observers reported that up-country, there was very little knowledge about these options.

V. DELIMITATION OF CONSTITUENCIES

The EC is constitutionally required to demarcate constituencies and must adhere to two principles. Namely, every county should have at least one constituency and the population quota is met as far as possible, taking into consideration geographical features, population density and other logistical factors. The EC and parliament have consistently applied the first criteria, yet neglected the population quota.

In 2015, the Parliament increased the number of counties from 168 to 245. Consequently, the EC increased the number of constituencies from 238 to 290. This increased already existing large population discrepancies between parliamentary open-seat constituencies. The smallest constituency, Ik County in Kaabong district, comprises 2,051 voters, and the biggest constituency, Nakawa division in Kampala, has 207,855 voters. While this is an extreme example, 231 out of 290 constituencies are outside a 15 per cent range of the average size of a constituency, which is 56,678 voters. Such discrepancies violate the principle of equality of the vote provided for by the ICCPR.

VI. VOTER REGISTRATION

The newly introduced voter registration system aimed to improve inclusiveness and accuracy of the voter register (VR). The EC compiled a new voter register for the 2016 general elections by extracting data on voting age citizens from the National Identification Register (NIR), changing the voter registration system from an active to a passive one. Necessary legislative changes, however, determining relevant procedures for the new registration exercise were not enacted, leading to the effective disenfranchisement of persons who had turned 18 years of age after the cut-off date of 11 May 2015. Furthermore, the system change was reportedly not sufficiently

¹⁹ EU EOM media monitoring shows that local radio stations allocated up to 19 per cent of prime-time election-related programming to the voter information and civic education spots, mainly created by CCEDU and UNHCR.

communicated, leaving many stakeholders without an understanding of the connection between the ID registry and the VR.

The registration exercise, capturing biometric features from all citizens of 16 years of age and above, took place over a period of several months in 2014 at the parish level. At the time of registration, people were able to choose where they wished to vote in 2016, either their place of origin or their place of work. In early 2015, the NIR provided the EC the full data base from which the EC extracted the voter register, with some 13 million registrants. In March 2015, the EC gazetted the retirement of the old voter register and announced a five-week update and display period²⁰ at the parish level. Within those weeks the National Registration Authority (NIRA) in collaboration with the EC, enabled additional time for registration for those eligible citizens who were not in the civil registry/voter register. During this period, people could also request a transfer to a different location. After a final display of the voter register in August 2015, the EC eventually removed about 20,000 persons whose eligibility had been successfully challenged, from the VR.²¹

The final VR contained 15.277 million voters, extracted from the NIRA database of about 16.46 million citizens, aged 16 years and above at the time of registration in 2014.

The establishment of the cut-off date of 11 May 2015 for inclusion in the voter register de facto disenfranchised potential voters who turned 18 after this date.²² Again, the EC employed provisions that were not mandatory for the current system, for which data extraction is continuous. Thus, people who turned 18 between the cut-off date and 18 February could and should have been included in the voter register.

The lack of consultations with political parties and candidates, as well as civil society and the media over the change of the registration system, solicited wide spread criticism and doubt over the integrity of the voter register. Fears that large numbers of voters would not find their names on the register on election day did not, however, prove true.

VII. CANDIDATE REGISTRATION

The Constitution provides that a person is not qualified for election as President unless he or she is: a citizen of Uganda by birth, not less than 35 years and not more than 75 years of age. Presidential candidates must also meet MP eligibility requirements. A person is qualified to stand as an MP if he or she is a citizen of Uganda, has completed a minimum formal education of Advanced Level standard or its equivalent, and is registered as a voter.

There are also several conditions that disqualify a person from contesting parliamentary elections, including being of unsound mind, having been sentenced to prison or death, or declared bankrupt,

²⁰ 7 April – 11 May 2015

²¹ The EC did not delete these persons, but filtered them out for the printed and the electronic copies it made available. A controversy in social media ensued when activists discovered that the EC online voter data base contained those 20,000 persons. The EC had to explain to suspicious stakeholders that these were not ‘ghost voters’, but the result of a technical oversight. They were subsequently removed from the online data base.

²² Some 600,000 voters were affected by the system in place.

being a traditional leader or working officially in a capacity related to the elections. Candidates at all levels may stand either as party-backed candidates or as independents. The Constitution establishes that public servants intending to stand for Parliament should resign from office 90 days before their nomination.

The candidate registration process for the presidential elections was largely inclusive. At the national level, the EC registered eight presidential candidates out of nine who sought nomination. DROs registered 1,343 candidates for the directly elected 290 open parliamentary seats and 406 women candidates for the 112 directly elected women district seats. Candidates' nomination fees were substantially increased after the start of the presidential nomination period by enacting amendments to the PEA and the PPEA. The EC was subsequently forced to extend the presidential nomination period by a month, to early November 2015.

VIII. ELECTION CAMPAIGN

A mostly peaceful atmosphere prevailed during vibrant campaign events attracting large crowds across the country. In total, political parties conducted more than 900 campaign events largely following the EC schedule and making considerable efforts to reach out to the electorate. Nevertheless, the campaign was marred by widespread misuse of state resources and violent, politically motivated incidents in some parts of the country.²³ The presidential campaign period opened on 9 November 2015, while the campaign for the parliamentary elections started on 7 December. The campaign silence period commenced 24 hours before polling day.

On an almost daily basis, presidential candidates Yoweri Museveni, Kizza Besigye and Amama Mbabazi conducted campaign rallies that attracted more attention than political publicity events organised by any other presidential or parliamentary candidate.²⁴ The three leading presidential candidates also employed an active social media campaign to reach out to the youthful electorate. When not campaigning with the respective presidential flag bearer, the parliamentary candidates focused on small-scale campaigning at the parish and village levels. The preferred method was door-to-door and neighbourhood visits, convoys with loudspeakers, religious services and utilisation of social events, such as weddings or funerals. The opposition was reported to conduct a low-profile campaign mainly for two reasons: lack of finances, seen as the biggest impediment, and intimidation by security operatives and the ruling party.

On a number of occasions, opposition candidates, particularly from the FDC and TDA/Go Forward, were denied access to campaign venues, restricting their ability to campaign freely. The EU EOM received reports and observed extensive use of force by police, including teargas and assault rifles, to disperse crowds during Kizza Besigye's and Amama Mbabazi's rallies in Bukwo, Kasenge, and

²³ The most severe incident took place in Ntungamo on 13 December, involving supporters of NRM and Amama Mbabazi. EU EOM observers reported skirmishes between NRM and opposition supporters in Jinja, Mukono and Wakiso, and violent clashes between NRM and opposition, as well as independent candidates who lost NRM primaries, in Mbale, Mbarara, Mitooma, and Kayunga.

²⁴ The average number of participants at presidential rallies observed by the EU EOM observers was 8,145; at parliamentary rallies 728.

Ntungamo, among others.²⁵ On 15 February, police detained Besigye twice, preventing him from addressing scheduled rallies in Central Kampala, and used teargas and live ammunition against his supporters, resulting in one death and several injuries.

One of the key issues in the run-up to the elections was the large-scale recruitment, training and deployment of ‘crime preventers’, acting outside a clear legal framework and without robust operational procedures. It was criticised by opposition parties and civil society as illegal and politically motivated, contributing to an atmosphere of intimidation. According to police, crime preventers were recruited and trained to monitor and report incidents of crime under the framework of community policing to complement the efforts of regular police. On 12 January, different human rights organisations called upon the government to suspend the crime preventers’ programme. In response, the Inspector General of Police (IGP) only further endorsed the crime preventers.²⁶ Any legally binding instruments regulating the crime preventers’ actions have not been enacted as of the time of writing. EU EOM observers reported the presence of crime preventers on several occasions during campaign events.²⁷ On 8 February, thousands of crime preventers were seen marching in Mbale and singing ‘Uganda, we are coming,’ with an intimidating effect on the population. Based on the data collected by the EU EOM observers from 39 districts, the average number of crime preventers per district is 21,980, which translates into a national total of 2.5 million crime preventers. This sharply contrasted with the 11 million figure provided by the IGP.

Opposition parties and civil society perceived the conduct of police throughout the electoral process to be partisan and discriminatory. The EU EOM received reports of continued intimidation and harassment of opposition parties by security agencies, including intelligence services, as well as arrests of supporters and voters from more than 20 districts.²⁸ The preferential treatment of NRM supporters by the IGP following the Ntungamo clashes was quoted as the most prominent act of bias. EU EOM observers reported witnessing high-ranking security officials openly campaigning for NRM candidates in Gulu and in Mityana.²⁹ The EU EOM also noted direct involvement of the police in the work of the EC, including the suspension of polling staff recruitment on 18 January in

²⁵ In Bukwo district on 6 January, the police dispersed the campaign rally of FDC presidential candidate Besigye in Toriet Internally Displaced Persons (IDP) camp using teargas and assault rifles. Several senior FDC figures received minor injuries. The police stated that Besigye diverted from his planned route without justification and thus provoked acts of public disorder.

²⁶ On 25 January, the IGP stated that all critics who are simply ‘political opportunists’ can ‘go hang.’ On 27 January, he was also quoted saying ‘power shall not be handed over to the opposition to destabilise the peace the country has fought for.’ In a press release, the police later claimed that the media had misquoted the IGP.

²⁷ Crime preventers were observed at NRM presidential rallies in Mbarara on 12 January and in Bushenyi on 15 January. They were wearing yellow t-shirts with NRM party insignia and were used as additional security. For the parliamentary contest, they were seen in Lira (Erute South) on 14 January at an NRM rally wearing white shirts and in Bullambuli at the rally of an NRM leaning independent candidate on 16 January. Their role was reported not to be disruptive to the campaigns. They were widely seen all around the country on NRM Liberation Day, 26 January.

²⁸ EU EOM observers received reports of intimidation of opposition and opposition supporters in Amuru, Bujenje, Buliisa, Gulu, Isingiro, Kamwenge, Kapchorwa, Kasese, Kiruhura, Kisoro, Lira, Masindi, Mbarara, Moroto, Mukono, Nakapiripirit, Nwoya, and Wakiso. Intimidation of voters was reported from Kiboga, Lira, Luweero, Moroto, Nakapiripirit and Sembabule districts.

²⁹ In Gulu, Brig. Charler Otema, the chief of engineering and logistics in the Uganda Peoples’ Defence Forces, was campaigning for NRM. In Mityana, UPDF spokesperson Felix Kulaigye was campaigning for the NRM woman candidate, Judith Nabakoba.

Ntungamo on the orders of the Resident District Commissioner (RDC).

The campaign was tainted by inflammatory rhetoric that became even more prominent prior to election day.³⁰ The incumbent's high-ranking NRM cadres and police officials repeatedly stated in public that they would use force against anybody opposing state power.³¹ At the same time, the FDC reinforced its 'campaign of defiance,' aimed at challenging any action or decision taken by the state authorities that could be considered to be outside the legal framework. While actively participating in the campaign, FDC reiterated its preparedness not to recognise the election results in case of rigging and malpractice. The FDC also mobilised supporters under the 'Power 10' programme to protect the vote. The EC and the IGP condemned 'Power 10' and declared it to be an illegitimate militia group. Narratives of orchestrated vote rigging and potential post-election violence were widespread. At the beginning of February, the Chairman of the EC called on all stakeholders to promote peace and to desist from using any language that may cause fear or create tension among the public, yet it yielded little effect.

Throughout the campaign, the blurred line between the state and NRM structures was manifested predominantly in the use of state budget and security resources at campaign events and by the extensive use of public media. Government officials took an active role in the NRM campaign, with several RDCs and high-ranking security officials openly endorsing the candidacy of President Museveni and the NRM campaign. While the law prohibits the use of government resources for both presidential and parliamentary campaigns,³² it allows the President to use the government facilities ordinarily attached to his office. The state budget covered his travel and accommodation costs on the campaign trail.

Widespread presence of numerous government officials was observed countrywide, in particular in Fort Portal, on 26 January during the celebrations commemorating NRM Liberation Day. Not only does the national holiday contain the name of one of the contesting parties, but national celebrations were full of party signs: 'Vote Museveni' and 'Vote NRM.' The national army day celebrations in Kampala on 6 February bore similar features. Both public and partly state-owned media extensively covered both events. In November 2015, President Museveni made a pledge to provide a total of 18 million hoes to six million households and included the purchase of the hoes in the 2016/2017 national budget. The distribution of hoes during NRM campaign events observed by the EU EOM in Arua on 8 February, 10 days prior to the election and during campaign events, constitutes indirect bribery of voters and an abuse of state resources by the incumbent.³³

³⁰ Section 23, The Presidential Elections Act (PEA) states "a person shall not, while campaigning use any language which constitutes incitement to [...] violence." See also General Comment No. 25 (1996) to Article 25 of the 1960 International Covenant on Civil and Political Rights (ICCPR) by the UN Human Rights Committee (UNHRC).

³¹ On 9 October, the President was quoted as saying that anybody who attempts to oppose him will, 'Be smashed completely and no trace of his remains will be found on the ground,' and on 20 December that 'The thugs who attacked NRM supporters in Ntungamo will pay dearly.' NRM secretary general Justine Kasule Lumumba was quoted on *Radio Simba* on 25 January saying, 'We shall shoot anyone who will come on the streets to demonstrate against vote rigging.' On 1 February, the deputy RDC in Jinja was quoted saying: 'Whoever will be found disrupting the February 18 elections in Jinja District will be shot dead.'

³² Section 27 PEA, Section 25 Parliamentary Elections Act (PPEA).

³³ Section 25 PEA, which specifies that candidates shall not use government or public resources for the purpose of campaigning for election.

IX. CAMPAIGN FINANCE

Financing of political parties and parliamentary elections is regulated by the Political Parties and Organisations Act (PPOA), whereas rules on financing of campaigns for presidential elections are laid down in the PEA. Parliamentary political parties receive budget funding on the basis of ‘numeric strength of each political party ... in the parliament.’ Consequently, NRM receives most of the budget funds. All state funding is deposited to the parties’ headquarters and political parties can spend the funds on their regular activities, on campaigns, or they can transfer it to local offices or candidates without limitations. Parties also collect private funding. They can collect membership fees and unlimited donations from individuals and private legal entities. Foreign donations to political parties are limited by legislation.³⁴ However, all interlocutors confirmed that foreign donations are widespread and remain largely unreported.

Election campaigns are funded primarily from private sources. Presidential and parliamentary candidates are allowed to use their own money or borrow money unlimitedly, and can receive unlimited donations from Ugandan or foreign individuals or legal entities. Most parliamentary candidates listed their own private property as the largest source of their campaign financing.³⁵ Reportedly, most of the parliamentary candidates are either wealthy individuals, local radio station owners, or persons who sell their properties or take loans to fund their campaigns. Parliamentary candidates’ campaigns were partly covered by their parties. Parties covered their nomination fees and provided them with some posters, NRM additionally supplied the candidates with cash. Contrary to previous elections, in 2016 presidential candidates did not receive any state aid for funding of their campaigns, as this was abolished by PEA amendments in September 2015.

The total amount of money jointly spent by presidential and parliamentary candidates is not independently calculated and verified. According to presidential candidate Amama Mbabazi, he funded his three billion UGX campaign from his personal funds and received no donations. Kizza Besigye disclosed that his expenses totalled one billion UGX, of which 96 million UGX were donations. Incumbent president Museveni’s campaign team refused to disclose the amount/value or sources of his campaign funds.

There is no spending limit on election campaigns. Fairness of the campaign was distorted by disproportionate spending on behalf of the incumbent and the NRM. The EU EOM compared the prevalence of presidential candidates’ electoral expenses and looked at over 15,000 visible expenditures including media ads, posters, billboards, banners, and party logo shirts. With each of these items, those with Museveni/NRM logo were spotted many times more frequently than those of all other candidates combined.³⁶ This corresponds with data gathered by domestic Alliance for Campaign Finance Monitoring (ACFIM), an umbrella organization of 16 national and regional organisations based across Uganda. It has monitored every expense by candidates and parties since

³⁴ The total amount of donations to a political party from abroad cannot exceed 400 million UGX (approximately 109,000 EUR) in a period not exceeding 12 months.

³⁵ Survey published by the Alliance for Campaign Finance Monitoring (ACFIM).

³⁶ Observers spotted 10,657 (85.1%) posters, 131 billboards/banners (88.5%), and 803 (97.1%) shirts for Museveni/NRM, while numbers for Besigye/FDC (1066/8.5% for posters, 15/10.4% for billboards/banners, and 23/2.8% for shirts) and Mbabazi (615/4.9%, 1/0.7%, 1/0.1%) are much lower.

the summer of 2015 in 74 constituencies, and estimated the value of these expenses. According to ACFIM's final report, NRM spent 88 per cent of all the expenses observed, while independent candidates spent eight per cent, and FDC, TDA/Go Forward and others a combined four per cent.³⁷

Paid advertising promoting NRM and the incumbent in media monitored by the EU EOM was nine times higher than all advertising for all other candidates combined on television and 20 times higher in printed media. On radio, 64 per cent of all advertisements promoted Museveni/NRM, 25 per cent promoted independent parliamentary candidates, seven per cent were for FDC and the remaining four per cent were for all the other parties and candidates together. Advertisements for NRM were frequently paid for by third parties such as ministries and government agencies as well as private companies. Both public and private media were free to charge electoral contestants differently or to not charge them at all. Of the opposition parties' local branch leaders, 39 per cent believe that they have to pay more for the paid-for slots on local radios than the NRM, and 26 per cent admitted that they do not have enough funding to purchase airtime. Both local and national media are unwilling to disclose prices charged to candidates and parties. The only exception is the *New Vision* group, whose price lists are available online. More than 700 million UGX is estimated to have been spent by state institutions and third parties to advertise the President and the NRM in the partly state-owned *New Vision*.³⁸ On the local radios, presidential candidates are expected to pay from one to six million UGX for one hour of airtime, which is mainly used in the form of debates.

Although voter bribery is prohibited by the PEA and PPEA, it is widespread in districts with greater poverty. Voters expect to receive money, food, refreshments, or other goods at campaign events. While both giving and receiving bribes is illegal, distribution of food, refreshments and T-shirts does not constitute bribery. In the first months of the campaign, cash at campaign events was distributed, usually in the form of reimbursement for participants' transportation or other costs. It was also done through intermediaries. A party representative or a donor would, for example, leave the money at the gas station for voters to have free fuel. Wealthy supporters of the ruling party also showed support by giving large sums of cash to local religious or community leaders at campaign events. According to NRM representatives, this should be considered a donation in-kind rather than a bribe, as this is donors' way of showing support, helping the local community and enabling voters to attend campaign events. During the campaign's final stage, however, the ruling party's representatives started distributing cash throughout the country without camouflaging it as a reimbursement. Two weeks before the election, the EU EOM observed NRM parliamentary candidates and mobilisers gathered in Kampala receiving so-called "facilitation" cash. According to the EU EOM interlocutors from the NRM, each of the parliamentary candidates received 20 million UGX, local elections candidates received 15 million UGX each, and mobilisers received various amounts.³⁹ In the following days, the EU EOM observed cash being distributed to voters in locations across the country. In some rural areas, voters received as little as 500 or 1,000 UGX each. Authorities do not take necessary steps to investigate numerous well-documented distributions of cash and goods to voters. In a study, published by Anti-Corruption Coalition

³⁷ Monitoring Campaign Expenses During The Pre-Election Period: Final Report. ACFIM, 2016. <http://accu.or.ug/acfim/>

³⁸ EU EOM interview with the CEO of the *New Vision* group.

