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**ELECTION OBSERVATION DELEGATION TO
THE PRESIDENTIAL AND PARLIAMENTARY ELECTIONS
IN UGANDA
(18 February 2016)**

**Report by
JO LEINEN, Chair of the Delegation**

Annexes:

A. Programme

B. European Parliament Election Observation Delegation Statement

C. EU Election Observation Mission Preliminary findings and conclusions

Following an invitation from the Ugandan authorities and the subsequent authorisation of the Conference of Presidents, a seven member EP delegation was sent to Uganda to participate in the

observation of the 2016 general elections. The delegation conducted its activities in Uganda from 15 to 20 February 2016 and was integrated into the EU Election Observation Mission (EU EOM) led by Chief Observer Eduard Kukan. The EP delegation was chaired by Jo Leinen (S&D, DE), and was composed of Mariya Gabriel (EPP, BG), David McAllister (EPP, DE), Norbert Neuser (S&D, DE), Ryszard Czarnecki (ECR, PL), Javier Nart (ALDE, ES) and Igor Šoltes (Greens/EFA, SL).

In the first part of the programme, MEPs were briefed by the EU Heads of Mission and by the members of the EU EOM core team on the political background, the legal electoral framework, the security environment and the media landscape. Meetings were also organised with members of the Electoral Commission and with representatives of political parties, civil society and other international election observation missions. MEPs also had the opportunity to meet incumbent President Museveni as well as his two main presidential contenders: Dr Kizza Besigye from the Forum for Democratic Change and Mr Amama Mbabazi from the Democratic Alliance/Go Forward.

I. The context of the 2016 elections

The 2016 presidential and parliamentary elections were the third elections held under the multi-party system. After 30 years in power, President Museveni, representing the National Resistance Movement (NRM) was standing for his fifth consecutive term. Although he has earned widespread recognition for bringing stability to the country, President Museveni has seen his reputation tarnished in recent years by growing concerns about his autocratic practices. Due to the emergence of internal rivalries within the ruling party, the stakes in these presidential elections were considered higher than in previous elections. President Museveni was challenged by seven candidates, including his long standing opponent Dr Kizza Besigye and his former close ally Amama Mbabazi who used to serve as Prime Minister from 2011 to 2014. In the parliamentary elections, a total of 1 749 candidates contested the 402 directly elected seats (290 constituency-based seats and 112 district-based reserved seats for women).

In line with the constitution, the **Electoral Commission (EC)** consists of seven members appointed by the president, with the approval of the parliament. In the last few years, the EC has been consistently criticised by the opposition for its alleged lack of impartiality. This criticism is largely based on the lack of transparency and consultation surrounding the appointment process of the commissioners. The lack of trust in the Electoral Commission was reiterated on many occasions during the meetings held between the EP delegation and representatives of opposition parties and civil society.

The **legal framework** for the 2016 elections has not been substantially modified since the 2011 elections. Despite the creation in the aftermath of the 2011 elections of a large forum bringing together political parties represented in parliament and civil society, none of the electoral reform proposals contained in the "Citizens Compact" document have been properly considered by the Ugandan authorities. Key proposals included reform of the appointment process of the Electoral Commission, the restoration of presidential term limits and improved scrutiny over campaign finances and the use of state resources. Instead, changes to the legal framework were quite limited and included the shortening of the voting time, the reduction of the campaign period by one month, the rise in the registration fees for presidential and parliamentary candidates and the creation of 52 new constituencies. For the 2016 elections, 15,277,196 voters were included in the new electoral register, the credibility of which was called into question by some interlocutors. The demarcation of the new constituencies was also criticised as the process lacked transparency and was perceived by the opposition as favouring the ruling party.

The **pre-electoral environment** has been marked by increased polarisation between the ruling party and the opposition parties, with the use of violent rhetoric and cases of intimidation and hate speech. However, interlocutors assessed the 2016 campaign as being less violent compared to the 2001, 2006 and 2011 elections. The excessive use of force by the police also gave cause for concern as well as the massive recruitment of 'crime preventers' by the police. It was reported that up to two million crime preventers had been trained and that there was no clear legal framework defining their exact role in policing the elections. This large scale recruitment was criticized by the opposition parties, which alleged that crime preventers were politically biased and lacked accountability. In recent years, the Ugandan authorities had also attempted to **curtail criticism emanating from the opposition, the media and civil society**. In some parts of the country, police prevented opposition members from holding public meetings due to discretionary powers granted to the police as part of the 2013 Public Order Management Act. The campaign was also characterised by an unbalanced treatment in the media in favour of the ruling party, despite the existence of legal provisions intended to ensure equal access for all presidential candidates to state media. The lack of pluralism appeared to be more prominent at local level with limited access of opposition candidates to local radio.

