



# **EISA Election Observation Mission to the 2020 General Elections in Tanzania**

30 October 2020

## **Preliminary Statement**

### **1. Introduction**

This statement presents the preliminary findings, conclusions and recommendations of the Electoral Institute for Sustainable Democracy in Africa (EISA) International Election Observer Mission (IEOM) deployed to 2020 General elections in the United Republic of Tanzania. **This statement is being issued while the transmission and tallying of results are still on-going, and therefore only reflects the mission's observations up to the conclusion of the counting process at polling stations. This statement therefore neither covers the transmission of results nor the finalisation of the results tally process, and anything contained in this statement excludes those processes.**

The EISA IEOM consulted widely with various state and regulatory authorities and stakeholders to prepare its statement.

The EISA IEOM's assessment of the electoral process is based on various principles and benchmarks and the legal framework for elections in Tanzania.

This IEOM is the 4th to be deployed by EISA in Tanzania. For the 2020 elections, EISA deployed 14 International observers. The EISA IEOM is led by Advocate Pansy Dikeledi Tlakula, former Chairperson of the Electoral Commission of South Africa and the current Chairperson of the Information Regulator of South Africa. Observer teams were deployed to seven (7) regions in mainland Tanzania and Zanzibar to observe key processes in the pre-election, voting and some post-election activities.

This report gives a summary of the situation regarding the electoral campaigns; the state of preparedness of the National Electoral Commission (NEC) and Zanzibar Electoral Commission (ZEC); as well as the legal, political and security environment up to and including the voting and counting operations on Election Day.

## **2. Political environment:**

The October 2020 general elections were the sixth to be held since the reintroduction of multi-party politics in Tanzania in 1992. These elections were the first to be fully funded by the government of Tanzania.

Since the 2015 general elections, Tanzania's political environment has undergone several pertinent changes. Under the current government, holding political rallies and public gatherings has been severely limited by the Tanzania Police Force (TPF). While the Mission noted conflicting reports on the existence of an official ban on such gatherings, the effect has been the same whether such a decree existed or not.

The Mission notes that at the time of the elections, members including leadership of several political parties were in police detention facing various charges. While every individual has a responsibility to respect and uphold the laws of Tanzania within its sovereign borders, it is important for the state to ensure that legal proceedings are conducted in a manner that enhances trust in the electoral system.

The Mission further noted concerns relating to public access to information including bans on media outlets, and limitations on other media freedoms that are not in line with regional and international standards and best practices regarding freedom of information.

Fifteen presidential candidates were nominated for the 2020 elections, of whom two were women. A total of 1,257 candidates were nominated for seats in the National Assembly, 293 of these candidates were women. Finally, 9,231 candidates were nominated for local authorities, of whom 669 candidates were women.

The 2020 elections were held against the backdrop of the Covid-19 pandemic around the world. While some nations have opted to either postpone or delay upcoming elections, Tanzania has conducted its elections as scheduled. The country was declared Covid-19 free with the last public report of cases being April 29, 2020. In this context, the Mission did not witness any meaningful measures to mitigate the transmission of the Covid-19 virus during campaigning or voting procedures.

## **3. Constitutional and Legal background:**

The legal framework for the conduct of elections in Tanzania is provided by the Constitution of the United Republic of Tanzania, 1977; the National Elections Act (NEA), 1985, and other legislation.

For Zanzibar, the key instruments are the Constitution of Zanzibar, 1984; the Elections Act, 1984; and other legislation.

The EISA IEOM notes that the Constitution recognises fundamental rights and freedoms that are critical in a democratic dispensation. These include the freedoms of movement, assembly, association and expression, and the right to protection from discrimination.

The Mission notes that there are no legal provisions for dispute resolution following the announcement of the Presidential election results. The Constitution prohibits enquiry by the courts into a Presidential election result declared by the NEC. Petitions for parliamentary elections must be made within 14 days of the announcement of results.

The Guidelines for Local and International Election Observers, 2020 placed several obligations on observer groups that impacted their ability to conduct a full and proper observation. These included prescriptions against expressing views in the media and not expressing opinions while polls are in progress. These prescriptions are not in line with Section 6 of the SADC guidelines, and Article 19 (2) of the ACDEG which require the host country to guarantee free access to information, freedom to issue public statements without interference and full cooperation with international election observer missions.

#### **4. The electoral management body**

Election management is conducted by the NEC and the ZEC. The Chairpersons' of the Commissions are appointed by their respective Presidents. Commissioners enjoy security of tenure of office and their appointment may only be revoked by the President.