³⁹ Media published copies of "NRM National Campaign Taskforce Payment Vouchers" with amounts as high as 25 million UGX for "Daily allowance for the day". UGo News. NRM Mobilizer Gets Astronomical Ushs25m Daily Allowance <http://news.ugo.co.ug/nrm-mobilizer-gets-astronomical-ushs25m-daily-allowance/> (9 February 2016)

Uganda, more than a quarter of parliamentarians stated that it is ‘understandable,’ although wrong, to offer money to voters in return for their votes, and some even said it is ‘not wrong at all.’⁴⁰

Transparency of Campaign Finance

Political parties are obliged to submit their audited financial reports to the EC on an annual basis, and parliamentary campaign finance is part of yearly reports in case elections were held in a given year. Financing for 2016 parliamentary election will therefore be included in the 2016 yearly report, which should be submitted to the EC by June 2017.⁴¹

Despite legal requirements, parties submit reports only rarely. When they do, these reports are inaccurate in every respect. All interlocutors confirmed that most of their donations are not included in the reports. Fundraising and campaigns in parliamentary elections are done at the constituency level by individual candidates, but none of the parties trained their local branches or candidates on bookkeeping or established a system of reporting to the parties’ headquarters. Parliamentary candidates and local party officials of NRM and FDC confirmed that they do not keep records of their transactions. Parties will therefore not be able to produce reliable nationwide financial reports because of the lack of accurate data from the constituencies.

Presidential candidates are obliged to submit a report “disclosing all assistance obtained by the candidate from any source”⁴² to the EC within 30 days of the election. When asked by the EU EOM to share the 2011 election reports, the EC first refused to share them⁴³ and later informed the EU EOM that the 2011 reports were never submitted, but then again said that they were submitted. Three weeks after the 2016 election and less than two weeks before the deadline, the EC was unable to answer whether candidates will need to submit their reports or not, claiming that state funding of presidential campaigns was abolished in 2015 and contestants are no longer spending public money. According to the EC, the law could be interpreted such that candidates should only be accountable to their donors, and not to the government or to the public.

The EC was unable to answer whether and how it reviews the reports, whether it has them or not, whether it ever found any false reporting, and whether it ever issued any decision after reviewing the reports. The EC is supposed to publicly disclose financial reports, which is in accordance with well-established international best practices, though this is not followed. The EU EOM faced numerous communication difficulties and delays when it tried to access them.⁴⁴ The EU EOM requested copies of all six parliamentary parties’ yearly reports, but only received one from 2013 and two 2014 yearly reports. According to the EC, the remaining parties did not submit reports.

⁴⁰ In another study, 80 per cent of Ugandans responded that they would take the money for a vote in 2011 elections. 18 per cent of respondents reported that a candidate or party had offered them things during the 2011 campaign, while 43 per cent said that they had witnessed such distributions. NRM was reported as the source of a significant majority (67 per cent) of all vote-buying offers and FDC made 20 per cent of the offers. Conroy-Krutz, Jeffrey and Carolyn Logan. Museveni and the 2011 Ugandan Election: Did the Money Matter? Afrobarometer, working paper No. 135, 2011, pp. 9-10.

⁴¹ Section 12(4) of the PPOA.

⁴² Section 22(7)(b) of the Presidential Elections Act 2005.

⁴³ “The commission shall not be able to avail the documents for 2011 as requested and you can only be advised to liaise with the 2011 European Observer Mission for the same.” Letter, sent by EC to EU EOM and dated 3 February 2016.

⁴⁴ The EU EOM submitted over ten written requests and even had to pay a “search fee” to the EC in order for the EC to search for financial reports.

Financing and reporting of independent parliamentary candidates is not regulated. Also, there is no requirement for candidates or parties to open dedicated campaign bank accounts, no requirement for disclosure of loans, and no legal provision prohibiting or limiting cash donations.

Electoral legislation provides for sanctions in case of violations of campaign finance rules, but they are low and not enforced. While sanctions should be effective, proportionate and dissuasive, fines for even the most serious campaign finance violations are below the equivalent of 500 EUR. Legislation also foresees deregistration of parties that do not submit financial statements. Individuals can be sanctioned with the same fines, but they also face prison sentences up to five years. However, laws are not enforced and no parties were sanctioned in recent years. None of the interlocutors recalls an individual ever being sanctioned for a campaign finance violation.

The lack of information available for public scrutiny, the absence of regulations on independent candidates' financing, the lack of timely reporting after the parliamentary election, and the lack of requirement for all transactions to be done through a designated bank account, all limit transparency and accountability and are not in line with Article 7(3) of the UN Convention Against Corruption.⁴⁵

X. MEDIA AND ELECTIONS

Uganda's polarised and multifaceted media scene reflects the country's political dynamics. While a limited number of outspoken commercial media at the national and local levels strove to offer pluralistic discourse, the overall reporting environment was conducive to self-censorship and yielded coverage overwhelmingly in favour of the incumbent and the NRM. Thus, despite the fact that more than 300 media outlets operate in Uganda, the variety of information available across the media landscape was constrained, limiting voters' ability to make an informed choice.

While in urban centres, social media and television has become a prominent reference for political news, in most of the country local radio stations airing engaging infotainment call-in programmes mixed with brief news bulletins in a local language remain voters' primary, and often only, source of information. Hence, owning a radio station confers leverage over voters' decision-making processes, including on political issues, and equips the owner with a powerful campaign tool. The EU EOM received reports from some 10 districts where the media landscape is dominated by broadcasters owned by NRM affiliates. Other political stakeholders in those districts were denied the possibility of opening a new radio station. Outstanding cases of the misuse of power and conflict of interest were reported to the EU EOM in Rukungiri, where the only radio station airing in the local language and covering the entire district is owned by the Minister of Information and National Guidance; and in Kamwenge, where the only local radio station belongs to the executive director of the Uganda Communication Commission (UCC), the sector's regulatory body. In those districts, the opposition was *de facto* excluded from media coverage. However, due to the lack of transparency in media ownership, the exact extent to which radio stations are controlled by NRM affiliates remains conjecture.

⁴⁵ "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties." Art 7(3) of UN CAC.

Another contributory factor to the lack of pluralism outside the Kampala region is the radio stations' poor financial standing, which often leads to suborning journalists. The NRM, with more funds at its disposal, admits to frequently using paid-for pseudo-journalism to boost its visibility and enhance the reputation of both the party and its candidates. An edifying example of the system in place occurred in Rwenzori, where 17 outspoken journalists were compelled to attend the President's briefing in Masindi state lodge. The President not only instructed journalists to campaign for the NRM at grassroots level, but also provided them with financial 'facilitation'. Consequently, the line between advertisements and editorial content was blurred and the impartiality of information offered to the electorate was eroded.

The freedom of expression was further constrained by the state apparatus taking improper measures against media outlets, particularly against those whose programmes and articles enable direct comparisons between the candidates, and who scrutinize incumbents' records in office. Hostile statements targeting outlets owned by the country's largest commercial media house, *Nation Media Group* (NMG), were repeatedly made by the President and reiterated by the state's top executives.⁴⁶ This reverberated at the local level, with the RDCs and other state actors orchestrating measures that encourage self-censorship on issues that might be perceived as critical to the President or the government. Intimidating phone calls, "guidance meetings" for journalists and editors chaired by the law enforcement bodies, as well as requests to submit the radio's programming to the RDC or local UCC representative prior to broadcasting were the most wide-spread measures applied to put media under pressure. The EU EOM received reports on such occurrences in 20 districts.⁴⁷

A number of physical assaults of journalists covering campaign events occurred with impunity. The EU EOM received reports of journalists being beaten and their professional equipment being damaged in Kampala, Masaka, Moroto and Mukono. The Human Rights Network for Journalists – Uganda lists 17 cases of media practitioners being assaulted by candidates, their supporters and law enforcement bodies. Only in one case was the perpetrator prosecuted.

Legal Framework for Media

The legal framework for media comprises a plethora of laws that are at times overlapping as well as containing gaps and ambiguities. The broad definitions of criminal offenses, including those committed online, enables police to exact retribution against controversial publications. Additionally, there are no sufficient legal safeguards for public media editorial independence.

Freedom of expression is granted by the Constitution, yet is not protected through legislation. The legal framework stringently regulates media's content and licencing, yet defines provisions for

⁴⁶ On 24 January the President stated: "*Monitor and NTV don't know that there is a good, they just tell lies.... NTV is an enemy*". The President voiced a similar statement on 31 January. On 29 January the minister of Information and National Guidance: "*There is no media house that can take the law in their hands...we definitely shall close them down*". The government/NRM spokesperson criticized media on 1 February. On 9 February owners and editors of all leading media houses were invited to the dinner hosted by the EC and the UCC where all were warned that UCC will "*without a hesitation sanction the media outlets*".

⁴⁷ Apac, Arua, Bundibugyo, Fort Portal, Gulu, Jinja, Kitgum, Kaseses, Ktigum, Kalangala, Lira, Maska, Masindi, Mityiana, Mbarara, Mbale, Moroto, Mukono and Soroti.

implementation poorly. Such gaps can lead to arbitrary applications of power, as demonstrated by the closing and seizure of equipment from 13 radio stations by the UCC in January. The manner in which the UCC executed its decision repressed freedom of speech⁴⁸ and was seen as politically motivated. Moreover, on election day, the UCC blocked social media and kept Twitter, Facebook and WhatsApp off of mobile devices for four days “due to the security reasons”. Such justification falls short of ICCPR Art 19 and proves the need to change the legal framework, aiming to establish a genuinely impartial and independent regulatory body, as called for in the Declaration of the Principles on Freedom of Expression in Africa (DPFEA)⁴⁹ and in the ICCPR GC No. 34.

The Penal Code and the Computer Misuse Act criminalize, yet vaguely define, several offenses including defamation, publication of false news, incitement to violence and offensive communication online. A person who is found guilty of committing such crimes faces imprisonment. Throughout the electoral period, those clauses were often applied to tighten the state’s grip over media content. Police opened criminal investigations against journalists and citizens on incitement to violence, criminal trespass and offensive communication online. An explicit example was registered in Lira, where the police arrested a local radio host during a live broadcast reportedly for destroying the incumbent’s campaign poster. Conspicuous application of the Penal Code was also observed during the post-electoral period in Kampala when, for “security reasons”, police detained six journalists reporting on FDC leader’s Kizza Besigye’s house arrest and arrested seven journalists on charges of inciting violence. The latter were arrested while reporting live from Besigye’s residence in Kasangati. Additionally, two journalists were arrested and charged with criminal trespass while covering a protest action in which yellow-painted piglets were let loose outside the presidential palace. Such police measures clearly undermine the freedom of expression as outlined in the ICCPR GC No. 34.⁵⁰

The legal status of public Uganda Broadcasting Corporation (UBC) is defined by the UBC Act. The management of the UBC is appointed by the minister and can also be removed by the minister on such vague grounds as, for example, “incompetence”. The Act obliges the UBC in its editorial policy, *inter alia*, to follow principles of decency and to abstain from reporting that “might jeopardize peace and harmony in the country”. Moreover, the UBC is financially dependent on the government. Such standing of a public broadcaster contradicts Uganda’s international commitments as called for in ICCPR GC No. 34, as well in DPFEA.⁵¹

⁴⁸ In Fort Portal, the transmitter was seized on a weekend, without presenting corresponding legal documents; in Keyenjojo the UCC representatives broke the door of the station; in Mubende, the request to pay the fee reached the radio just a day before the UCC sized the equipment; in Kanungu, the UCC gave the radio a wrong account number, yet closed the radio and sized the transmitter anyway.

⁴⁹ Declaration of the Principles on Freedom of Expression in Africa: Regulatory Bodies for Broadcast and Telecommunication VII: “*Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference... The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party.*”

⁵⁰ Paragraph 13 of the ICCPR General Comment No. 34 provides that “*A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and enjoyment of other Covenant rights*”.

⁵¹ Paragraph 16 of the ICCPR General Comment No. 34 provides that “*States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their*

The Legal Framework for Media throughout the Campaign

The conduct of media throughout the elections has been poorly regulated. The legal framework does not provide for a level playing field across the media landscape, and does not grant candidates effective remedy in case the equality of opportunity is infringed.

The PEA and PPEA foresees presidential aspirants' equal access to state media and envisage a reasonable allocation of time to parliamentary candidates, yet do not stipulate how to grant it. Statutory instruments, such as the legally binding Professional Code of Ethics for Journalists and Editors (PCEJE), the Minimum Broadcasting standards and the EC's Guidelines for Media's Conduct call for balanced and impartial reporting, yet contain ambiguities such as a prohibition against using "unauthorized sources". The legal framework does not foresee allocation of free airtime in public media.

The legal framework does not prescribe who keeps oversight of the media's compliance with legal provisions throughout the campaign. Moreover, the absence of effective redress for infringement of equal and equitable access to media provisions contributed to FDC and TDA/Go Forward presidential candidates being denied access to radio broadcasts or stations in 11 cases. The EC and UCC remained silent on those breaches and, throughout the electoral period, did not show any intention to secure a level playing field for all contestants, thus undermining the public's "*corresponding right to receive media output*" as called for in ICCPR GC No. 34, Article 13.

The EU EOM Media Monitoring

The EU EOM monitored a sample of Kampala-based and regional media outlets.⁵² The monitoring, complemented by social media assessment and a representative assessment of political actors' access to local broadcasters unveiled how the equality of opportunity to promote diverse standpoints was undermined. The deep cleavage in quality, with the Kampala-based commercial media on one side and the public broadcaster and local radio stations in the regions on the other, was also highlighted by monitoring data.

The public UBC failed to ensure the provision of equal and equitable allocation of time to the candidates. The news programming of the UBC TV was the most explicit example of state media's subservience to the NRM; the President's, the NRM's and the government's joint share of exposure reached 89 per cent of total time devoted to the news on electoral matters. Furthermore, the incumbent was granted more than six hours of direct speech within the UBC's prime-time coverage allotted to political communication, while Besigye and Mbabazi received only seven minutes each. One third of the FDC's already scant coverage was negative in tone, while the NRM was uniformly praised. The UBC radio's coverage mirrored that of the TV.

independence and editorial freedom. They should provide funding in a manner that does not undermine their independence".

⁵² The EU EOM monitored prime-time programming of public UBC TV and radio; partly state-owned *Bukedde TV*, *Radio Rupinyi* (Gulu); Buganda kingdom owned *WBS TV*, CBS radio, commercial NTV, *Radio One*, *Radio Simba* (all Kampala-based); *Kings Radio* (Masinidi), *Open Gate Radio* (Mbale), *Voice of Kigezi* (Kabale) and newspaper *New Vision* and *Daily Monitor*.

The partly state-owned *New Vision* media group's media's content corresponded to the distribution of shares within the company:⁵³ half of their programming or articles were devoted to the incumbent, NRM and government while the rest of their editorial coverage was divided between FDC, Go Forward/TDA and some influential independent candidates. The news coverage of the presidential race mirrored the overall editorial pattern, with the time allotted to quotas from aspirants being an exact example. While the incumbent spoke within the news for two hours throughout the monitoring period, Besigye and Mbabazi were granted with around an hour each.

The regional media monitoring highlighted additional local broadcasting sector's drawbacks, such as superior coverage of the incumbent and high proportion of paid-for airtime. In three out of four local radio stations, the incumbent was the only presidential candidate quoted in news programmes. Also, the overall editorial coverage of election related issues were beneficial to the incumbent and the NRM. For example, *King's Radio* in Masindi allotted 93 per cent of the coverage devoted to presidential candidates to Museveni and Mbale's *Open Gate* radio granted the NRM and the President 72 per cent of the total prime-time coverage devoted to electoral matters. The Gulu-based *Radio Rupinyi* did not quote any other parliamentary candidate than the one from the NRM during its news segments.

Similar to the public broadcaster, local radio used a negative tone towards the FDC presidential flag-bearer. Half of the FDC's scarce coverage was in a negative tone on Kabale's *Voice of Kigezi*, *Open Gate Radio* and some 30 per cent on *Kings Radio*.

Additionally, local media's reporting on the parliamentary race unveiled the internal rivalry within the NRM. While the President and the government was always portrayed in a positive light on the *Voice of Kigezi*, half of the coverage devoted to the local NRM parliamentary candidate was in a negative tone. At the same time the independent, who lost NRM primaries, was featured in a positive light. The programming of *Open Gate Radio* was similarly tailored.

The *Voice of Kigezi* illustrated the monetization of media content at the local level. Of its election-related prime time programming, 66 per cent was paid for, thus never subjected to any critical analysis. Half of this airtime was bought by the NRM, and 38 per cent by the independent candidate who lost the NRM primaries. Each of them bought more than eight hours of prime time programming, while the FDC candidate could afford only one hour.

Media monitoring findings correspond the parties' and candidates' assessment of the balance and quality of local radio coverage of their campaign. While 78 per cent of the NRM's local leadership believes that media featured them fairly, the FDC's assessment of radio's impartiality is diametrically opposed, with 78 per cent of local party representatives listing examples of biased coverage. In 21 districts, opposition candidates were denied access to radio broadcasts or stations, and in 32 districts, biased coverage against FDC, Democratic Party (DP) or Go Forward was reported.⁵⁴

⁵³ The government owns 53 per cent of the company's shares. The *New Vision Group's* media outlets in the sample are *Bukedde TV*, *The New Vision* and the *Radio Rupinyi*.

⁵⁴ In 44 districts, the EU EOM observers interviewed local party leaders/candidates. In total, 89 interviews were conducted and the candidates were asked to assess their access to media, media's impartiality and balance of the

The commercial Kampala-based broadcast and print media's editorial policy was egalitarian and balanced. News editions covered the presidential race in a neutral tone. For the first time, two issue-oriented live presidential debates were organized and broadcasted live on several radio and television stations. This indisputably contributed to overall pluralism, and for the first time enabled the electorate to directly compare candidates while their manifestos were subject to critical assessment. The media monitoring reveals equitable coverage of presidential candidates on NTV, *Daily Monitor*, *Radio One*, *CBS* and *Simba*. All of them also devoted a reasonable time-share to some independent and DP aspirants. Among the media monitored, *Radio Simba* was the only broadcaster who granted Besigye slightly more airtime than the incumbent. However, due to its limited range, the balanced approach applied by Kampala-based commercial media did not verifiably alter the overall picture.

Social media sustained a critical narrative throughout the electoral period and revamped the traditional media's agenda. Politically coloured, interconnected profiles on Facebook and Twitter were instrumental in educating voters, campaigning and in disseminating "protect your vote" messages. At times, bellicose posts halfway between personal insult and incitement to violence blanketed those citizen's groups. However, the police detained and charged only pro-opposition activists with charges of offensive communication. Such arrests occurred during both the campaign and post-electoral periods.

XI. ELECTORAL OFFENCES

The EC by law does not enjoy a referral power to submit cases for prosecution and reportedly the effective sanctioning of relevant offences is very low. The legal framework presents a long list of 49 election offences, scattered throughout different legal instruments. Numerous offences are related to the campaign period and election day. The prosecution of those offences requires the consent of the Director of Public Prosecution. The prosecution must commence within three months of the commission of the offence.⁵⁵ The sanctioning of these offences ranges from monetary fines to up to 10 years imprisonment.

Some offences, such as defacing posters and disrupting candidates' meetings, should be downgraded to electoral violations and simply sanctioned with a warning or commensurate fine. A specific source of concern is the offence for observers acting without accreditation and not submitting a report within six months of the declaration of results that, though not implemented, could potentially be punished with imprisonment of up to six months and/or a fine of 300,000 UGX.⁵⁶

coverage. Information on denied access to media was independently verified by the EU EOM observers. 32 NRM, 35 FDC, eight DP, five TDA/Go Forward, eight independent candidates and one from UPC.

⁵⁵ Article Section 120 Constitution

⁵⁶ Section 16 28, 29, 48 ECA

XII. CIVIL SOCIETY AND CITIZEN OBSERVATION

Civil society organizations (CSOs) played an important role in enhancing transparency throughout the electoral process, as well as widening the debate scope on key aspects of the electoral process. The CSOs not only scrutinized the pre-electoral environment and the conduct of elections, but also conducted extensive voter education programmes, applying a wide range of communication tools and addressing marginalised groups.