The "**monetization**" of the campaign was also widely discussed during the preparatory meetings with reports of the distribution of large amounts of cash during rallies and campaign activities. The fairness of the electoral process was reported to be further compounded by the use of public resources by the ruling party for campaign purposes, with a blurred line between the NRM and the state. In the absence of clear legislation concerning campaign finances (i.e. no spending caps, no state subsidies, no donation limits), the campaign was also characterised by a huge discrepancy of expenditure between the NRM and the opposition parties.

The issue of **possible post electoral violence** was also raised especially as opposition leader Dr Kizza Besigye having run a campaign of defiance and a call to his supporters to "protect the vote" and to challenge any action from the authorities that could be considered to be outside the legal framework.

II. Election Day and the EU EOM preliminary statement

On 18 February 2016, the EP Delegation split into three groups to observe the voting process in and around Kampala, Jinja and Masaka. All three teams observed significant delays in opening the polling stations as voting material had not been delivered in time and some officials did not arrive, resulting in large queues. This situation was particularly pronounced in Kampala, where organisation of polling stations was often inadequate and the long queues extended well past the official closing time. The EP delegation was however impressed by the determination of voters to cast their ballot despite significant delays. In most polling stations that were observed, voting took place in a peaceful atmosphere. MEPs observed several procedural shortcomings during the day, such as inadequate layout of polling stations or the inconsistent use of the biometric voter verification device. Counting procedures were not always strictly followed in the polling stations visited and the reconciliation of results was not carried out. On some occasions, voters expressed their dissatisfaction to the MEPs at the late opening of the polling stations and the shutting down of social media on Election Day. On a positive note, the members were pleased to see that women played such a major role in the election proceedings.

The press conference was held on 20 February 2016 and was very well attended. Tension was high with the arrest on 19 February of Kizza Besigye and other FDC leaders following a stand-off with the

police. Chief Observer Eduard Kukan presented a broadly critical report, entitled: "**Voter enthusiasm for democratic process eclipsed by atmosphere of intimidation and ruling party control of state resources in Uganda's third multi-party elections**". The preliminary statement denounced the domination of the NRM in the political landscape and the unequal access to funding and means between the ruling party and the opposition, which distorted the fairness of the campaign and gave a systemic advantage to the ruling party. The statement also criticised the intimidating atmosphere that prevailed in some places during the pre-election campaign and the lack of independence and transparency of the Electoral Commission. It was also noted that freedom of expression and access to information had also been restricted on Election Day with the shutting down of social media.

The statement further criticised the overall reporting environment, with reports on violations on freedom of expression, which was conducive to self-censorship and limited the voters' ability to make an informed choice. The statement explicitly stated that the Uganda Broadcasting Corporation had failed to fulfil its specific duties relating to equal access of presidential candidates to state media.

At the press conference, Mr Leinen endorsed the findings of the EU Election Observation mission and regretted the limited implementation of the 2011 EU EOM recommendations, which could have contributed to increase confidence in the 2016 elections. Mr Leinen further questioned the independence of the Electoral Commission and raised concerns over campaign finances; the misuse of state financial resources in favour of the ruling party; the government's overwhelmingly dominant position in the media; and the atmosphere of intimidation that characterised the political campaign. He called for the full implementation of the recommendations of the EU Observation Mission and for a peaceful dialogue in the post-election period. The EU EOM long term mission remains in the country until completion of the electoral process and will issue a comprehensive final report in the following months. The EP Election Observation Delegation recommends a close follow-up of the post electoral period as the situation remains tense in the country. Incumbent President Museveni was declared the winner with 60,8% of the votes.

On 25 February 2015, the EU EOM published a post-Election Day statement encouraging the Electoral Commission to "publish without delay" on their website comprehensive information on election results, including scanned copies of the Declaration of Results Forms, to enable any interested party to thoroughly evaluate the returns. In this statement, the EOM mission criticised the restrictions on freedom of movement of the FDC leadership, which might jeopardise their legitimate rights to challenge the outcome of the elections within ten days following the publication of results.



