



East African Community

Election Observation Mission – Uganda General Elections

14th January 2021

Preliminary Statement of the Mission

1.0. Introduction

Further to the mandate of the East African Community (EAC) to observe elections in all her Partner States and in response to the invitation by the Electoral Commission of the Republic of Uganda, the EAC deployed an Election Observer Mission to Uganda for the 14th January 2021 Presidential and Parliamentary elections. His Excellency Domitien Ndayizeye, former President of Republic of Burundi, led the mission. Hon. Dr. Oburu Oginga, Member of Parliament of the East African Legislative Assembly (EALA), deputized him. The mission comprised 74 members drawn from the East African Legislative Assembly (EALA), National Electoral Management Bodies, Human Rights Commissions and Ministries responsible for the EAC Affairs of the EAC Partner States. Other members were drawn from the East African Court of Justice and the EAC Secretariat.

The Mission deployed across the country and observed the close of campaigns and polling processes in the following voting areas; Districts and Cities of Gulu, Arua, Soroti, Mbale Mbarara. Other areas we observed were in Masindi, Kabale, Masaka Moroto, and Mubende districts, and Kampala Metropolitan area. The mission observed polling in 140 Polling Stations. The mission also interacted with a number of key stakeholders in the election to assess their readiness and perspectives on the general context of the elections.

In this Preliminary Statement, therefore we present our immediate appreciation of the conduct of the elections and the environment under which polling was held. Owing to the limitations in technological capacity as a result of the restricted internet access, the mission was not able to observe transmission of results from the Polling Stations to the district and national Tally Centres. We were also not able to transmit our field information in real time.

2.0. Preliminary Findings

2.1. General Political Context

The mission notes that the 2021 General Elections is the fourth since the re-introduction of multiparty political dispensation in Uganda in 2005. The mission further notes that the government of Uganda solely funded the election 2020/21.

Eleven (11) candidates were nominated for the Presidential race, one of whom was female and another a 24-year old youth. Five of the candidates were party sponsored and six (6) contested as independent candidates. The nomination of the youthful candidate was made possible by the Constitutional amendment of Act, 2018 that removed the lower age limit requirement of 36 years. The amendment also removed the upper age limit of 75 years thereby allowing President Museveni (76-year old) of the National Resistant Movement (NRM) eligible to seek for his sixth elective term as president of Uganda.

It is worth noting that the 2021 elections were held against the backdrop of the Covid-19 pandemic around the world, which has restricted travel and large gathering amongst many measures to contain it. As a result, the elections in Uganda termed 'scientific' were held in a context of enforced compliance with Standard Operating Procedures (SOPs) for Covid-19 containment where virtual and digital campaigns were encouraged, in place of in person rallies. The political context was thus characterised by heightened tensions and confrontations as security forces sought to enforce the Covid-19 SOPs especially during campaigns.

2.2. Legal framework

The legal framework for the conduct of elections is provided by the Constitution of Uganda, 1995, as amended; Presidential Elections Act, 2005, as amended; Parliamentary Elections Act, 2005, as amended; Electoral Commission Act, 1997, as amended; Political Parties and Organizations Act of 2005, as amended; and Local Government Act, 1997. Other relevant laws and guidelines issued by the Electoral Commission as well as international and regional human rights normative instruments also guided the conduct of the elections.

Ahead of the 2021 General Elections, the parliament of Uganda passed amendments to five key electoral legislations. The constitutional amendments sought respond to recommendations on electoral reforms brought by the Supreme Court in their judgement on the Presidential election petition following the 2016 elections. The amendments also aligned the legal framework to the Constitution (Amendment Act), 2018.



The legal framework for elections 2020/21 broadly provides sufficient basis for the conduct of democratic elections which is in line with international and regional commitments that Uganda has ratified. While the introduced amendments are largely progressive, they did not address all the gaps in the legal framework for elections. The Mission noted that despite the amendments introducing the adoption of technology in the management of elections, enabling regulations to describe the manner of deployment and use of technology in the management of elections were not enacted. In addition, proposed amendments to campaign financing were not enacted.

2.3. Electoral system

The Constitution provides for a two-round majoritarian system for Presidential elections. To win the presidential election, a candidate is expected to receive above 50% of the votes cast. When this is not attained in the first round, a run-off election is conducted between the two candidates who received the most votes in the first round. Uganda uses a simple majoritarian system for the parliamentary elections. The winner is the candidate that received the most votes.