The Constitution defines NEC as an autonomous department which shall not be obliged to comply with orders or directions of any person or any government department or the views of any political party while discharging its functions. Further, no court shall have power to inquire into anything done by the Electoral Commission in the discharge of its functions in accordance with the provisions of the Constitution. The Mission notes that this limitation of the role of the courts during the electoral process has serious potential to undermine the rights of citizens enjoyed under the Constitution of Tanzania.

#### **5. Voter registration:**

As provided in the law the NEC and ZEC updated the Permanent National Voters Register (PNVR) between 17 April 2020 to 4 May 2020.

Display of the Provisional Register granted an opportunity for the voters to verify their details, correct any mistakes and make objections. A total of 27 objections were recorded by the NEC.

A total of 29,754,699 voters from both the mainland and Zanzibar were registered. A total of 7,326,552 new voters were added to the roll.

## **6. Political parties and nomination of candidates**

A total of 19 political parties nominated candidates for the various elective seats for the 2020 elections. Fifteen (15) presidential and vice-presidential, 1,257 National Assembly and 9,231 local authority candidates were validated.

Political parties pledged their commitment to free and fair elections and upholding the Code of Conduct on 27 May 2020.

## **7. Gender and voters with disability**

Women constitute 50.3% of registered voters in Tanzania. Two (2) of the 15 Presidential candidates and 5 of the Vice-Presidential candidates are women. The IEOM notes that the special seats for women, coupled with the presidential appointments have previously boosted the number of women in both Houses.

The legal framework permits persons with disability to be assisted by persons of their choice. The Mission appreciated the provision of tactile ballot papers to aid voters with visual impairments to have an independent and secret vote during elections.

## **8. Civil Society Organizations**

Organisations planning to provide civic education and observe elections need to be accredited by NEC. A total of 247 organisations were accredited to undertake voter education while 97 were approved for domestic observation. Some CSOs who had conducted extensive voter education and observation activities in 2015 were not accredited. National CSOs so excluded were neither given written reasons for their exclusion nor opportunities for timely appeals.

## **9. Media**

The law provides for access to the state radio and television broadcasting service by all political parties during the election campaigns. The NEC is obligated to coordinate the use of state-owned media to give equal opportunities to all candidates and parties.

Section 37 of the Electronic and Postal Communications Act (EPCA), 2018 prohibits Tanzanian radio and television broadcasters from working with foreign broadcasters without communications authority or other government staff present.

The Mission notes the efforts by the Tanzania Communication Regulatory Authority (TCRA) to convene weekly meetings with all the media houses and journalists. The meetings provide a platform for the regulator and media to analyse the media landscape and deliberate on adherence to the media code of conduct and any challenges thereof.

## **6. Campaigns**

Campaigns began on 26 August and ended on 27 October 2020. For the most part political parties conducted campaigns in a peaceful and orderly manner. While the Mission received reports of problems with campaigning in some areas, its observers were not able to verify the accuracy of these reports. Specifically, the Mission noted a report of an incident in Pemba on 27 October 2020 during which live ammunition was used on political party supporters in Kagangani village in Ole constituency in Pemba which may have led to loss of life.

## **7. Preparedness of the National Electoral Commission**

The overall budget for 2020 elections was 331 billion Tanzania Shillings and was fully funded by the government of Tanzania. The NEC set up 81,567 polling stations, recruited and trained 329,861 election staff.

Section 3 of the NEA empowers NEC to issue regulations, directives and notices under the signature of the Chairman of the NEC or the Director of Elections. The mission observes that several directives were issued close to the elections. While the issuance of these directives can assist in bringing clarity to specific matters of law and procedure, they can also create disruption and uncertainty when they are issued close to the elections and without sufficient stakeholder consultations and sensitisation.

## **8. Findings from Election day and results tally procedures**

EISA teams observed election day procedures, including opening, voting, closing and counting, in a total of 87 polling stations, across seven (7) regions where they were deployed.

The polling station environment was reported as orderly and mostly peaceful. Security personnel were present at all stations, and their presence was mostly professional and discreet. Party agents were present in 100% of the polling stations where the Mission observed.

Most of the polling stations visited (79%) were accessible to persons with disability.

At the polling stations, 49% of the polling staff and 42% of the polling agents were women. Young people were also well represented among the polling staff and polling agents.

EISA observer teams noted an average of 5 polling agents per polling station. The Mission reported varying levels of competence and vigilance from polling agents, likely indicating uneven levels of training.

### **Opening Procedures**

The EISA teams observed opening procedures in 9 polling stations, of which 8 opened on time. The NEC rules and procedures were inconsistently applied by the polling staff during the opening.