In line with the ECA, the EC accredited 72 CSOs to conduct voter education, 18 of them countrywide. Although the EC vetted all of them prior to granting their accreditations, the organisations were still required to clear all their messages with the EC, thus overstressing the EC's oversight capacity and subjecting the organisations to an onerous requirement and potentially censoring the message. For example, after the NRM government criticised a voter education commercial of Citizens Coalition for Democratic Elections Uganda's (CCED-U's) *Topowa* campaign, the EC threatened to withdraw the CCED-U's accreditation. Civil society's voter education activities were more visible than the EC's. For example, in broadcast media monitored by the EU EOM, the CCED-U placed twice as many voter information spots as the EC.

CSOs issued regular statements highlighting the drawbacks of the process, such as the lack of a level playing field in the campaign, insufficient voter information in most parts of the country, politically motivated violence and persisting barriers to equal participation of women in politics. For the first time, civil society also monitored campaign expenditures and the conduct of the media. From 1 September 2015, the African Centre for Media Excellence carried out full-scale media monitoring, employing an internationally acknowledged methodology and publishing comprehensive data on access and balance of reporting. It highlighted public media's preferential coverage of the incumbent and the NRM. The Alliance for Campaign Finance Monitoring (ACFIM) is an umbrella organization of 16 national and regional organizations, which systematically monitored election-related expenses of candidates and parties from summer 2015 in 74 constituencies. It concluded that voter bribery was widespread, and that differences in the sizes of budgets between the ruling party and other parties was striking. The ACFIM ran an anti-vote-buying campaign with nearly 4,000 village meetings across the country.

Citizens Election Observers Network-Uganda (CEON-U) was the largest domestic observation group, with 223 long-term observers deployed since October 2015 and an additional 900 short-term observers on election day. CEON-U also observed the tallying at the 112 District Tally Centres and the NTC. The Uganda Joint Christian Council was equally active and used its existing network and infrastructure with both 17 coordinators as long-term observers, and around 700 observers on election day throughout the country.

The accreditation process for local observers was cumbersome, requiring a security vetting by the District Security Committee prior to the accreditation by the DRO, thus emplacing unwarranted obstacles to observation.

XIII. PARTICIPATION OF WOMEN

Uganda ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1985, which establishes international legal obligations to take all appropriate measures to eliminate discrimination against women, including in regards to political participation. Uganda has also ratified the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women, which requires States Parties to take “*specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures*”.

The affirmative action guaranteed by the Constitution provides for one woman representative in Parliament per district and the Local Government Acts provides for one third of seats on each local council to be reserved for women. Under this system, a woman is directly elected in each of the 112 districts of Uganda. Furthermore, out of 25 seats allocated for SIGs, at least five must be held by women.

Despite the legislative provisions, women continue to face a number of structural, socio-economic and political constraints that limit their full political participation. Poverty, lack of education, insufficient access to information and political parties’ reluctance to place women in leadership positions, among others, are the key impediments for full enjoyment of equal rights. The increased level of political violence further hampered the participation of women in these elections.⁵⁷

As in the 2006 and 2011 elections, one of the presidential candidates was a woman. For the constituency seats in parliament, 88 out of 1,343 nominated candidates were women, representing seven per cent of the total number of aspirants. The constituency seats are often referred to as ‘men seats’. A total of 406 women, including 200 independents, contested the 112 district women special seats. NRM fielded women candidates in all but two districts, while opposition parties did not have candidates in 41 districts. Women’s rights activists raised concerns that the creation of district women special seats is counter-productive, as it effectively confines women to the district seats and decreases the quality of women’s leadership.

Nevertheless, women aspirants for parliamentary elections were granted wide exposure in the media, including on public media and on local radio stations, with the *Kings Radio* being the best example, granting female parliamentary candidates 60 per cent of airtime devoted to contestants in the parliamentary race. *Radio one*, *Voice of Kigezi*, *Open Gate Radio* along with UBC, *Bukedde TV* and WBS were equally generous with airtime allotted to female candidates, exceeding 20 per cent of total time. As for the presidential race, only *Radio One* devoted a time share to Maureen Kyalya comparable to that of the incumbent, Besigye or Mbabazi. However, during the presidential debate, Kyalya was given the same opportunity to explain her platform, on equal terms with her male competitors. Another positive step was civic education programmes in media aimed at encouraging women’s participation in elections.

In the 10th Parliament, women will make up 35 per cent of members of parliament with a total of 129 seats, including 112 elected through special reserved seats and 17 returning through the open seats. The proportion of women elected is thus above the 30 per cent Beijing Declaration target.

⁵⁷ The average participation of women at campaign events attended by the EU EOM observers is approximately 36 per cent; 15 per cent of speakers at campaign events observed were women.

XIV. PARTICIPATION OF PEOPLE WITH DISABILITIES

Although Uganda ratified the UN Convention on Rights of Persons with Disabilities in 2008, the authorities did not take any legislative steps needed to enable disabled persons to vote without discrimination. Under the Convention, the country should give blind voters an option to vote independently and by secret ballot, and polling stations should be accessible to voters on wheelchairs. Disability organisations proposed Braille ballot papers. Although the EC had promised them since 2014, it did not accommodate their requests. Consequently, blind persons can only vote through another person, which compromised secrecy of their votes and contravened the Convention. Most of the polling stations are outdoors, but due to natural obstacles and uneven surfaces, not many are accessible by wheelchair. In cases of inaccessible indoor polling stations, legislation does not allow for a person to vote outside of the building. Persons in mental hospitals do not have the possibility to vote. When trained, polling station staff were not instructed on how to facilitate the voting of disabled persons.

XV. ELECTION DAY

Voters showed remarkable determination on election day, waiting long hours to cast their ballots. The EC failed to effectively communicate the steps that would be taken to calm growing frustration and tensions among voters deferred from voting due to the markedly delayed delivery of voting material in certain locations. There was an imposing presence of police in the vicinity of polling stations, and in a few cases teargas was used to disperse crowds. Moreover, the detention of the FDC flag-bearer Kizza Besigye late on election day added to the tense environment. Additionally, the UCC blocked access to social media, which contributed to the overall uncertainty and constrained freedom of expression and access to information.

Applying a random sampling methodology for the selection of constituencies and polling stations, 137 EU EOM observers observed a total of 460 polling stations in 46 districts in all regions of the country, 28 per cent of them in urban and 72 per cent in rural areas. The tabulation process was observed in 46 of the 112 district tally centres (DTC).

Opening and Voting

The late arrival of electoral material in certain areas marred an otherwise calm and peaceful election day. EU EOM observers reported that 75 per cent of polling stations observed had not opened before 7:30 AM.⁵⁸ Furthermore, eight teams across the country reported that polling stations could not open before 10 AM. A number of polling stations, notably in Kampala and Wakiso, had not opened within six hours. Significant delays and a lack of effective communication by the EC fuelled frustration and tensions among voters, with EU EOM observers and media reporting about

⁵⁸ The first observations of opened polling stations by EU EOM observers was by 8 am in the Central region and 8:30 am in Eastern, Northern and Western regions.

large crowds protesting against being deprived of their right to cast the ballot. In at least four cases, the police used teargas to disperse voters at polling stations. Only shortly before the official closing of the polling stations at 4 PM did the EC chairman announce the three-hour extension of voting in Kampala and Wakiso district. This was poorly communicated to the polling staff in affected areas, and EU EOM observers reported polling stations being closed at first and only after some hesitation did the polling staff improvise and try to re-open voting sites.

Throughout election day, EU EOM observers noted a number of problems in polling stations visited. In 20 per cent of polling stations observed, ballot boxes were unsealed or not properly sealed, and in 11 per cent of sites visited, the layout compromised the secrecy of the vote. Voters voted together at the same basin in nine per cent of PS visited. Unauthorised persons were present in eight per cent of polling stations observed, and in none of them did the presiding officer requested them to leave. Essential election material was missing in 12 per cent of polling stations observed. Typically, the missing material was seals, but in a small number of cases also ballot boxes, ballot papers in sufficient numbers and the voter register was not available.

The EU EOM observers reported some cases of electoral malpractice. In five per cent of polling stations visited, undue interference with the work of polling staff, mainly by party agents, was observed. Two EU EOM observer teams reported attempts at vote buying.

EU EOM observers reported that voters were frustrated by the slow pace of voting, caused by the newly introduced biometric voter verification device. It was, however, functional and operated adequately by polling staff despite limited training, and was consistently used in about 95 per cent of polling stations observed. However, the voter register was not used consistently as a primary means of voter identification in several polling stations visited.

In one quarter of the polling stations, observers encountered voters being turned away for not being on the voter register. Such a high percentage of voters not being aware of the location of the polling station indicates the lack of voter information prior to the elections. Only in two per cent of the polling stations visited were voters deprived of voting without lawful grounds.

Positively, the party agents were mostly present in polling stations visited by the EU EOM observers. NRM was represented in 99 per cent and FDC in 90 per cent of sites visited. Independent candidates for parliamentary elections were also able to mobilise significant presences in polling stations observed. Other opposition parties' agents were present in one half of the polling stations observed.

One out of five polling stations observed were not suitable for voters with reduced mobility.

Closing and Counting

Almost one third of observed polling stations closed after 4:00 PM and voters in the queue were able to vote. Counting was generally assessed as transparent with party agents and voters closely following the process in the vast majority of polling stations observed. However, adherence to counting procedures was often lacking.

Basic ballot reconciliation was not done in one third of the 54 PS where counting was observed. In 37 per cent of polling stations observed, the Presiding Officer had difficulties completing the Declaration of Result Forms (DRF), and in almost half of the polling stations the filling in of the Accountability of Ballot Papers Form proved to be problematic. In 20 per cent of polling stations where closing was observed, the numbers in the DRFs did not reconcile. This can be attributed to malpractice, negligence and/or numerical errors. The latter two were widespread since there were neither provisions nor even proper guidelines on how to conduct the reconciliation at the polling station level. Moreover, after filling in all forms, the safety and integrity of the DRF was not ensured in 30 per cent of polling stations observed, as they were not put into the tamper-proof envelope as prescribed by EC instructions. Intimidation of polling staff during the counting was reported from four polling stations observed by the EU EOM observers. In 93 per cent of polling stations observed at closure, results were not posted outside the polling stations, as required by law. Nevertheless, party agents were given copies of the DRFs in 93 per cent of cases.

Tallying

The tallying of results lacked transparency and checks against electoral malpractice, due to both vague procedural regulations and implementation. The EU EOM observed tallying of the results at 112 District Tally Centres (DTCs) and noted a high number of shortcomings that resulted in observers and party agents being prevented from ascertaining the veracity of the processed results data. In several districts, large crowds gathered outside the DTC demanding the announcement of disaggregated election results. In a few cases, police used teargas to disperse voters.

The process was marred by allegations of result manipulation, starting from the transport of the DRFs and other sensitive material from the polling station to the DTC. The EU EOM observed cases where presiding officers failed to maintain the chain of custody. The sensitive material was brought to the sub-county collection hub where, in a majority of cases, no measures to ensure the integrity of results was provided.

Further transparency and accountability problems were observed at the DTC. In the majority of cases, the District Returning Officers (DROs) adhered to only one out of two transparency measures foreseen in the tally manual. Namely, in most of the cases, before scanning of the DRF and proceeding with the double-blind data entry, the polling station results were read out loud by the DRO⁵⁹. The other feature foreseen in the EC manual was handing out printed sub-county results broken down to polling station to the party agents. This was neglected in 85 per cent of the DTCs observed by the EU EOM. Additionally, the layout of the district tally centres did not provide for an oversight of the data that was entered, thus hampering the party agents' ability to compare the result forms gathered in the field with the results entered into the system. There were also no other sensible means aimed to foster transparency and accountability, such as large screens showing data entry in real time, provided in the tally centres. Other procedures that would ensure the correctness of the data entered into the system, such as presiding officers' presence during the tallying

⁵⁹ The results of 76 of polling stations, which were received at the district tally centres during the time of observations, were read out loud.

process⁶⁰, were very rarely followed. Furthermore, in Wakiso and Mukono, tally centres security personnel denied presiding officers access.

The results at the DTC were entered and transmitted to the National Tally Centre (NTC) using the Electronic Result and Transmission System (ERTDS). Neither the EC procedures, nor the ERTDS programme provided for dealing with anomalies or suspicious results, or contained other fraud mitigation measures. Most notably, the system did not provide for entering the number of ballots issued to the polling stations and the number of unused ballots. The system also did not identify protocols that were not signed accordingly. Furthermore, there were no procedures on how to handle DRFs that were not packed in tamper-evident envelopes or if the envelopes were not properly sealed, thus not allowing any reconciliation with the number of votes cast and leaving the door open for manipulation of results. The system contained only one fraud mitigation measure: cancellation of the polling station results where the total number of votes cast exceeded the number of registered voters.

In the majority of DTCs, the EU EOM observed that the transmission of collated presidential election results to the NTC to be processed went smoothly and in accordance with EC guidelines. However, in some districts, including Gulu, Jinja, Kyenjojo and Rukungiri, the up-loading of the data to the national server was too slow and DROs were ordered to bring the computer, containing collated data, the server and the DRFs to Kampala in person. The final tallying for those districts was carried out without the presence of party and candidate agents and observers, including the EU EOM, in Kampala, raising questions about the integrity of the process.

The NTC opened by around 11pm on election night and was rather a venue for the EC chairperson to announce the aggregated results than a final instance for a collation or a meaningful data check site. The EC chairperson started to announce partial results some two hours after closing of the polling stations. After every announcement of results, disaggregated data per polling station were uploaded to data terminals in the tally centre. The accredited observers, party agents and media representatives could manually check the results per polling station, yet were not able to print any of the results or use other data transfer methods to genuinely scrutinize the results. Displaying discontent with the NTC's work during the night from 18 to 19 February, and the EC's reluctance to provide information as requested, all party agents left the NTC on 19 February. NRM later returned its agents to the venue. The NTC was operational for only two days until the presidential election result was announced.

XVI. DECLARATION OF RESULTS

The EC failed to communicate and declare final results or presidential and parliamentary elections in a comprehensive, timely and transparent manner. Moreover, the process was marred by the police's use of extensive force against FDC and by the EC's repeated warnings to media not to

⁶⁰ In only 16% of tally centre observations, the Presiding Officer was present during the tallying of his or her polling station.

report on any other election “results” than the ones declared by the EC chairperson. The ban on social media on mobile devices was not lifted for four consecutive days. The overall environment created by state actors during the final stages of the tallying of results curbed voters’ right to access to information as called for in Uganda’s international and regional commitments.

On 18 and 19 February, while voting was still ongoing in parts of Kampala and Wakiso, the EC chairperson announced the preliminary results. Disaggregated data on the composition of the results broken down by polling station or even by sub-county level was published on the EC website. Further constrains on the public’s access to information originated from the EC’s statement *de facto* prohibiting media to publicise results announced at the polling stations. Such *live* reports on results by polling station is a habitual and defining feature of Ugandan media’s election coverage as it enables each voter to independently verify the results in his or her polling station.⁶¹ With the FDC’s leadership being detained, the police surrounding Mbabazi’s home, and with critical media being effectively silenced, the EC held a monopoly over both the content of electoral results information and the pace of its disclosure.

To remain within the legally mandated 48 hour time frame, the EC chairperson announced the final result of the presidential elections on 20 February. The incumbent Yoweri Museveni was declared the winner of the 2016 presidential elections with 60.62 per cent of valid votes cast. Kizza Besigye obtained 35.01 per cent and Amama Mbabazi was a distant third with 1.39 per cent. The remaining five candidates each obtained less than one per cent. The turnout was 67.61 per cent, with 4.62 per cent invalid votes.

The results, however, did not contain data from 1,787 polling stations, affecting 43 districts, eight of them strongly.⁶² This represents seven per cent of all polling stations and excluded some 675,000 votes cast. The absence of the results and identification of missing polling stations occurred, according to the EC, due to technical problems. Additionally, the EC stated that the winner of the presidential elections can be declared as soon as one candidate has surpassed 50 per cent of the total votes cast. There is no legal provision differentiating between announcing preliminary and final results.

The EC eventually updated the final result on 22 February, adding the results from 1,658 polling stations. The EC also nullified results from 129 polling stations in 34 districts due to various malpractices, including disruptions during voting and the number of votes cast exceeding 100 per cent of registered voters. However, the list of affected polling stations was not published, thus compromising the EC’s accountability.

The EC delayed the publication of the final breakdown of results by polling station until 25 February. Moreover, the manner in which the results were published on its website did not enable

⁶¹ The radio stations and key commercial broadcasters stopped reporting on results from voting sites at 23:00 on 18 February.

⁶² These were Jinja with 388 polling stations (PS) out of 399 missing, Rukungiri with 273 PS out of 276 missing, Kyenjojo with 277 PS out of 337 missing, Kabale 190 PS out of 478, Kampala with 162 PS out of 1,338, Wakiso 119 PS out of 1,359, Isingiro with 88 PS out of 385, and Ntungamo with 78 PS out of 432 missing. These eight districts account for 1,575 or 88.5 per cent of the missing PS.

easy access to the data. Political parties and candidates were invited to collect the results from 22 February onwards, yet again the format did not provide for an uncomplicated comparison between the data collected in the field and the data received from the EC. Results for the parliamentary elections, however, were not yet uploaded and therefore no data comparison between the two elections was facilitated. Furthermore, the EC also did not publish the scanned copies of the RDFs online even though it had them in an electronic format, thus further reducing voter's access to information of public interest and contrary to the principles outlined in the ICCPR GC 34.⁶³

In seven districts⁶⁴, Yoweri Museveni scored between 89 per cent and 97 per cent of the vote, coinciding with substantially higher turnouts, ranging from between 71 per cent and 87 per cent. Generally, the turnout was particularly high in districts where the incumbent scored more than 10 per cent above the national average. According to the final results, the highest turnout, with 72.63 per cent, was registered in the western region, whereas the central region registered the lowest turnout with 61.94 per cent. In Kampala and Wakiso districts, which were most affected by the late delivery of voting material, the turnout was 52.66 per cent. In both districts, Besigye won with 64 and 58 per cent of total votes cast, respectively.

The number of invalid votes was high, at 4.62 per cent, which represents some 477,319 votes. By contrast, the global average of invalid votes stands at slightly below three per cent.⁶⁵ In 46 out of 112 districts, more than five per cent of the votes were invalid, in 10 of these districts it even exceeded eight per cent. In nine out of those 10 districts, the incumbent scored more than 50 per cent of valid votes cast, and the number of invalid votes in Kitgum exceeded the difference between the votes cast for Museveni and votes cast for Besigye.

Some highly implausible results data are recorded in Otake and Amudat, where the number of invalid votes is zero or close to zero, and in Kiruhura, where it barely exceeded one per cent. In Amudat and Kiruhura, the incumbent received more than 90 per cent of valid votes.

On 29 February, three major women's organisations, The Ugandan Association of Women Lawyers (FIDA), Uganda Women's Network (UWONET) and Akina Mama wa Afrika and some individual women activists filed an official request with the EC, requesting the EC to release the DRFs from 23 districts, where results contained features characteristic of electoral malpractice, for instance having turnout close to 100 per cent. The EC has not responded to this request.

For the parliamentary elections, winners for 282 open constituency seats (out of 290) and 108 woman district seats (out of 112) have been declared by the District Returning Officers at the district level. Elections in the remaining 12 constituencies have been postponed to 9 March due to

⁶³ Paragraph 19 of ICCPR GC 34 "To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information. States parties should also enact the necessary procedures".

⁶⁴ These are Nakapiripirit, with 95 per cent for Museveni and a turnout of 77 per cent; Kotido, with 91 per cent for Museveni (72 per cent turnout); Kaabong, with 90 per cent for Museveni (87 per cent turnout); Amudat, with 97 per cent for Museveni (72 per cent); Kiruhura, with 91 per cent for Museveni (86 per cent turnout); Moroto, with 89 per cent for Museveni (77 per cent turnout); and Napak, with 93 per cent for Museveni (79 per cent turnout).

⁶⁵ This is according to the IDEA database <http://aceproject.org/electoral-advice/archive/questions/replies/864793780>

errors in the printing of ballot papers. In five of the districts observed by the EU EOM, newly elected members of parliament were not declared within the legally mandated 48 hours.⁶⁶ Again, the EC did not give reasons for its actions. In Jinja Municipality East Constituency, the NRM candidate was declared winner by the DRO after the DRO was subjected to heavy pressure from security forces.