There are also reserved seats in Parliament for Special Interest Groups (SIGs) namely women (one for every district), five youth, five Persons With Disabilities, ten members of the Uganda People's Defence Forces (UPDF), five members of Workers, and five Older Persons. The Mission notes that this is a positive trend towards increasing representation in Parliament. However, it also increases the cost of the Legislative Assembly and the burden of cost for election.

2.4. Electoral Administration

The Electoral Commission is responsible for the management of all elections and referenda in Uganda. The President with the approval of Parliament appoints the electoral commissioners. The removal of a Commissioner is through a Tribunal. The current commission is holding their first round of General Election. The mission notes that four top officials of the Electoral Commission resigned few months to the peak of the electioneering.

The Mission noted that the EC largely complied with the elections roadmap with a few postponements announced. This was despite the numerous challenges posed by the Covid-19 pandemic including repeat of some nominations and reprint of ballot papers due to related deaths of nominated candidates.

2.5. Campaign Finance

The Presidential and Parliamentary Elections Acts prohibit the use of government and public resources for campaign purposes. However, section 27 (2) of the Presidential Elections Act permits an incumbent who is a contestant in the election to access the state

resources attached to the office occupied during the election campaign. This provision disadvantages other players in the contest, who have no access to the state resources.

A proposal for enactment of a law to regulate the use of campaign funds was left out during the electoral law amendments in 2020. Such a legal provision is vital for the creation of a level playing field for all candidates.

2.6. Voter registration

The EC is mandated to compile, maintain and update the National Voters' Register. Voter registration was done through biometric voter registration system that was introduced for the 2016 elections. Voter registration was conducted from 21 November to 11 December 2019. Days to the polling, voters were also provided with Voter Allocation Slips to ease voter polling locations and identification at the polling stations.

The National Voters Register for the 2021 elections had a total of 18,103,603 voters. Of these, 9,501,809 were female and 8,601,794 were male.

The mission noted that voter registration was closed early in the electoral period, a year before the elections. While the EC says this was to enable timely cleaning of the Voter Register, it may have also disenfranchised some eligible voters who attained the voting age (18 years) by the time the elections were held.

2.7. Campaigns:

The 2021 presidential election campaigns were conducted from 9 November 2020 to 12 January 2021 and were conducted during the covid-19 pandemic. The EC thus recommended for virtual campaigns, with minimal gatherings and interactions, through radios, TV, newspapers and digitally through the internet, as a containment measure for Covid-19.

The 2020 amendments to the Presidential Elections Act, 2005 introduced a code of conduct for Political Parties enforced by the National Consultative Forum to guide the conducts of Political Parties and candidates during the electoral period.

The mission notes that the enforcement of Covi-19 preventive measures and 'Scientific Campaigns' by security forces spurred protests. The EC and the government accused opposition parties and candidates for defying the SOPs put in place. The enforcement led to arrests and detention of some candidates and death of some opposition supporters

2.8. Role of media

According to the Electoral Commission Act, the electoral commission has a duty to regulate all aspects of the elections including equality in allocation of time in media coverage for all candidates.

There were concerns raised about the treatment by the media especially biased against opposition candidates. The mission notes that some opposition candidates and parties had difficulties to access media houses as security forces constantly blocked them from accessing the media houses.

The mission also notes that, on the eve of polling day, as was the case in 2016 elections, the government issued a directive to shut down social media and internet access, a measure that infringes on freedom and rights to access to information.

2.9. Security

The Uganda police played a lead role in ensuring security during elections. They were supported by a combined force including the Joint Intelligent Committee (JIC), Uganda prisons services and Uganda Peoples Defense Forces (UPDF). Special police constables were recruited and trained to conduct polling duties. Security officials deployed at each polling station were charged with crowd management and ensuring compliance with Covid-19 guidelines (SOPs). The mission notes that the electoral security on polling day was commendable as voters had easy and free access to the polling stations and voted freely.

2.10. Civic education

Article 61 of the Constitution mandates the EC to formulate and implement civic and voter education activities. The EC may do this as an entity or it may co-opt other organisations including civil society organisations. For the 2021 elections, the EC accredited 52 Civil Society organisations to supplement its initiatives. Voter education was largely carried out through the media due to the Covid-19 pandemic.

2.11. Civil Society Participation

The Civil Society organisations in Uganda continued to be vibrant and showed commitment to supporting the democratic process.