### **Voting Process**

The layout in 94% of the polling stations visited was adequate for an easy flow of voters. In all polling places visited, secrecy of the vote was protected. The ballot boxes were appropriately sealed in all but one of the polling stations.

In the majority of the polling stations visited, voters took less than 6 minutes to complete the voting process.

The EISA IEOM noted the presence of citizen observers in 26% of polling stations visited. The presence of citizen observers and polling agents is important to enhance confidence in the electoral process.

### **Closing and counting process**

EISA observers were present at 8 polling stations for the close of the polls.

The closing and counting process environment was reported as peaceful. The closing and counting procedures were not consistently applied according to NEC guidelines

The Mission teams reported that all polling stations closed on time and voters in the queues at the time of closing were allowed to vote before the counting process began.

The counting took place in the polling stations, immediately after the conclusion of voting and closing procedures. Observers also witnessed counting errors that consistently prejudiced specific political parties and are concerned about the recurrence of these errors.

This statement does not pronounce on any findings or observation made relating to the tabulation and announcement of results. A final report will be released that will incorporate EISA's findings on these and all aspects of the 2020 electoral process.

### **Conclusion**

The EISA IEOM appreciates the invitation by the United Republic of Tanzania to observe the 2020 general elections.

The mission applauds the Tanzanian government's commitment to fully fund the cost of its electoral administration, enhancing the sovereignty of the country.

In the context of challenges faced globally in administering elections during the global Covid-19 pandemic, Tanzania has held elections on time and with minimal disruptions due to the virus. The online accreditation system for observer groups facilitated remote applications, enabling international observer groups to submit the necessary documents at distance.

The participation of women in the electoral administration and as polling agents is commendable. However, the number of women candidates on all ballots is not yet approaching equitable levels, and all parties are encouraged to promote opportunities for more women candidates on the constituency ballots. The allocation of special seats for women MPs is a useful legal provision that enhances representation in the legislature.

The IEOM would also like to commend the NEC and ZEC for the efficient delivery of the necessary materials to polling stations, with almost no issues relating to electoral materials reported during the 2020 elections.

While the IEOM commends the Tanzanian government, NEC, ZEC and the people of Tanzania for the above, it noted the following areas of concern that impacted on the 2020 general elections.

- (1) The political environment in which the 2020 elections took place was less open and less tolerant than previous elections in Tanzania, including the limitation of political campaigning, freedom of assembly, freedom of speech and freedom of expression.
- (2) Amendments to Tanzania's legal and electoral framework: the net effect of which was to decrease the levels of openness and opportunity for all stakeholders to contest on an equal or at least equitable footing.
- (3) Amendments to the electoral regulations, including through certain directives issued by Tanzania regulators and state institutions which heightened the levels of uncertainty about the legality of actions which occur ordinarily in the course of election observation. This includes but is not limited to restrictions to the conduct of international observers themselves which do not fall within international guidelines and standards.
- (4) Access to election information by voters, political parties and other stakeholders: Limited televised access to parliamentary proceedings, restrictions on freedoms of the media and internet restrictions during the voting process are all examples of ways in which information was limited during the 2020 electoral period.
- (5) The arrest and detention of significant numbers of opposition candidates, party leaders and members of the press. While the IEOM supports the upholding of the laws

of Tanzania, the effect of these arrests in creating an atmosphere of tension and fear is regrettable.

- (6) The instability and loss of life due to election related violence, particularly in Zanzibar, is of grave concern to the IEOM, who once again appeals for calm and orderly conduct by all stakeholders to allow the electoral process to conclude without further loss of life or serious injury.
- (7) The decision not to accredit established CSOs to support NEC and ZEC efforts to promote voter and civic education, as well as limited evidence of national voter education campaigns likely impacted on the familiarity of voters, polling staff and polling agents with the electoral rules and procedures on election day.

### **Recommendations**

1. Review the legal framework to provide for mechanisms for redress of disputes arising from the presidential election.
2. In order to enhance independence of the NEC, government should consider adoption of a two-tier appointment process where the NEC Commissioners are subjected to parliamentary vetting before approval. Further considerations should be made to provide for hiring of ad hoc staff to help the Commission in conducting elections as opposed to secondment of public servants.
3. To enhance transparency, NEC should consider timely and comprehensive consultation with all electoral stakeholders.
4. The NEC should consider reviewing the accreditation procedures for citizen observers to ensure timely and efficient consideration of accreditation requests.
5. Decisions not to accredit national observer groups to participate in national elections should be an exception and written reasons for accreditation rejection should be provided and timely appeals made possible.
6. To make the election process competitive and provide a level playing field, NEC should consider reviewing the direct nomination of unopposed candidates.