According to the results declared, four political parties – NRM, FDC, Democratic Party (DP), and Uganda Peoples’ Congress (UPC) – will be represented in the 10th Parliament. The ruling NRM, with 281 members, retains its two-thirds majority; and independents, with 54 seats, constitute the second largest group. The FDC won 35 seats, DP 14 and UPC six. Two parties – the Conservative Party (CP) and Justice Forum (JEEMA) – lost their representation.

XVII. POST ELECTION DAY ENVIROMENT

The post-election atmosphere was tense and dominated by repressive actions by security forces aimed at subduing critical voices. While the opposition rejected the presidential election results, the President declared the electoral process successfully concluded. Presidential candidates Kizza Besigye, Amama Mbabazi, Abed Bwanika and Joseph Mbirizi described the process as fraudulent and not reflecting the will of the electorate. Key grounds for rejecting results were intimidation of supporters, buying off of party agents by NRM, and extensive misuse of state resources during the campaign period. As for election day, the opposition cited deliberate delays in opening polling stations, disenfranchisement of voters in opposition strongholds, and vote rigging including ballot stuffing and a lack of transparency in the tallying process. President Museveni dismissed any arguments offered by the opposition, calling it ‘evil-minded falsehoods and demagoguery.’

Police actions targeting the opposition started on election day and gradually expanded over the following weeks. On 19 February, while the FDC was still collecting documents, including the declaration of result forms, from its agents in the field, the police stormed FDC’s party headquarters using tear gas and arrested Kizza Besigye and the party’s leadership. The police justified their actions by accusing FDC of planning to “disturb public order” by “announcing the final results of the Presidential elections,” which is the mandate of the EC. This action severely violates freedom of expression.⁶⁷ Furthermore, the police hampered the FDC’s ability to seek redress during the constitutionally mandated 10-day period in which any aggrieved candidate can file a petition against the presidential results. Up until the end of petition period, the presidential candidate Kizza Besigye was arrested, detained, restricted in his movements and precluded from meeting a wide range of electoral stakeholders on a daily basis.⁶⁸ His petition to court, filed on 25 February, to seek

⁶⁶ In Arua Isingiro, Jinja, Kabale and Yumbe

⁶⁷ Paragraph 25 of ICCPR GC 25 protects the “free communication of information and ideas about public and political issues” and Paragraph 9 ICCPR GC 34 reads: “All forms of opinion are protected, including opinions of a political nature....The arrest, detention, trial or imprisonment for reasons of the opinions they might hold, constitutes a violation of article 19 paragraph 1.”

⁶⁸ The arrest on 22 February was based on the grounds that he was planning to organise a procession to the EC to collect the results against the POMA requirements to notify the police when planning public meetings. The grounds for the arrest on 23 February were not publicly explained. On 28 February the arrest occurred after Besigye was escorted by

an order to evict the police from his residence, has not been heard. Opposition candidates and supporters have been arrested in Iganga, Jinja, Kampala, Kayunga, Mbarara, Mityana, Mubende and Rukungiri among others.⁶⁹

The continuous heavy presence of security forces in urban areas such as Kampala, Mukono and Wakiso after the elections contributed to fear and intimidation among the population. Indications of fraud at district tallying centres coupled with the late announcement of results created tensions and violent clashes between voters and EC officials. Law enforcement bodies used teargas against the general public in Gulu, Jinja and Masaka. On 19 February, one person was killed as security forces and FDC supporters clashed at Kasese tally centre. There was a perception of despair among the opposition's electorate and rising post-election anxiety and clashes were reported country wide, in particular in Mbale, Mbarara, Serere and Tororo.⁷⁰

Aiming at limiting the information on violent clashes across the country available to the public and at excluding the FDC leadership from public discussion, the law enforcement bodies repeatedly issued warnings to media threatening consequences if journalists' reports constituted 'incitements to violence'. Furthermore, some 15 journalists were arrested, detained or harassed while reporting on Besigye's "house arrest". Some arrests occurred during live broadcasts having a chilling effect on the overall reporting environment and effectively silencing the critical tone across the media landscape. The publicly announced arrest of two online activists added to self-censorship in both traditional and social media. Thus, the state agencies de facto acted in clear contradiction with the ICCPR GC 34, paragraph 23 that reads: "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression."

A high number of crime preventers were officially recruited as Special Police Constables to support the police force during and after the election day. On election day, the EU EOM observed crime preventers wearing new uniforms outside several polling stations, nevertheless no interference in the election procedures or intimidation of voters and party agents was observed. Contrary to expectations prior to the elections, crime preventers did not appear to be playing any role in the post-election environment. After election day, the police discharged all the SPCs with reports of non-payment and confrontational demands reported by the media in Masaka and Iganga.

During the post-electoral period civil society took a firm stance and called for an overall adherence to the fundamental rights and principles of accountability and transparency. The UHRC, religious leaders, several CSOs, domestic and international observers unanimously condemned the continued acts of the police in detaining and arresting Kizza Besigye without charges, called on the EC to respect the principles of transparency and accountability by publishing detailed results broken down

the police to a church service and, on his return, reportedly took a different route from the one prescribed by the law enforcement bodies.

⁶⁹ Although the vast majority of the arrested opposition members was from the FDC, some members of the DP and independents were also arrested. On 1 March, Daily Monitor reported that allegedly over 300 supporters and party agents of the FDC are being held in unknown facilities across the country. The chief campaigner for FDC in Rukungiri district was arrested on 6 March with no charges against his person.

⁷⁰ In Bundibugyo district, at least six people were killed on 27 February in clashes following the announcement of the Local Council (LC) elections results held on 24 February. NRM secured the vast majority of the LC V seats.

by polling station, including the RDF forms, as well as by communicating its actions to the general public in a timely manner. Neither the law enforcement bodies nor EC responded to those requests.

XVIII. ELECTORAL DISPUTES

The electoral dispute resolution system allows for complaints and appeals in all phases of the electoral process. The Constitution grants the EC the power ‘to hear and determine election complaints arising before and during polling.’⁷¹ The PEA and PPEA include the possibility of redress in all the different phases of the electoral process, and the ECA outlines the EC’s jurisdiction until election day.⁷² Appeals can be submitted to the High Court, which must deal with it expeditiously and its decision is final. Provisions for the complaints and appeals process largely respect the right to effective remedy as enshrined in the ICCPR. However, a lack of procedures for the EC’s activities and the absence of specific timelines for issuing decisions undermined the timely and effective remedy of electoral disputes. For example, the hearings on candidates’ nomination petitions remained ongoing until election day, failing to provide a timely remedy. Thus, detailed regulations should have been enacted to further interpret and regulate the election disputes resolution system.

Comprehensive information on the total number of complaints submitted either to the EC, the courts or police, however, was not available to the public. At the national level, the EC presented to the EU EOM a list of 160 cases divided into 10 categories: nonappearance on the voters register by potential candidates and voters; lack of academic qualifications by candidates or possession of forged academic papers; non-resignation by aspirants holding public office; complaints related to payment of nomination fees (payment of fees to wrong accounts and late payments); failure to present adequately completed nomination papers; non-compliance with the age requirement where the law has stipulated the minimum and maximum ages; disruption of public rallies by opponents; holding campaigns outside the time allocated by the EC; and use of prohibited language and statements during the campaign. The police presented a list of 102 complaints submitted directly at the national level and/or forwarded from the district offices to the EU EOM. The majority of cases were related to assault, bribery, malicious damage and incitement to violence. One case of murder was also reported in Wandegeya district. The number of complaints submitted to the relevant authorities in the field was reportedly low. Court fees and corruption were reported obstacles to those seeking legal remedy. Thus, in most cases, aggrieved persons preferred to resort to mediation.

The EC decision to retire the previous voter register without amendment of the legal framework, which remained unchanged from the previous exercise, provided a basis for legal challenges. Most notably, former member of the parliament and presidential candidate from DP, Norbert Mao filed a case in the Constitutional Court against the refusal of the EC to nominate him as a candidate on the grounds that he was no longer registered.

⁷¹ Article 61 (f) Constitution

⁷² The ECA provides that: ‘Any complaint submitted in writing alleging any irregularity with any aspect of the electoral process at any stage if not resolved at a lower level of authority, shall be examined and decided by the commission; and where the irregularity is confirmed, the commission shall take necessary action to correct the irregularity and any effects it may have caused.’

Post-elections petitions

The presidential and parliamentary election results can be challenged in court, yet the conditions for filing a petition markedly differ between the two elections. Contrary to international standards, a voter or CSOs cannot challenge presidential results⁷³. This is not the case for parliamentary elections, where not just an aggrieved candidate, but also a registered voter supported by signatures of 500 voters from the respective constituency can file a petition in that constituency within 30 days of the publication of the results in the Gazette.⁷⁴ The High Court must decide within six months of the petition.⁷⁵ Appeals can be submitted to the Court of Appeal and the final decision is with the Supreme Court, which should decide expeditiously.⁷⁶

According to the EC legal department, approximately 85 per cent of the first batch of results was gazetted on 3 March, and the deadline for petitions was 2 April. The second batch of approximately 15 per cent was gazetted on 23 March 2016 and the deadline for petitions will be 22 April. The EC also informed the EU EOM that, as of 29 March 2016, 11 parliamentary petitions were lodged across the country and the EC is currently in the process of filing affidavits. However, the High Court in Kampala was not able to confirm this number.

The legal framework foresees the possibility of recounts, requested by the candidates or mandatory in nature in case the count shows equal numbers of votes cast for two or more candidates, or in the event that the difference between the votes cast is less than 50. Requests for recounts must be submitted to the Chief Magistrate within seven days of the declaration of results by the returning officers.⁷⁷ According to EU EOM observers' reports and media, 18 recounts have been requested countrywide. Some have been dismissed, as in Mbarara, Buyende, Dokolo and Tororo; while others in Bukoto East, Bugweri counties withdrew their petitions. Wampara County in Mbarara, Luuka North constituency, Kamuli, Bunya South Constituency, and Lwemiyaga contenders were reported to be seeking further redress in the High Court. Some additional recounts could also be ordered by the High Court as a remedy for election petitions, as provided for in section 63 (5) PPEA.

Presidential Election Petition to the Supreme Court

On 1 March, former presidential candidate Amama Mbabazi lodged a petition at the Supreme Court (SC) seeking annulment of the 18 February elections, which declared the incumbent President Museveni as the winner. The petitioner requested the court to declare that the latter was not validly

⁷³ ICCPR Article 2(3)(a) "To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity."

⁷⁴ Section 60 PPEA; Article 86 (1) (a) Constitution

⁷⁵ Section 63 (9) PPEA

⁷⁶ Section 66 PPEA

⁷⁷ Section 58 PPEA: Each returning officer shall, immediately after the addition of votes under subsection (1) of section 53 or after any recount, declare elected the candidate who has obtained the largest number of votes by completing a return in the prescribed form.

elected, and that the election be annulled. Amama Mbabazi brought to court three respondents: the elected President Museveni, the Electoral Commission (EC) and the Attorney General (AG).

According to Section 59 of the PEA, in order to annul the elections, the court must be satisfied with any of the following conditions: that the non-compliance with the provisions of the law affected the results of the election in a substantial manner; that an offence was committed by the candidate in connection with the election either personally or with his or her knowledge, and that the candidate was at the time of his or her election not qualified or disqualified to be President. The court in adjudicating can dismiss the petition, declare which candidate was validly elected or annul the election. In the event of annulment, a new election must be held within 20 days of the date of annulment.

The grounds for requesting the annulment presented by Amama Mbabazi were grouped as: non-compliance in the conduct of the elections and voter registration with the law; offences committed by President Museveni during the electoral period, and the illegal nomination of President Museveni as a presidential candidate.

During the pre-hearing conference, the parties agreed to the following issues: whether there was non-compliance with the provisions and the principles of the law in the 2016 presidential elections; whether the non-compliance, if ascertained, affected the results of the presidential elections in a substantial manner; and whether offences under the law were committed in connection with the election by President Museveni personally or with his knowledge, consent or approval.

During the hearing sessions from 14 to 19 March, the EC was confronted with various issues including: the use of the Declaration of Results Forms and admitted that scanned copies from returning officers were used for tallying the results instead of the original copies; the transparency of the tallying process, with the party agents unable to verify the data entered; the use of the Biometric Vote Verification System; the delays in opening of several polling stations, which resulted in the disenfranchisement of voters; the illegality of the new voter register; and the nomination of President Museveni by the EC, which was allegedly done without the proper endorsement by his party. The EC, upon the order of the court, submitted the original Declaration of Results Forms but never presented to the court and the parties with the scanned copies which formed the basis of the actual process of tallying results. President Museveni was confronted with a plurality of offences committed before the elections including among others, bribery; use of state resources; false statement regarding the personal character of opposition candidates; interference with the campaign activities of other candidates by organising the crime preventers; and making abusive, insulting or derogatory statements.

Amama Mbabazi's lawyers failed in most instances to bring evidence to court regarding the offences allegedly perpetrated by President Museveni, but succeeded in proving that the tallying process and the declaration of results were conducted against the law and lacked transparency and legitimacy.

On 31 March 2016, the Supreme Court, within the one-month constitutional deadline, issued the ruling. The court unanimously dismissed the petition and declared the first respondent, President Yoweri Museveni, validly elected. The court, while admitting that there was non-compliance with

the electoral laws during the conduct of the presidential election, also stated that there was no evidence that the non-compliance affected the results in a substantial manner. The court added that the petitioner, Mbabazi, did not discharge the burden of proof upon him and failed to produce sufficient evidence to sustain the allegations purported. The SC reaffirmed once again the requirement for substantial evidence beyond any reasonable doubt. This high degree of evidence is founded in the constitution, and was used in the previous presidential election petitions in 2001 and 2006. While already highlighting issues of concerns, the SC announced that a more detailed ruling containing the reasoning and recommendations for future elections will be delivered within 90 days.

ANNEX I - LIST OF ABBREVIATIONS**ANNEX II - EU EOM RECOMMENDATIONS****ANNEX III - MEDIA MONITORING**

Annex I - List of Abbreviations:

ACFIM – Alliance for Campaign Finance Monitoring
ACHPR – African Charter for Human and People’s Rights
BVVS – biometric voter verification system
CAC – Convention against Corruption
CEDAW – The Convention for the Elimination of Discrimination against Women
CEO – Chief Executive Officer
CRPD – The Convention on the Rights of Persons with Disabilities
CSO – Civil Society Organisation
DP – Democratic Party
DPFEA - Declaration of the Principles on Freedom of Expression in Africa
DRO – District Returning Officer
EC – Electoral Commission
ECA – Electoral Commission Act
EU EOM – European Union Election Observation Mission
EUR – Euro (currency)
FDC – Forum for Democratic Change
ICCPR – International Covenant for Civil and Political Rights
ICERD – International Convention against all Form of Racial Discrimination
ID – identification card
IDP – Internally Displaced Persons
IGP – Inspector General of Police
IPOD – Inter Party Organisation for Dialogue
LTO – Long Term Observer
MP – Member of Parliament
NIR – National Identification Register
NIRA – National Registration Authority
NMG – Nation Media Group
NRM – National Resistance Movement
PCEJE – Professional Code of Ethics for Journalists and Editors
PEA – Presidential Elections Act
POMA – Public Order Management Act
PPEA – Parliamentary Elections Act
PPOA – Political Party and Organization Act
PS – polling station
PSC – Public Service Commission
PWD – persons with disabilities
RDC – Resident District Commissioner
SC – Supreme Court
SIG – Special Interest Groups
TDA – The Democratic Alliance
UBC – Uganda Broadcasting Corporation
UCC – Uganda Communications Commission
UGX – Uganda shilling (currency)
UHCR – Uganda Human Rights Commission

UNCAC– United Nations Convention against Corruption

UPC – Uganda People’s Congress

UPDF – Uganda People’s Defence Forces

VLS – voter location slip

VR – voter register

ANNEX II - EU EOM RECOMMENDATIONS

No	Context	Recommendation	Suggested change(s) in legal framework	Responsible institution(s) / stakeholder(s)	Principle International and/or Regional Commitments
LEGAL FRAMEWORK					
1	Regulatory power over the electoral process is currently vested in the Executive, in consultation with the EC. This could interfere with the independence of the EC. In practice, the Executive has not issued regulations, leaving parts of the process unregulated.	The Electoral Commission be granted sole regulatory power to further regulate essential parts of the electoral process, including voter registration, polling, tallying and electoral dispute system prior and during the elections.	Amendment of ECA, PEA and PPEA	Parliament amendment procedure under Art. 91 Constitution	Independence of Election Administration General Comment 25: The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (art. 25) (1996), N. 20
2	The present demarcation of boundaries shows huge discrepancies between different constituencies with regard to the number of voters, as current constitutional provisions for boundary delimitation do not enable the EC to adhere to the population quota <i>as nearly as possible</i> when demarcating constituencies.	The boundary delimitation provisions be reviewed to ensure equality of the vote. A reasonable, legally binding maximum deviation from the national average number of voters per constituency be established, and a new boundary delimitation conducted accordingly.	Amendment of Constitution	Parliament	Equality of votes (Art. 25, B) ICCPR
3	The present categorization as an offence for observers acting without accreditation and not producing a report is disproportional and should be downgraded to constitute only a simple irregularity.	The offences related to observing without accreditation and failure to submit an observation report not later than six month after the declaration of results be removed. Further considerations should be given to revise the accreditation system of domestic observers by removing the overly restrictive requirement of the security vetting by the District Security	Amendment of ECA	Parliament	Rule of Law (Art. 2 ICCPR)

		Committee prior to the accreditation			
4	The present requirement for candidates to have 'advance level degree' excluded a substantial part of the population from the possibility of being a candidate.	The educational requirement for parliamentary candidates to have 'advance level degree' be removed.	Amendment of Constitution	Parliament	Right to stand. Art. 25 of ICCPR. General Comment 25: The right to participate in Public Affairs, Voting Rights, and the Right to Equal Access to Public Service.
5	The provision requiring candidates to resign from official posting severely and unnecessarily limits the right to stand.	The provision requiring parliamentary candidates to resign from public offices not later than 90 days before nomination be amended.	Amendment of Constitution	Parliament	Right to stand. Art. 25 of ICCPR. General Comment 25: The right to participate in Public Affairs, Voting Rights, and the Right to Equal Access to Public Service.
6	The provisions of POMA are vague and unspecified and enable extensive interpretation by the police. In particular, they do not specify the requirement for authorisation and lack clear definition of what constitutes a public meeting. The interpretation of the POMA provision granting the Police the right to disperse a meeting has been widely interpreted and it is subject to abuse and arbitrary interpretation. It is also against the constitutional court decision of 2008 declaring unconstitutional a similar provision in the police act.	The Public Order Management Act (POMA) provision which is interpreted to grant the Police the right to disperse meetings be repealed in order to align the act with the Constitutional Court decision of 2008 declaring unconstitutional a similar provision in the police act. Consideration be given to clarify POMA provisions so that instead of a special authorisation for public meetings, the provision is unequivocally clear that only a notification to the police is required.	Amendment of POMA	Parliament	Right to Assembly Art. 20 (1) UDHR