Civil society domestic observation coalition National Elections Watch-Uganda (NEW-U) that was created as a special purpose vehicle for observing 2021 general elections, was banned by the government in the period leading up to the election. Operations of some civil Society groups with human rights and democracy programmes were hampered when their banks accounts were frozen on accounts of aiding terrorist activities in the country. On the eve of the election, the US Embassy in Uganda reported a decision by the Uganda Electoral Commission to deny more than 75% of their accredited requests.

Concerns were raised about the deportation of international elections experts and the declaration as persona non-grata of the Head of Elections Support component of the Democratic Governance Facility (DGF), a basket fund created by EU countries to support civil society. The delay in issuing of accreditation tags greatly hampered the deployment



of observers. This trend of shrinking of the civil society space negatively impacted on their valuable contribution to the electoral process. The mission is concerned that these actions by government curtails valuable civil society participation and contributions to the development of democracy in the country.

2.12. Participation of women

The legal framework provides for gender equality before the law.

Women comprise 52.5% of the total registered voters. During the 2021 general elections, only one woman contested for the presidential election.

The Mission noted the commendable affirmative action in Uganda which allows for the political inclusion and participation of women and other special interest groups. It however noted the limited participation of women in the non-affirmative seats.

2.13. Polling day

The Missions is concerned that its Electronic means of transmission of election day observations was hampered by the shut down of internet on election day. The Mission will therefore give a detailed report on the observation of the election-day procedures in the final report.

Nonetheless, the Mission noted that ,

Most of the polling stations visited opened late as a result of malfunctioning of the Biometric Voter Verification Kits (BVVK); late delivery of polling materials and late arrival of 10 voters.

SOPs for Covid-19 were largely followed. All polling stations visited had handwashing stations, hand sanitizers were available in some polling stations and the use of masks and social distancing not strictly adhered to.

Opening, voting, closing, and counting procedures were largely followed.

All authorised personnel were allowed in the polling stations without restrictions and were able to professionally carry out their duties.

Biometric Voter Verification kits (BVVK) were used in most polling stations visited. In some polling stations, some machines malfunctioned but remedial measures were taken to ensure voting by everybody.

Security agents were present in all polling stations visited by the EAC observers and their presence was noted to be professional.

All polling stations were closed on time and the people who were at the queue at closing time were allowed to vote.



2.14. Preliminary Conclusion

The Mission commends the people of Uganda for holding largely peaceful elections. It would like to urge them to continue upholding peace throughout the remaining phases of the electoral process.

The mission noted that while the violence witnessed during campaign was regrettable and do not augur well for democratic culture and promotion of tolerance of alternative views, the voting day demonstrated the level of maturity expected of a democracy. On the polling day:

- a) The voting was largely peaceful and no voter intimidation was observed
- b) Voting regulations were by and large adhered to
- c) There were isolated cases of technological failures with respect to the Biometric Voter Verification Kit but these were corrected through manual back up

The voting process thus met the expected threshold.

The mission remains concerned with the shutdown of internet on the eve of election day as this infringes on the freedom and right to access to information as enshrined in the constitution.

2.15. Preliminary Recommendations

The Electoral Commission:

1. Consider coming up with registration modalities which allow for enfranchisement of voters who turn 18 before the election date.
2. Consider timely accreditation and issuance of accreditation documents to domestic observers to enable effective observation.
3. Consider mechanism of protecting the voting process in the event of adverse weather situations.
4. Consider explicit guidelines on the accountability of all polling materials – especially the Ballot papers.

To the Parliament:

5. Consider legal amendments to give consideration to regulation of campaign finances in terms of introducing disclosure of and ceilings on campaign expenditure to level the playing field.
6. Consider enactment of regulations to give effect to the use of technology in elections

To the Government;

7. Review actions taken against Opposition Parties and candidates in accessing media houses – especially radios and televisions for purpose of their political mobilization,
8. Review performance of the security services in securing the electoral process and address issues, which may have precipitated disproportionate use of force in some



instances and accusations of bias enforcement against opposition parties and candidates.

9. Expedite investigations underway to hold accountable all who contributed to injuries and loss of life during the campaign process
10. Promote state/ media relations in the backdrop of violence meted out to the media and responsible media access.

To Political Parties;

11. Continue to promote peaceful political competition.



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Former President of the Republic of Burundi

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16th January 2021