ELECTORAL ADMINISTRATION					
7	The Commission's appointment process gives too much power to the President. In the past, there have also been no consultations with other political parties/candidates or civil society. The security of tenure has not been sufficiently improved through the Constitution Amendment Act 2015. The EC's budget is not adequately safeguarded.	Establish an inclusive and transparent selection, appointment and removal mechanism for the EC commissioners and key executives at the central, regional and district level. The EC's integrity be further strengthened by engaging civil society in the selection process and subjecting proposed candidates to public scrutiny.	Amendment of Constitution; ECA; Public Finance Management Act	Parliament	Effective Management of Election Administration, General comment 25 Article 20
8	The tallying process does not contain sufficient fraud mitigation measures. The protocols as well as the ERTDS software do not have adequate provisions for full data reconciliation. Screens displaying results in real time are not available in the district tally centres, result printouts for agents and observers are not mandatory, and although technically feasible, tallied polling station results are not available in real time on the EC's website. The publication should also include the scanned Declaration of Result Form of each Polling Station.	Clear and detailed provisions for collection and tallying of results be established well before elections and systematically implemented at all stages of the process. The integrity of results be further strengthened by subjecting the tallying of results at all levels to systematic checks and by publishing online the full results broken down to polling station level in due time.	PEA and PPEA	Parliament & EC	Genuine Elections "There should be independent scrutiny of the results process and access to judicial review or other equivalent process so that electors have confidence that the results reflect the votes cast and the counting of the votes" UN HRC General Comment No. 25 paragraph 20
9	The Constitution provides for the National Consultative Forum as a stakeholder mechanism to resolve disputes and to promote a culture of consultation and tolerance. Unlike in 2011, the NCF was not substituted by the Inter-Party Liaison Committee at the national level during election time.	The inclusiveness and transparency of the EC be increased by holding regular open meetings with stakeholders at the national and district levels and publishing the minutes of these meetings immediately afterwards.	Constitution (Amendment) ECA Political Parties Organisations Act	Parliament	Effective Management of Election Administration, General comment 25

10	When the EC declared the final results within the 48-hour deadline, but did not include 1,787 polling stations which were not yet tallied, it caused confusion among stakeholders and the public. It would be in line with best practices to insert a differentiation between preliminary results and final results. The preliminary result can be issued to declare the winner once he or she has passed the 50 per cent plus-1-vote mark. The differentiation between preliminary and final results can have also implications for the start of the petition period.	The EC be legally required to issue preliminary results and final results and publishing, including online, disaggregated data per polling station at the time of each announcement of results. To further foster the acceptance of the results, consideration should be given to publishing the scanned copies of the Result Declaration Forms online in a due time and after each announcement of the results.	PEA and PPEA	Parliament	Effective Management of Election Administration, General comment 25
VOTER REGISTRATION					
11	The Commission, with its application of the cut-off date as the final day for inclusion in the VR, did not fully implement the transition from an active to a passive voter registration process, unnecessarily disenfranchising a significant number of potential voters who were 18 years of age by election day. Technically, the passive system enables the Commission to apply the election date as the cut-off date.	The legal framework be amended to allow all citizens who reach 18 years of age by the day of election to vote.	Amendment of the Constitution; and ECA		Universal Suffrage Art. 2 ICCPR Every citizen shall have the right and the opportunity, without any distinctions.....to vote ... at genuine periodic elections which shall be by universal and equal suffrage....
12	The ECA has not been amended to provide for the new voter registration system. The current legal framework is in parts, therefore still not consistent with the new system.	The ECA be harmonised with the new system for compiling the voter register, including deleting provisions related to issuance of the voters' card and the relative offence of buying or selling cards.	Repealing Sections of ECA	Parliament	Standard Rule of Law

VOTER EDUCATION					
13	Voter education has been one of the very weak points of the electoral process. The current system, according to which the EC contracts companies to conduct voter education on their behalf and to use parish and sub-county supervisors, did not prove successful and should therefore be reconsidered. The accreditation of civil society organisations is generally sensible, but CSOs should not be subjected to burdensome clearance processes of its messages.	The EC develop and implement a comprehensive and timely voter information and civic education programme through both field activities and a media campaign, blanketing all key elements of the electoral process.	Implementation of Constitution and ECA		
POLITICAL PARTIES AND CAMPAIGN ENVIRONMENT					
14	Currently, the legislation allows for systematic deployment of state and government resources during the campaign period for the advantage of the incumbent, which resulted in an non-level playing field.	Steps be taken to clearly differentiate the state from the ruling party in an electoral context. An effective sanctioning mechanism against the misuse of state resources, including administrative and security apparatus, during the election period be established and implemented with active involvement of the EC in the process. The role of the government during the election period be strictly limited to caretaker functions.	Amendment of PEA Amendment of PPEA Implementation of PPEA	Parliament Government, EC	Paragraph 19 of General Comment No. 25 (1996) to Article 25 of the ICCPR. Article 19 of the UN Convention against Corruption (CAC)
15	The pre-electoral environment was characterised by an atmosphere of intimidation and harassment of opposition candidates and voters by	The voters and electoral contestants be provided with conditions that enable them to participate in public affairs freely without being subject to pressure or intimidation: (a) Any instances and		Government Parliament Police	Paragraph 19 of General Comment No. 25 (1996) to Article 25 of the ICCPR.

	security agencies and state structures.	allegations of pressure or intimidation be thoroughly investigated and, if appropriate, be subject to prosecution by the relevant authorities; (b) The measures to ensure police accountability be implemented; (c) Policing of the elections should be done strictly within the legal framework by law enforcement agencies without employing any illegal security structures.			
16	Notwithstanding existing legal provisions, a Code of Conduct for political parties has never been enacted by the Parliament, resulting in political parties acting without a framework.	The law providing for the Code of Conduct for political parties to be amended. All stakeholders, in particular the EC and the political parties, be encouraged to implement the Code of Conduct. The EC to independently monitor and ensure compliance with the Code of Conduct.	Amendment of PPOA	Political parties, EC	Paragraph 25 of General Comment No. 25 (1996) to Article 25 of the ICCPR.
17	Campaign violations remained unaddressed, in part due to EC's lack of sanctioning powers under the law.	The EC be empowered to address non-compliance with campaign regulations more effectively, as stipulated in the law. A monitoring system be established with information on breaches and sanctions of violations made public in real time, including in regard to misuse of state resources.	Implementation of ECA	EC	Paragraph 19 of General Comment No. 25 (1996) to Article 25 of the ICCPR. Article 17 of the UN Convention against Corruption (CAC)
CAMPAIGN FINANCE					
18	EC is currently not enforcing legislation for collecting, scrutinizing, and disclosing financial reports, and is not addressing violations.	The EC implement the law by collecting financial reports and lists of donors, verifying them, sharing them with the public, and acting in cases of violations in order to improve integrity and transparency of elections.	PEA PPEA	EC	Enforcement of laws, ICCPR, UNCAC

19	EC Chairman says that EC collected financial reports, but EU EOM and others were unable to get copies. Procedures to get access to copies of public documents are too complicated and EC is not helpful.	Both campaign financial reports and yearly financial reports, including the list of donors, be available to public by law and in practice in order to improve transparency. It is good practice to have them published on the Internet.	PPOA	EC	Transparency, CAC Art. 7(3)
20	Current legislation does not contain measures to level the playing field, in terms of political finance: no donation limits, no spending cap, and no state subsidies are present.	A state subsidy be introduced for both presidential and parliamentary candidates to ensure a level playing field. Equal state subsidies could be paid as reimbursement for candidates who obtain a certain threshold, i.e. a percentage of votes cast in parliamentary and presidential elections, in order to refund serious candidates with adequate support. All state subsidies, as well as other donations be subjected to genuine scrutiny conducted by the EC and relevant information be shared with the public in a comprehensive manner.		Parliament	Level playing field, freedom of expression, ICCPR Art. 19, 25
21	With the ruling party, it is unclear which costs were covered by state and which by campaign funds. With other parties and candidates, it is unclear where the money comes from. Without designated accounts and bank transactions, it is impossible to verify the accuracy of financial reports.	Transactions to and from political parties and candidates above certain threshold be only done by bank transfer, in order to prevent corruption.	Amendment to PEA and PPEA, PPOA	Parliament	Political corruption prevention, CAC Art. 14
ELECTION DISPUTE RESOLUTION SYSTEM (EDR)					
22	The legal framework does not contain detailed procedures for electoral complaints and related deadlines.	The detailed complaints procedures with reasonable time limits for adjudication be enacted, indicating in which instances and at what level the complaint should be submitted.	Amendment of ECA Enactment of regulations by the EC	Parliament, EC issuance of regulations	Right of Effective Remedy Art.19 ICCPR; Art. 10 UDHR

23	The EC has not published any information regarding complaints filed and decisions taken.	The EC should publicized full information on the complaints submitted and decision taken in a timely manner and including online.	Enactment of regulations by the EC	EC	Right of Effective Remedy Art.19 ICCPR; Art. 10 UDHR
24	Electoral offences committed often do not result in any prosecution as they should be referred to the Public Prosecutor for sanctioning.	The detailed procedures for EC referral of electoral offences to the department of Public Prosecution for sanctioning be included in the legal framework.	Insertion of provisions in the ECA	Parliament	Right of Effective Remedy Art.19 ICCPR; Art. 10 UDHR
WOMEN'S PARTICIPATION AND SPECIAL GROUPS ISSUES					
25	While promoting rights of PWD is desirable, other groups are not usually recognised as needing special protection. This system, through which members of the unicameral parliament are not elected by universal and equal suffrage, contravenes international best practice.	The granted seats for the representatives of the army, youth and workers be abolished, since these groups do not suffer discrimination or require specific assistance. The reserved seats for PWD be elected by universal suffrage and not though a collegiate system.	Amendment of Constitution and PPEA	Parliament	Universal and equal suffrage (Art. 25(B) ICCPR
26	The current provisions for women-reserved seats are not guaranteeing equality of representation, as the size of the constituencies varies	The women-reserved seats be aligned with administrative division of districts and municipalities to guarantee equality of votes.	Amendment of PPEA	Parliament	Equality of vote (Art. 25) (B) ICCPR)
MEDIA					
27	The PEA and PPEA secures equal and equitable coverage for all candidates, yet there are not further statutory instruments in place to secure the implementation. No one has oversight or dedicated sanctioning powers. The EU EOM Media monitoring shows that overall media coverage is beneficial to the incumbent.	A comprehensive and effective implementation mechanism granting equal and equitable coverage of the presidential and parliamentary candidates in media be developed and secured in the primary legislation. A mutually beneficial cooperation between the EC and the Uganda Communication Commission be established to undertake timely, resolute and transparent	Prior the establishment of the implementation mechanism, a broad consultation of all relevant stakeholders, including media houses, should be held and there needs	Parliament; EC, UCC, Media Council Media owners	ICCPR Article 19 " Everyone shall have the right to freedom of expressions through any other media of his choice." ICCPR GC 25, paragraph 25 " free communication of

		measures as soon as media's noncompliance with legal and regulatory provisions is established.	to be a common agreement on both the sanctions in case the equal and equitable allocation of time is not respected as well as the avenues for the effective redress.		information and ideas about public and political issues between citizens, candidates and elected representatives is essential. ICCPR GC 34, paragraph 13: "The public also has a corresponding right to receive media output"
28	The management of the public UBC is appointed by the minister and can also be removed by the minister on such vague grounds as, for example, "incompetence". The UBC, in its editorial policy, <i>inter alia</i> , are obliged to abstain from reporting that "might jeopardize peace and harmony in the country". Moreover, the UBC is financially dependent from the government.	Essential safeguards for the public service broadcaster's editorial independence and financial autonomy be established and secured in legal framework to enable the state media to plan and conduct a comprehensive and inclusive election coverage aimed to foster the electorate's ability to make an informed choice on the election day.	The Uganda Broadcasting Corporation Act.	Parliament	ICCPR GC 34, paragraph 16 "States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence."
29	The UCC operates under direct government's supervision, the legal framework poorly defines the provision for the implementing the UCC decisions, and there is a lack of effective redress for any aggrieved parties.	The independence of the Uganda Communication Commission be established and its mandate, as well as decision-making process, be made transparent, including on licencing policy and procedures applied for aggrieved parties seeking for effective remedy.	The Uganda Communication Commission Act	Parliament, UCC	Declaration of the Principles on Freedom of Expression in Africa: Regulatory Bodies for Broadcast and Telecommunication VII: "Any public authority that exercises powers in the areas of broadcast or

					telecommunications regulation should be independent and adequately protected against interference... The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party.”
30	Legal framework for media, the content regulations, most notably, provide for the state institutions’ firm grip on media’s content. Vague definitions and ambiguities leave space for arbitrary application of power. Frequently actions taken by state actors have a political undertone. The prosecution of media practitioners, including citizen journalists posting online, are often based on a vague grounds.	The legal framework for media, the content regulations in particular, to be synthesised and amended to provide for a full respect for Uganda’s international commitments on the freedom of expression. The revision of the Minimal Broadcasting Standards, the Computers Misuse Act, the legally binding Professional Code of Ethics for Journalists and Editors, as well as the decriminalization of defamation are of primary concern.	Revision of Minimal Broadcasting standards Revision of Professional Code of Ethics for Journalists and Editors and Anti Terrorism Act The Computer Misuses Act. Penal Code. Revision of the Uganda Communication Commission Act		ICCPR GC 34, paragraph 13: ““A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and enjoyment of other Covenant rights”.

ANNEX 3

Media Monitoring Results

1. Radio

As radio is the most popular medium in Uganda, the EU EOM included four Kampala-based radio stations and four regional radio stations that had a prominent reach in their respective areas in its sample. The sample includes:

- Four Kampala-based radio stations – **UBC Radio** (publicly owned), **CBS Radio** (owned by Buganda Kingdom) and **Radio One** and **Simba**, both privately owned.
- Three regional, privately owned radio stations are **Voice of Kigezi**, based in Kabale, **Kings Radio**, based in Masindi, and **Open Gate Radio**, based in Mbale. One regional radio station was partly state-owned, **Radio Rupinyi**, based in Gulu.

Monitoring periods:

- 1) Kampala-based radio stations – from 4 January to 16 February from 6:00AM to 8:00AM and from 6:00PM to 22:00 PM daily;
- 2) Regional radio stations – from 15 January to 16 February from 6:00AM to 8:00AM and from 6:00PM to 22:00 PM daily.

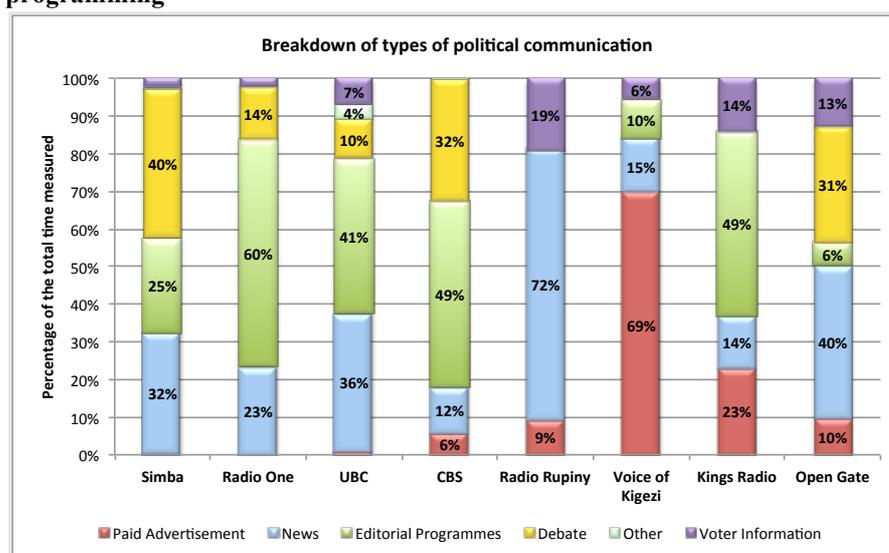
Total time coded – 1, 529 hours

Total time allocated to political communication – 183 hours and 45 minutes, or 12 per cent of the monitored time.

Total time allocated to political communication in radio's prime time programming

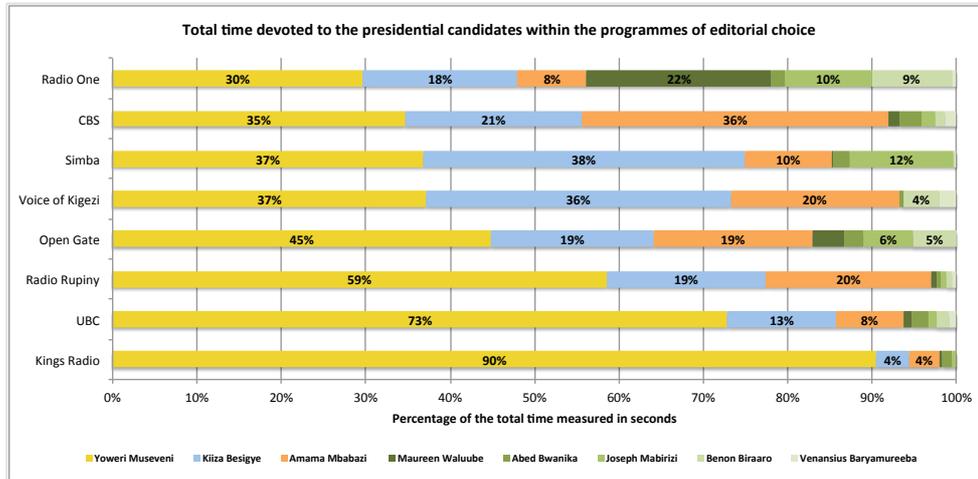
	Percentage of total time coded	Time allocated to political communication
UBC	11 per cent	25 hours 20 min
CBS	19 per cent	48 hours 37 min
Radio One	8 per cent	18 hours 43 min
Simba	14 per cent	36 hours 40 min
Voice of Kigezi	15 per cent	23 hours 51 min
Kings Radio	15 per cent	22 hours 25 min
Open Gate	3 per cent	5 hours 50 min
Radio Rupinyi	2 per cent	2 hours 19 min

Breakdown of types of political communication in the television channels' prime time programming

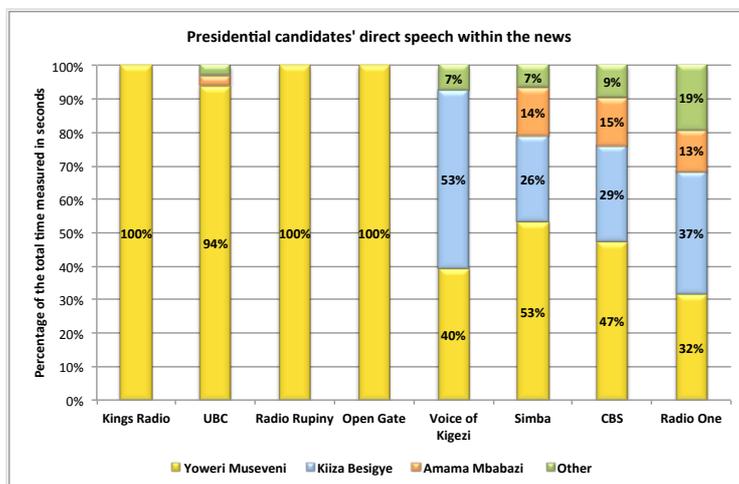
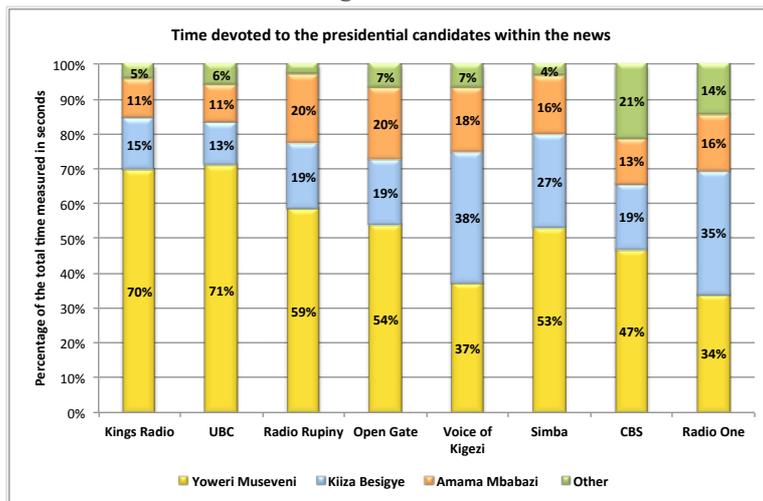


Total time allocated to presidential candidates during election related prime programming (not including political advertisements)

	UBC	CBS	Radio One	Simba	Voice of Kigezi	Kings Radio	Radio Rupinyi	Open Gate Radio
Total time devoted to presidential candidates	10h 47min	6h 49min	5h 25min	7h 52min	1h 26min	3h 47 min	38 min	59 min

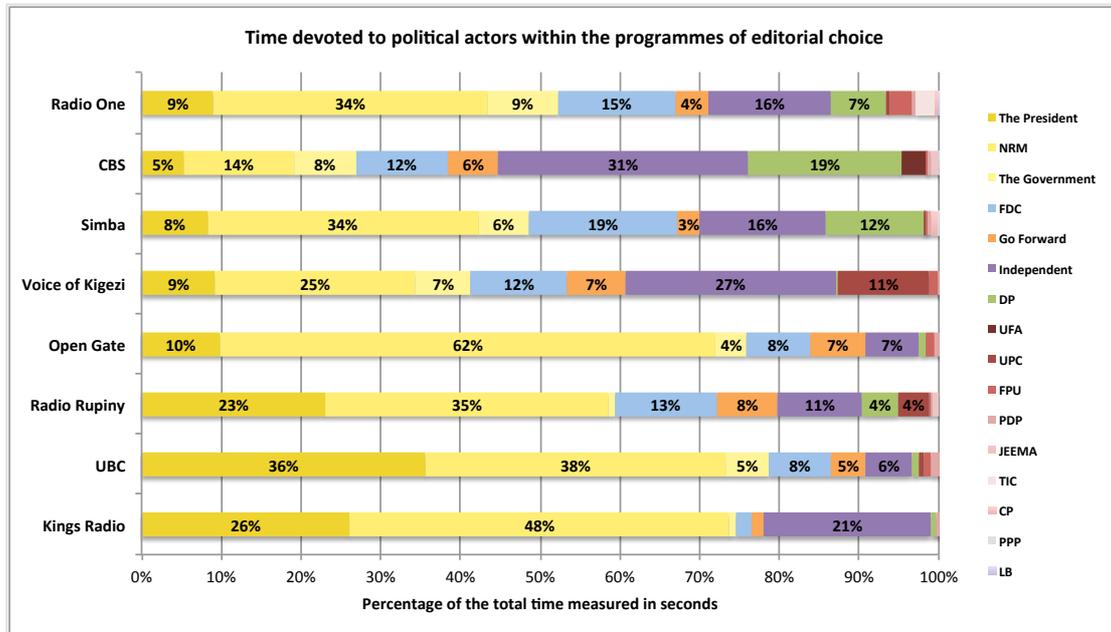


Total time allocated to presidential candidates in the news and direct quotas by presidential candidates within the news segments on electoral matters

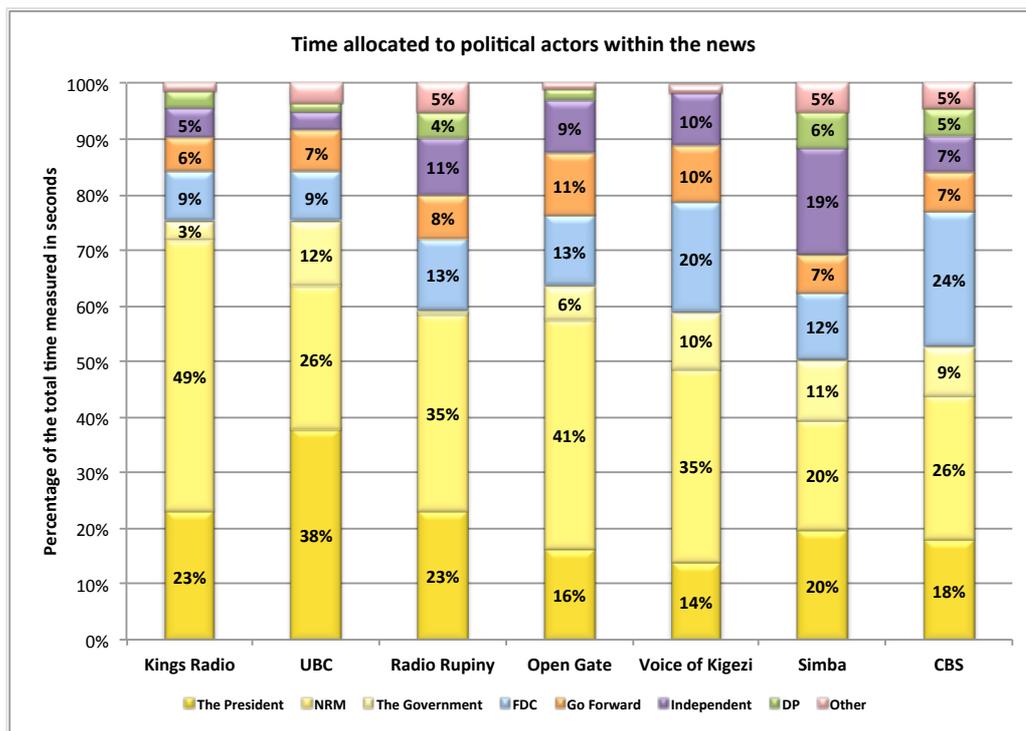


Total time allocated to political actors during election related prime-time programming (not including political advertisements)

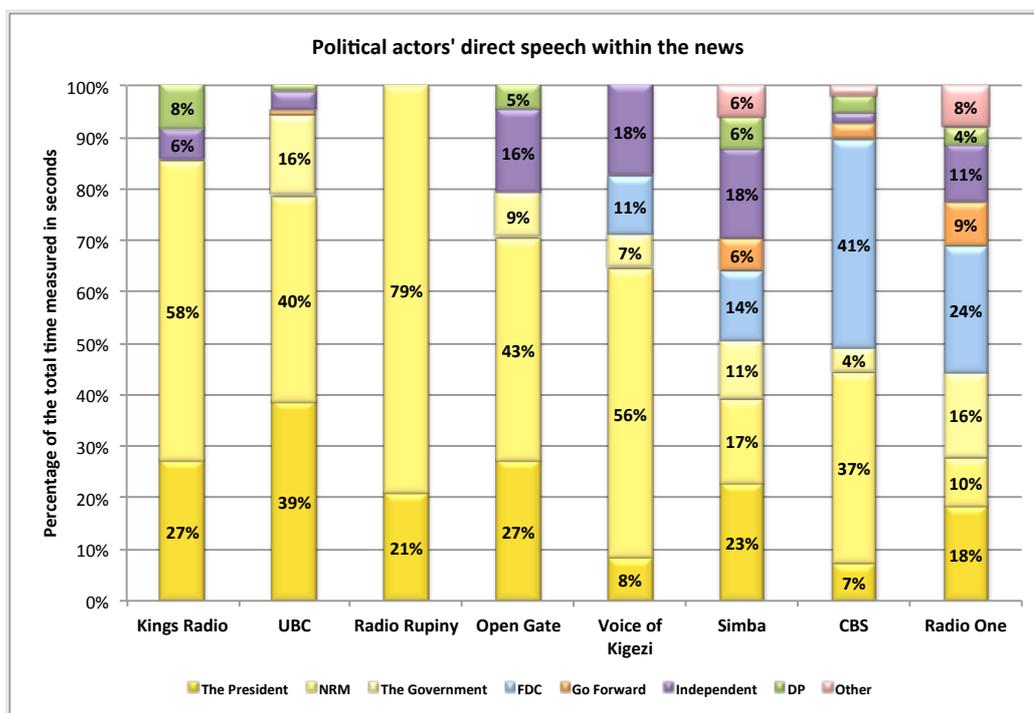
	UBC	CBS	Radio One	Simba	Voice of Kigezi	Kings Radio	Radio Rupinyi	Open Gate Radio
Total time devoted to political actors	23h 17min	45h 33min	18h 15min	35h 25min	5h 57min	14h 5min	1h 39 min	4h 30min



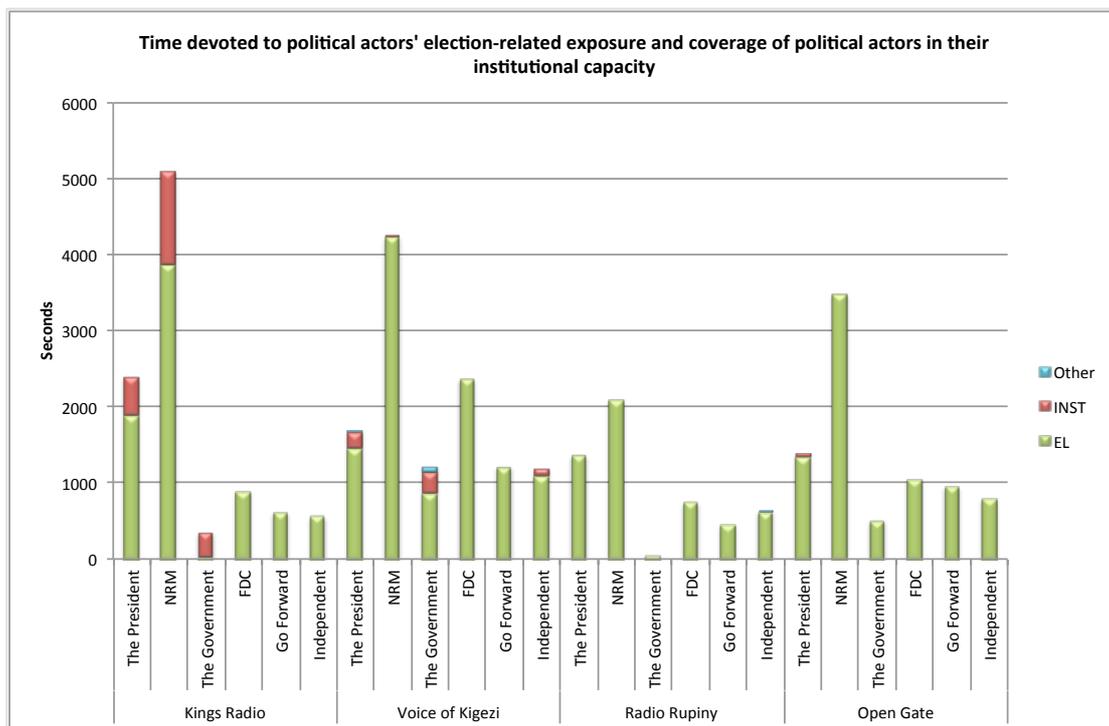
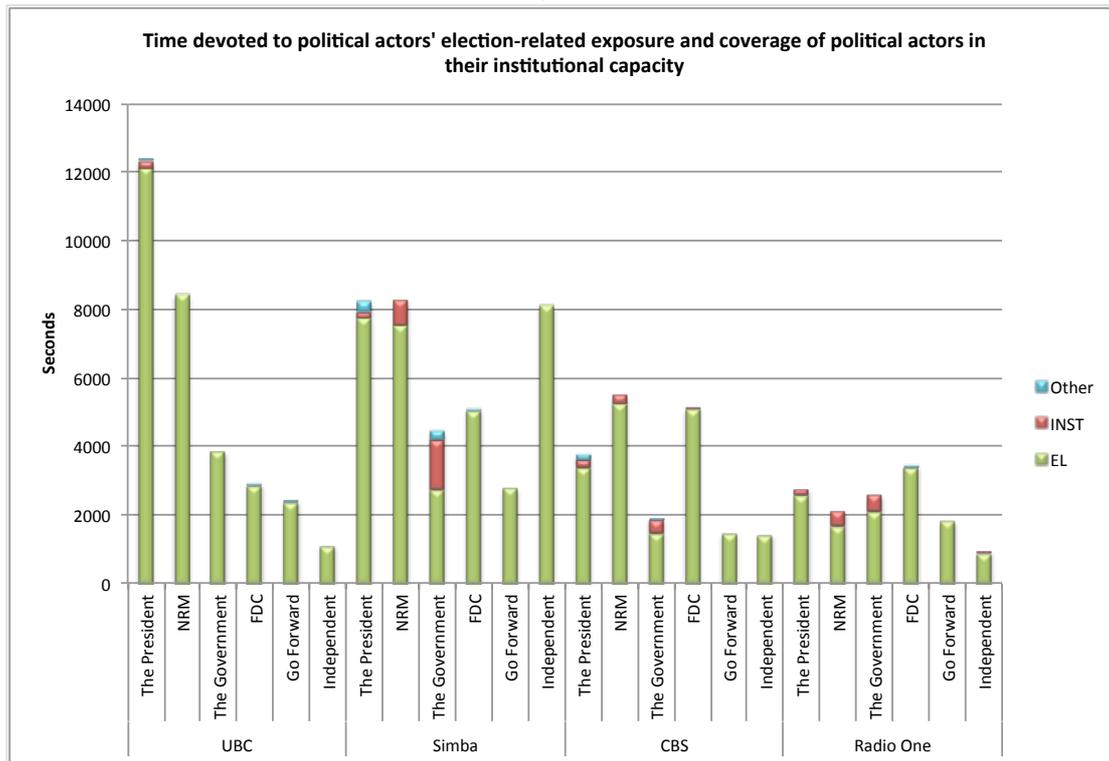
Total time allocated to political actors in news segments on electoral matters



Direct quotes from political actors within news segments on electoral matters



Total time allocated to political actors in current affairs programmes and news (includes political actors' institutional and election-related activities)



EL – the event featured in the respective programme is election related;
 INST – the event features the actor in his/her institutional capacity;
 Other – the programme features the actor outside electoral or institutional context.

2. Television

The EU EOM monitored a sample of television stations with close-to-nationwide reach. Each of the TV channels belongs to a different media group and all are leaders in terms of overall audience share.

The sample includes state-run/public television channel **UBC**; partly state-owned broadcaster **Bukedde TV**; **WBS TV**, which is owned by Buganda Kingdom, and privately owned television channel **NTV**.

Monitoring periods – from 15 January to 16 February from 18:00 to 24:00 daily

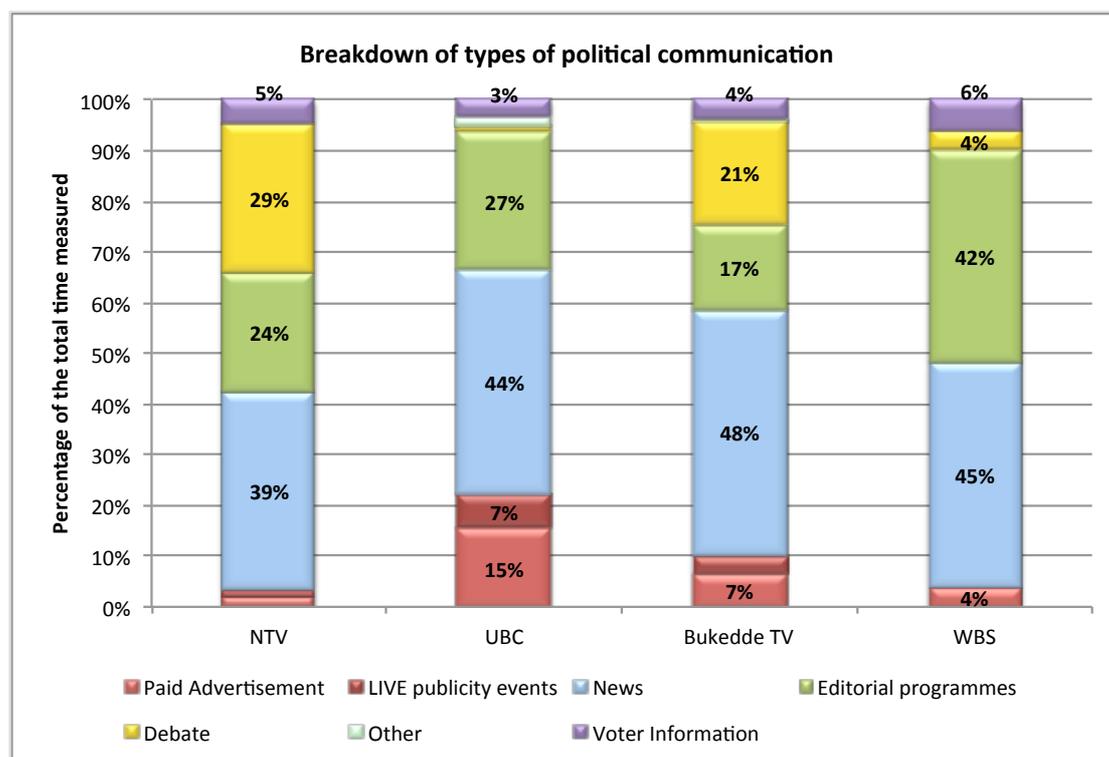
Total time coded – 798 hours

Total time allocated to political communication – 156 hours and 11 minutes, or 20 per cent on average

Total time allocated to political communication in the television channels' prime time programming

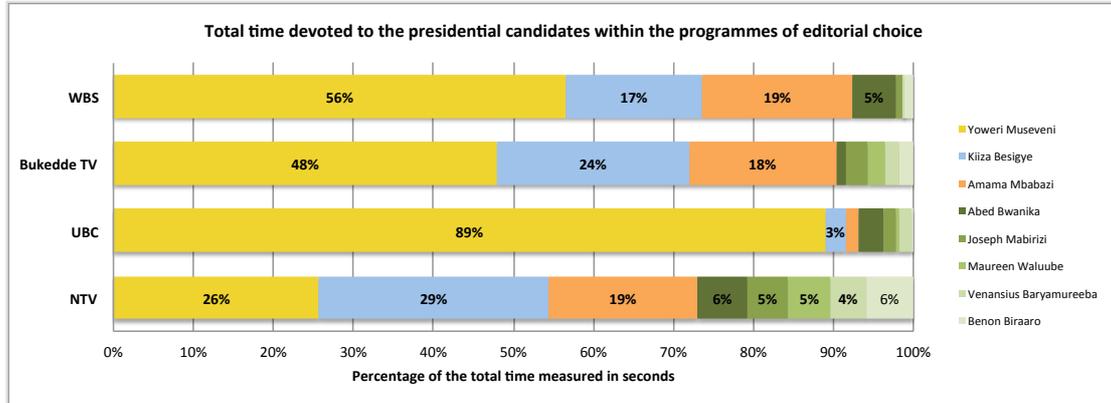
	Percentage of total time coded	Time allocated to political communication
UBC	21 per cent	39 hours 41 min
Bukedde TV	20 per cent	40 hours 53 min
WBS	14 per cent	27 hours 44 min
NTV	23 per cent	47 hours 53 min

Breakdown of types of political communication in the television channels' prime time programming

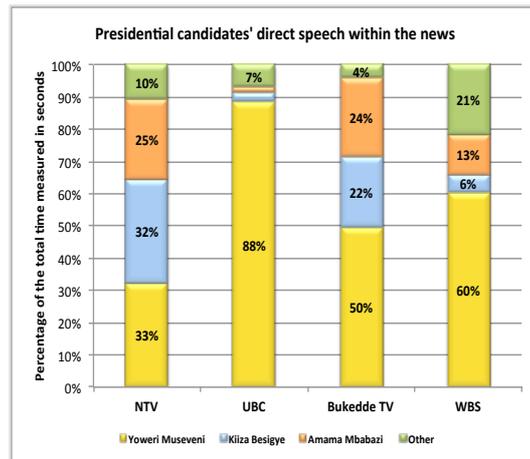
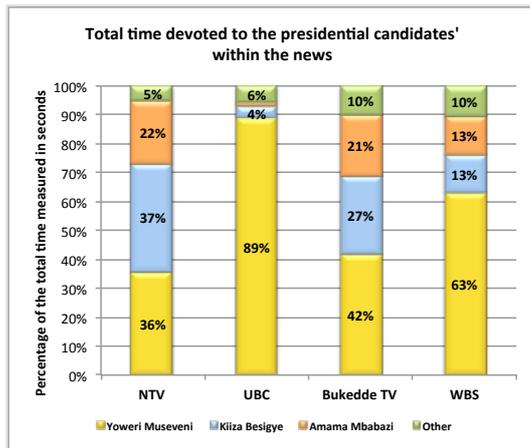


**Total time allocated to presidential candidates during election related prime-time programming
(not including political advertisements)**

	UBC	Bukedde TV	WBS	NTV
Total time devoted to presidential candidates	7 h 42 min	5h 40 min	2h 24 min	9h 30 min

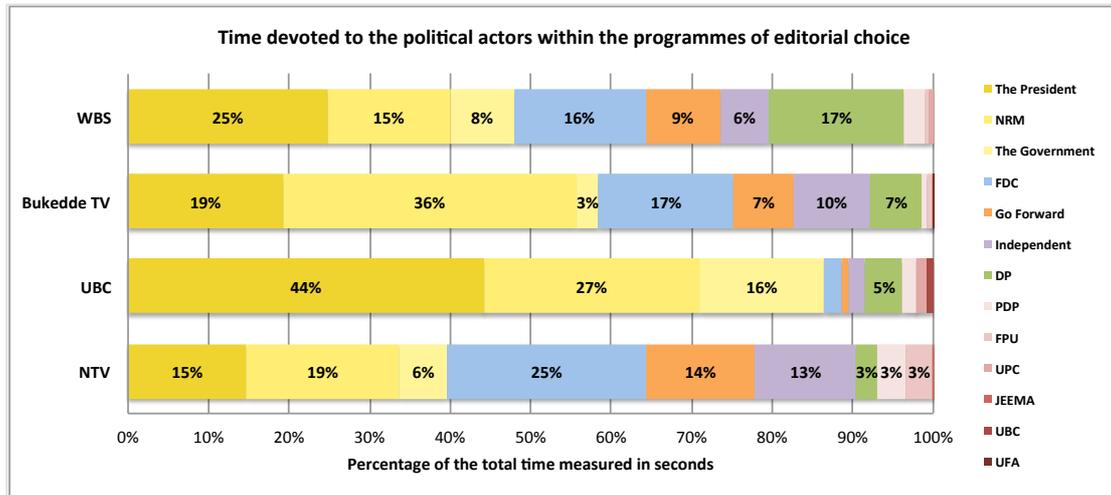


Total time allocated to presidential candidates in the news and direct quotas by presidential candidates within the news segments on electoral matters

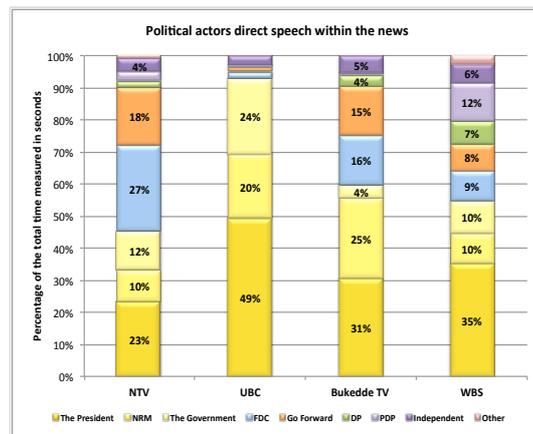
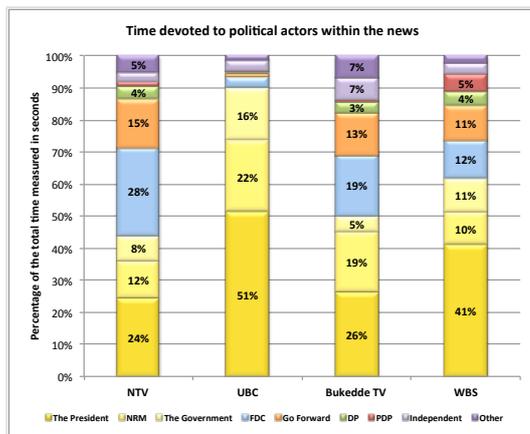


Total time allocated to political actors during election-related prime time programming (not including political advertisements)

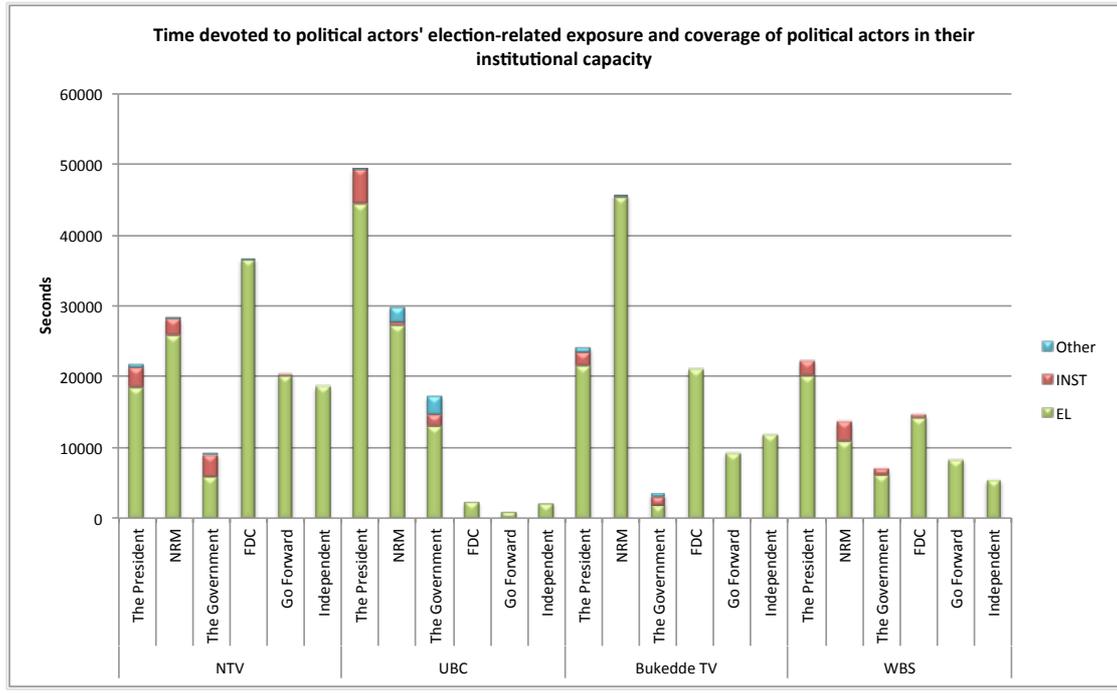
	UBC	Bukedde TV	WBS	NTV
Total time devoted to political actors	16h 59 min	16h 56 min	8h 55 min	16h 56 min



Total time allocated to political actors in the news and direct quotes by political actors within the news segments on electoral matters



Total time allocated to political actors in current affairs programmes and news (includes political actors' institutional and election related activities)



*EL – the event featured in the respective programme is election related;
INST – the event features the actor in his/her institutional capacity;
Other – the programme features the actor outside electoral or institutional context.*

3. Newspapers

The EU EOM monitored a sample of English language newspapers. Each of the newspapers belongs to a different media group and is among the most read newspapers nationwide. The sample includes partly state owned newspaper *New Vision*, and privately owned newspaper *Daily Monitor*.

Monitoring period – from 5 January to 16 February daily.

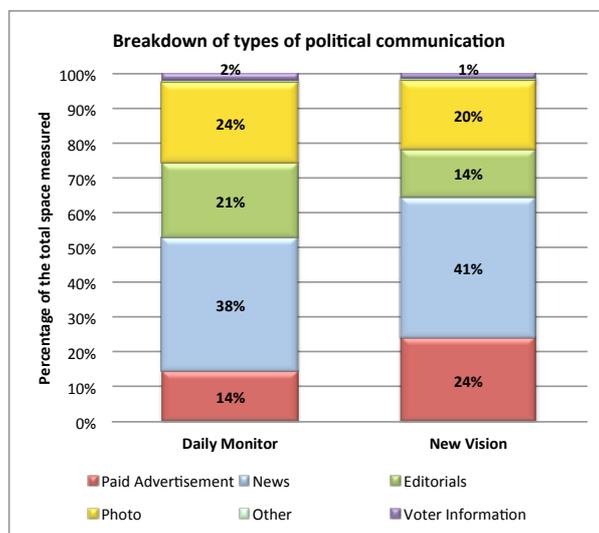
Total space coded – 481 square meters

Total space allocated to political communication – 58.42 square meters, or 12 per cent on average

Total space allocated to political communication in newspapers

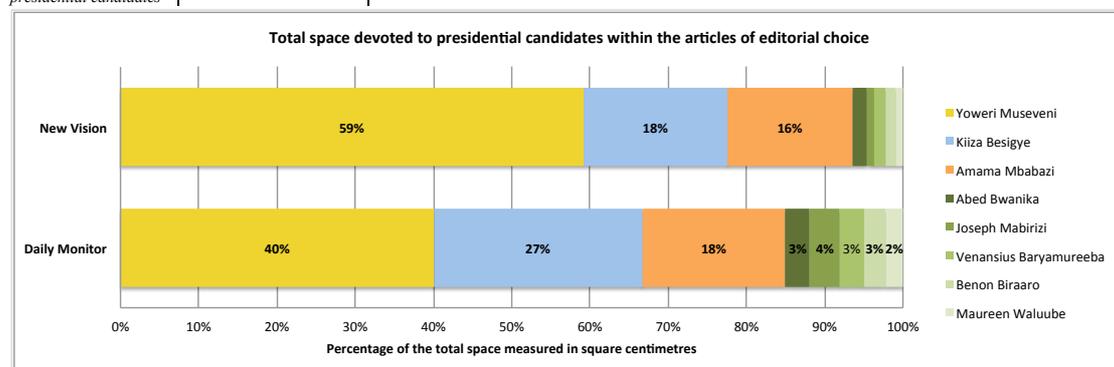
	Percentage of total space coded	Space allocated to political communication
<i>New Vision</i>	11 per cent	29 m2 46 cm2
<i>Daily Monitor</i>	13 per cent	28 m2 45cm2

Breakdown of types of political communication in newspapers

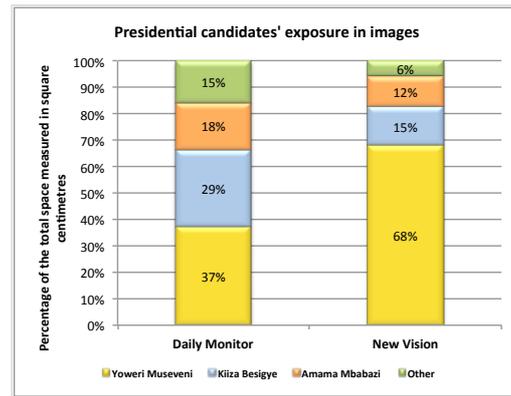
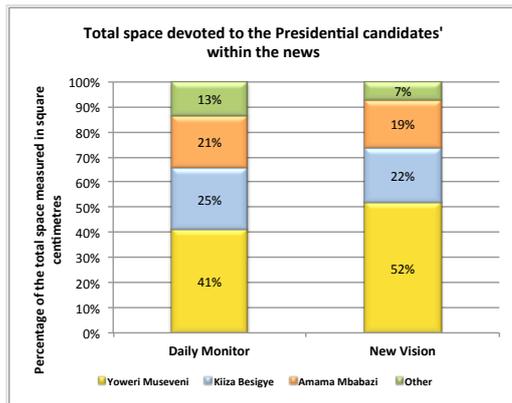


Total time allocated to presidential candidates within the newspapers' election-related coverage and the photos illustrating those articles (not including political advertisements)

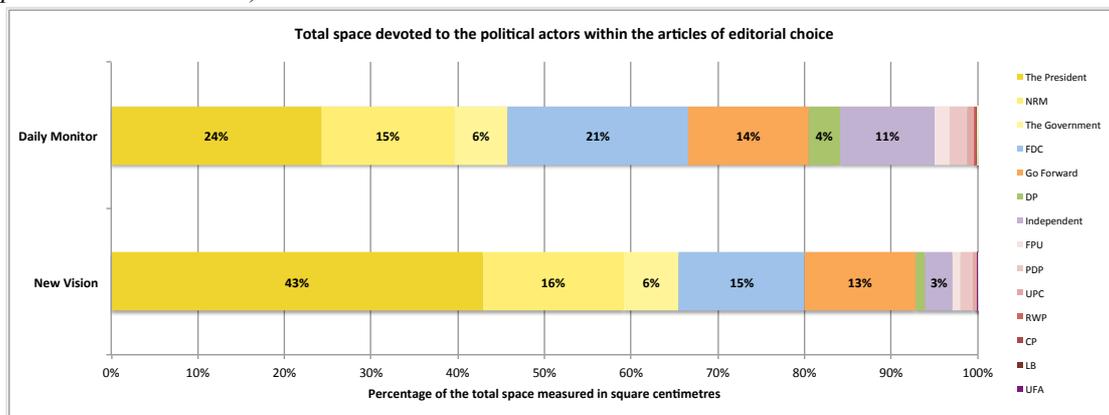
	<i>New Vision</i>	<i>Daily Monitor</i>
Total space devoted to presidential candidates	15m2 94 cm2	14m2 29cm2



Total space allocated to presidential candidates in the news and images concerning electoral matters

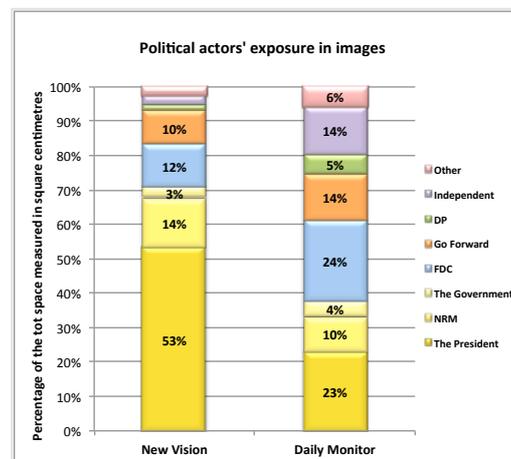
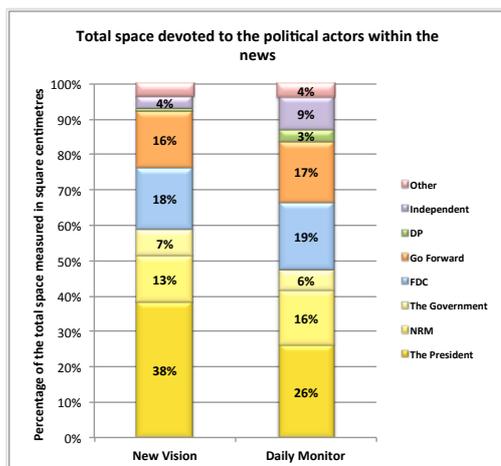


Total space allocated to political actors within the newspapers' election-related coverage (without political advertisement)

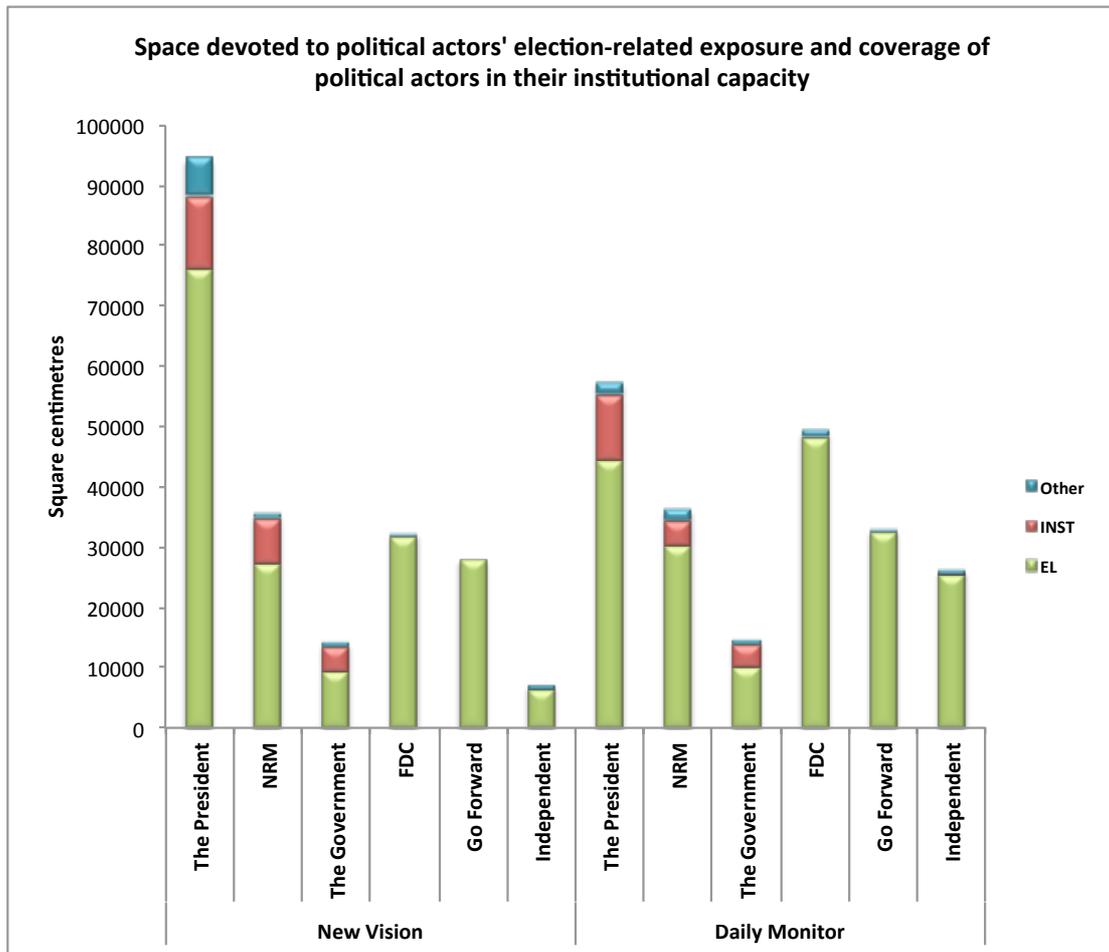


	<i>New Vision</i>	<i>Daily Monitor</i>
Total time devoted to presidential candidates	22m2 33cm2	23 m2 80cm2

Total space allocated to political actors in the news and images concerning electoral matters



Space allocated to political actors in articles of editorial choice (reports on institutional activities versus reports on election related issues)



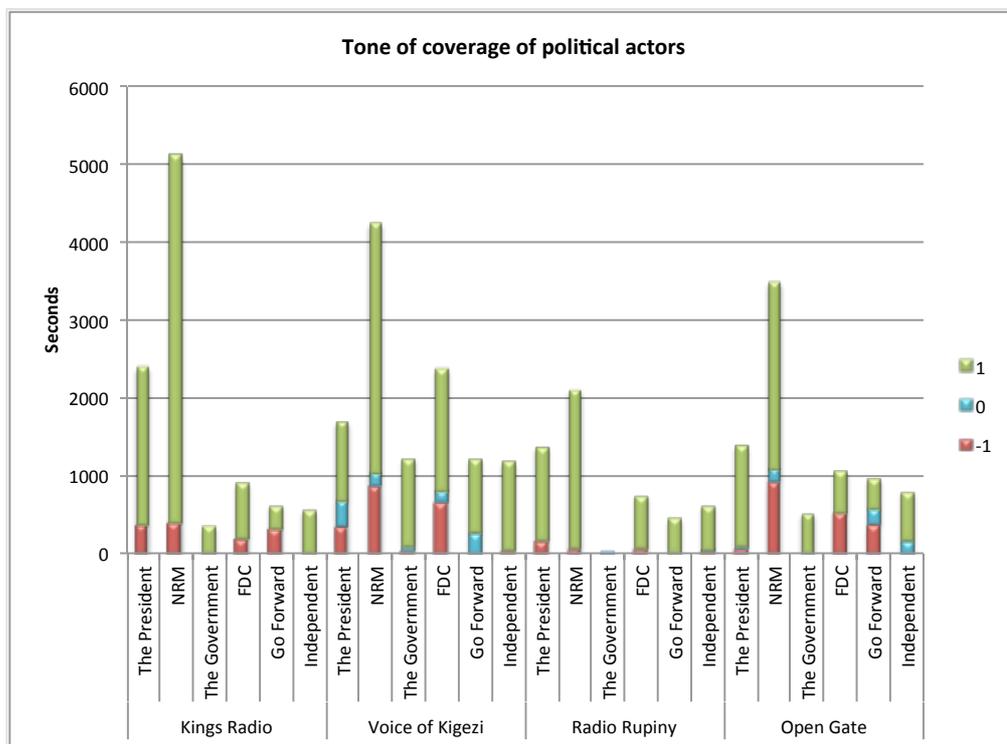
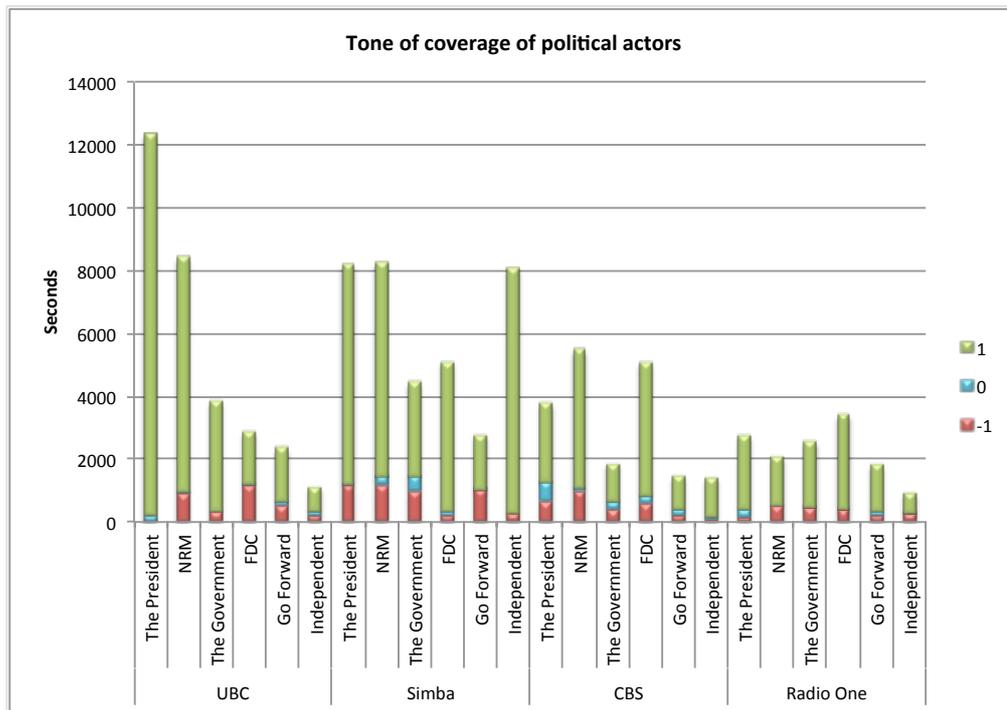
EL – the article features election related event;

INST – the article features the actor in his/her institutional capacity.

Other – the material features the actor outside electoral or institutional context

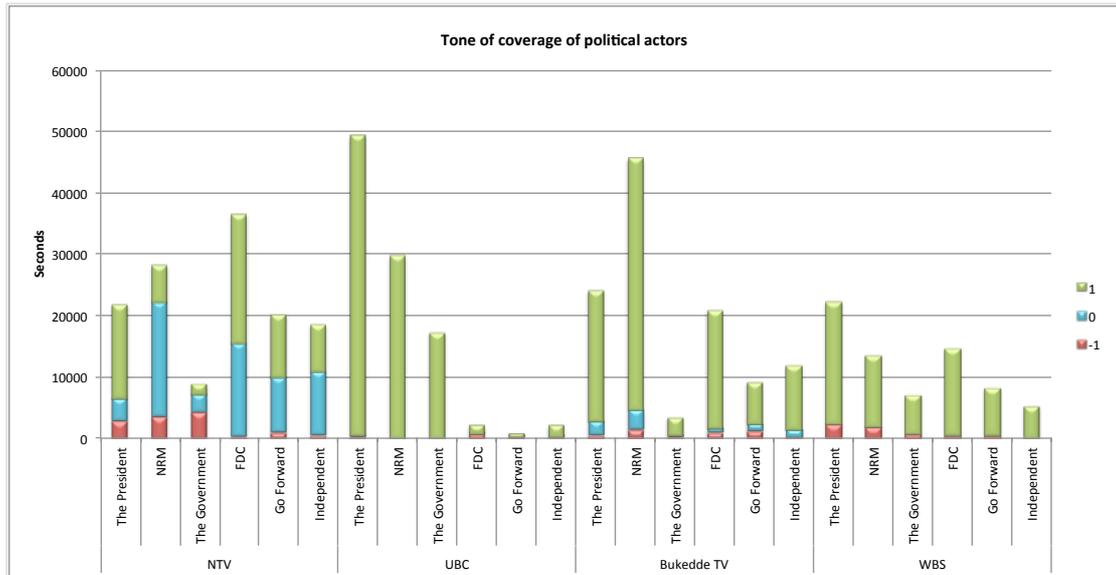
4. Tone of coverage across the media landscape as monitored by the EU EOM

Radio



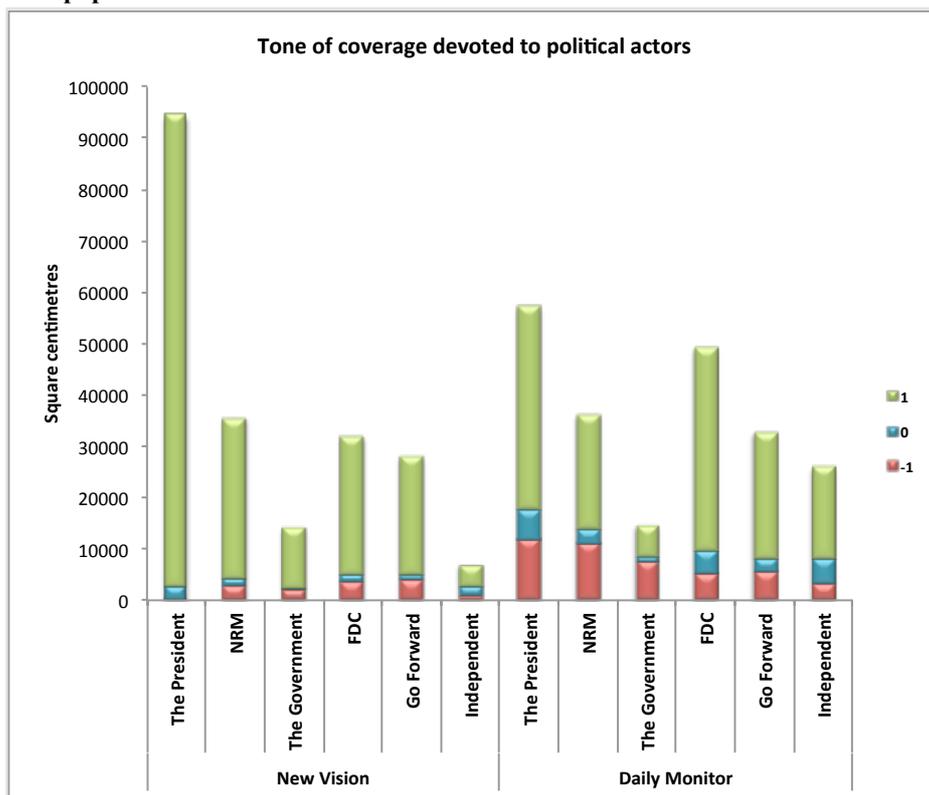
- **1** = the tone is positive towards the subject; **0** = the tone is neutral towards the subject; **-1** = the tone is negative towards the subject.

Television



- **1** = the tone is positive towards the subject; **0** = the tone is neutral towards the subject; **-1** = the tone is negative towards the subject.

Newspapers

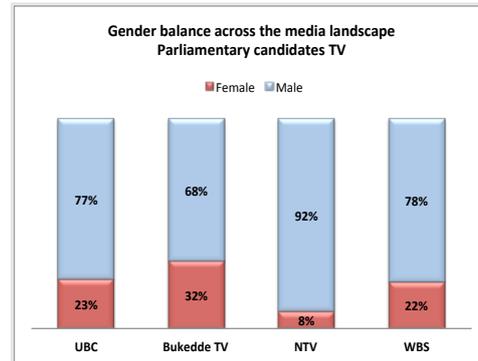
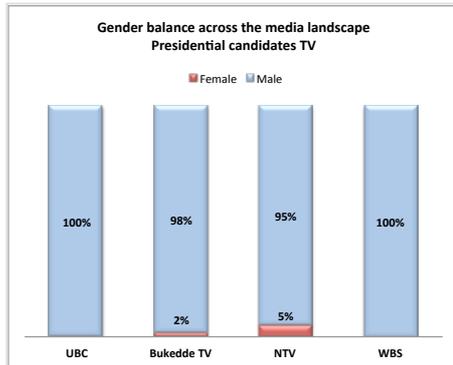


- **1** = the tone is positive towards the subject; **0** = the tone is neutral towards the subject; **-1** = the tone is negative towards the subject.

5. Gender balance across the media landscape, as monitored by the EU EOM

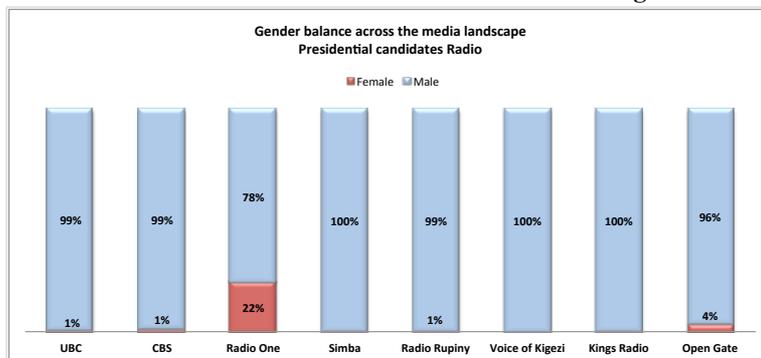
Television

Time allotted to Presidential and Parliamentary candidates on the basis of gender

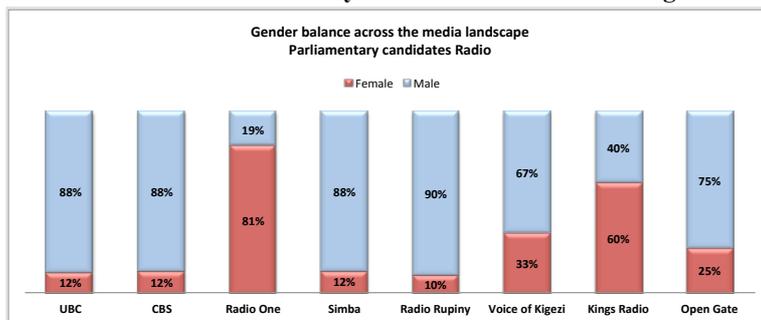


Radio

Time allotted to Presidential candidates on the basis of gender

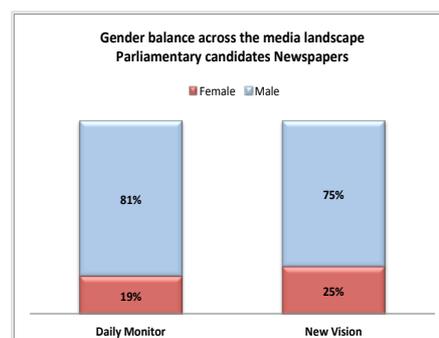
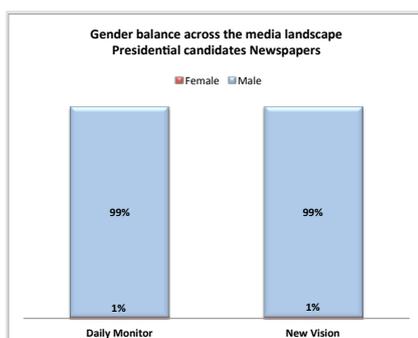


Time allotted to Parliamentary candidates on the basis of gender



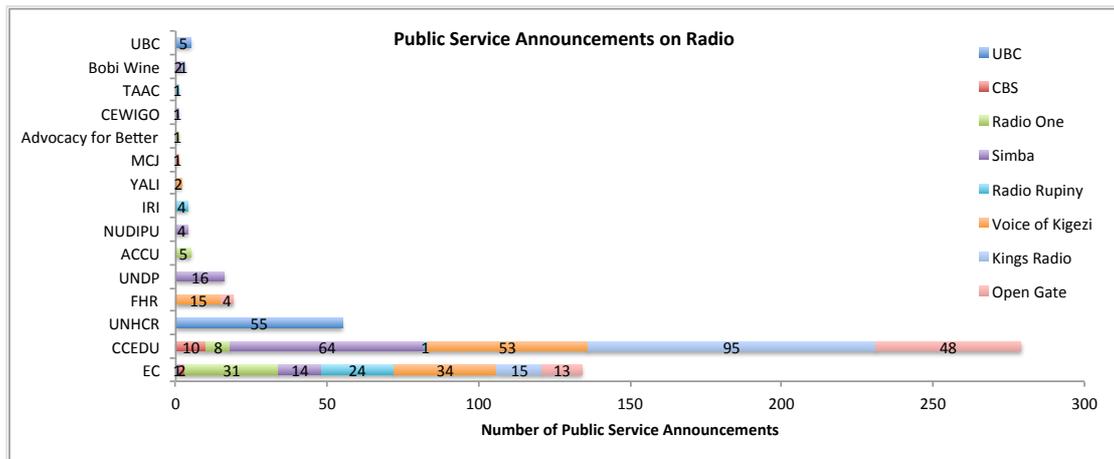
Newspapers

Time allotted to Presidential and Parliamentary candidates on the basis of gender

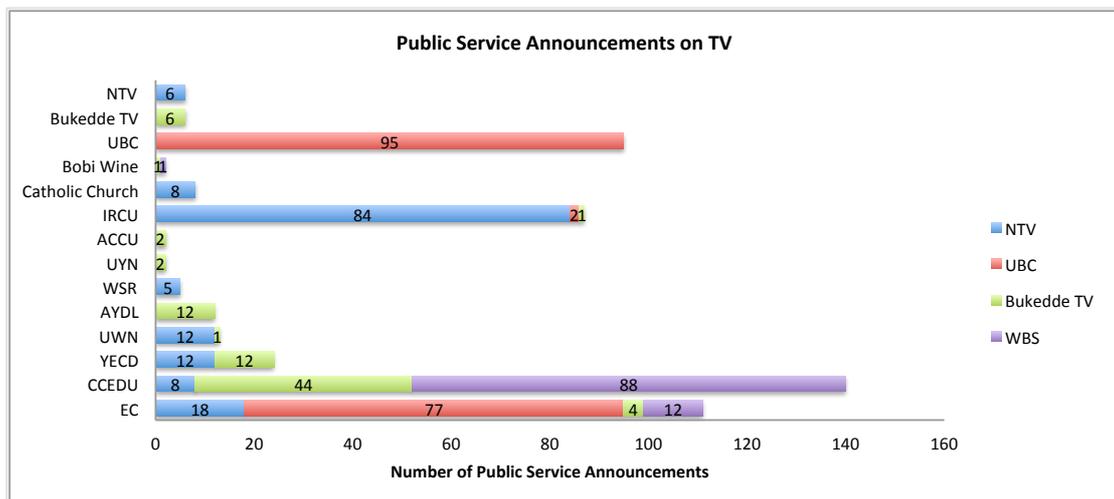


6. Voter Information and Civic Education across the media landscape, as monitored by the EU EOM

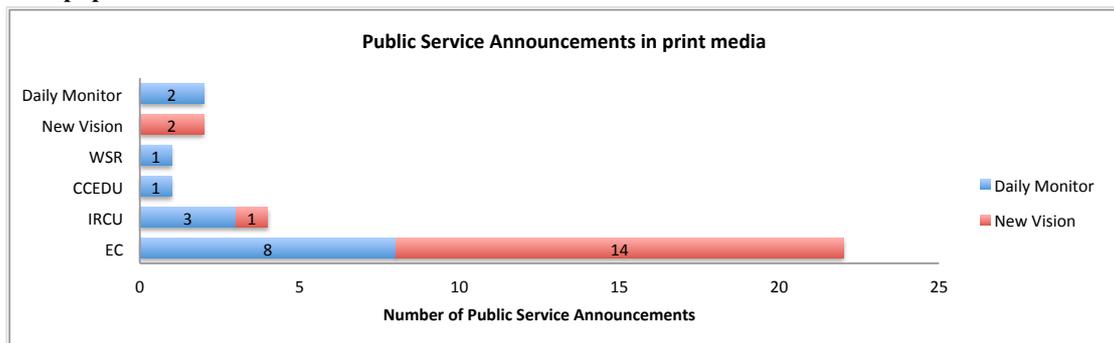
Radio



Television

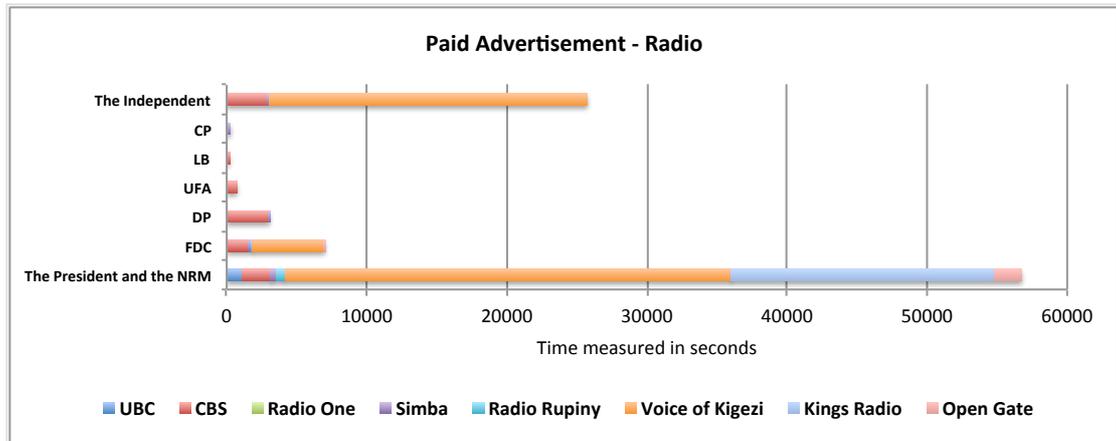


Newspapers

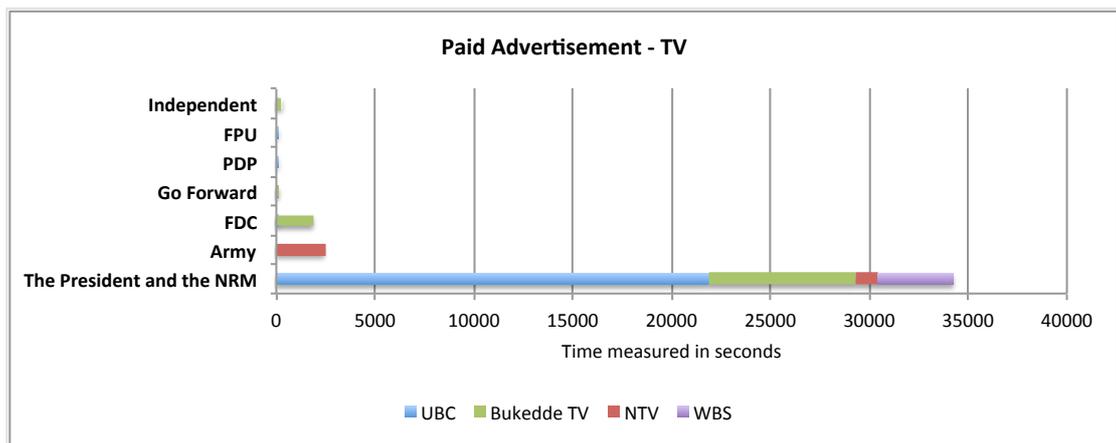


7. Paid-for advertisements across the media landscape, as monitored by the EU EOM

Radio



Television



Newspapers