Annex A:

Final programme of the EP election observation mission to Uganda

Members

Jo Leinen, S&D, Germany, Chair
Mariya Gabriel, EPP, Bulgaria
David McAllister, EPP, Germany
Norbert Neuser, S&D, Germany
Ryszard Czarnecki, ECR, Poland
Javier Nart, ALDE, Spain
Igor Šoltes, Greens/EFA, Slovenia

Secretariat

Tim Boden, Administrator
Valerie Ramet, Administrator
Helen Collins, Assistant

Political Groups

Chris Williams, S&D

Tuesday 16 February 2016

| Time | Event |
|----------------------|--|
| 07:30 | Depart hotel |
| 08:00 | <p>Meeting with Forum for Democratic Change (FDC) presidential candidate, Dr Kizza Besigye</p> <p>Venue: Dr Besigye's residence, Kasangati</p> |
| 10:00 - 11:30 | <p>Working breakfast with EU Heads of Mission, Chief Observer and Deputy Chief Observer</p> <p>Venue: Residence of the EU Head of Delegation, H.E. Kristian Schmidt</p> |
| 12:00 - 13:00 | <p>Meeting with Dr Badru M. Kiggundu, Chairperson of the Electoral Commission</p> <p>Venue: Electoral Commission Offices, Jinja Road</p> |
| 13:00 - 14:30 | <p>Lunch</p> <p>Venue: Sheraton Hotel</p> |
| 14:30 - 16:00 | <p>Roundtable with civil society representatives:</p> <ul style="list-style-type: none"> • Dr Sewanyana Livingstone – Chairperson, Citizens Election Observation Network • Ms Rita Aciro – Executive Director, Uganda Women’s Network • Mr Arthur Larok – Country Director, Actionaid International <p>Venue: Sheraton Hotel, Seven Hills Room (ML 13th floor)</p> |
| 16:00 - 17:00 | <p>Meeting with Mr Ofwono Opondo (National Resistance Movement (NRM) and government spokesperson)</p> <p>Venue: Sheraton Hotel, Seven Hills Room (ML 13th floor)</p> |

Wednesday 17 February 2016

| Time | Event |
|----------------------|---|
| 08:15 | Depart hotel |
| 08:30 | Meeting with The Democratic Alliance/Go Forward presidential candidate, Mr Amama Mbabazi Venue: Mr Mbabazi's residence |
| 11:00 - 12:00 | Meeting with Dr Bishop Zac Niringiye, Head of Secretariat of The Democratic Alliance (TDA) Venue: Sheraton Hotel, Seven Hills Room (ML 13th floor) |
| 12:30 - 13:30 | Lunch Venue: Sheraton Hotel |
| 14:00 - 15:00 | Accreditation of EP Delegation by the Electoral Commission (EC) Venue: Ministry of Foreign Affairs |
| 15:15 | EP delegation meeting with election day drivers and guides Venue: Sheraton Hotel, Seven Hills Room (ML 13th floor) |
| 16:00 - 17:45 | EU EOM Core Team briefing: <ul style="list-style-type: none"> • 16:00-16:15 DCO, opening remarks • 16:15-16:30 Political Analyst • 16:30-16:45 Campaign Finance Analyst • 16:45-17:00 Legal Analyst • 17:00-17:15 Election Analyst • 17:15-17:30 Media Analyst • 17:30-17:45 Security Venue: Sheraton Hotel, Seven Hills Room (ML 13th floor) |
| 17:50 | Depart hotel |
| 18:00 - 19:45 | Meeting with President Yoweri Museveni Venue: State House |

Thursday 18 February 2016 - ELECTION DAY

| | |
|---|---|
| <p>06:15 teams depart hotel</p> | <p><i>Polling stations are open from 07:00 to 16:00</i></p> <p>Observation of Opening, Voting and Vote Count</p> <p><u>Team A Kampala and Jinja city</u></p> <p>Mr Leinen, Mr Czarnecki, Mr Boden, Mr Williams</p> <p><u>Team B Jinja and surrounding area</u></p> <p>Mr Nart, Ms Gabriel, Ms Ramet</p> <p><u>Team C Masaka</u></p> <p>Mr Neuser, Mr McAllister, Mr Soltes, Ms Collins</p> |
|---|---|

Friday 19 February 2016

| Time | Event |
|---------------|---|
| 09:00 - 10:00 | <p>EP internal debriefing</p> <p>Venue: Sheraton Hotel, Seven Hills Room (ML 13th floor)</p> |
| 10:00 - 11:00 | <p>Meeting with representatives of international election observation missions (<i>Mr Leinen only</i>)</p> <p>Commonwealth, EISA, EAC, AU, IGAD, COMESA</p> <p>Venue: Sheraton Ballroom, 1st floor</p> |
| 11:30 - 12:00 | <p>Meeting with Chief Observer, Mr Kukan (<i>Mr Leinen only</i>)</p> <p>Venue: Sheraton Ballroom, 1st floor</p> |
| 18:30 - 21:30 | <p>Reception hosted by H.E. Ambassador Kristian Schmidt, Head of Delegation of the European Union</p> <p>Venue: Ambassador's residence, Kololo</p> |

Saturday 20 February 2016

| Time | Event |
|----------------------|---|
| 09:30 - 11:45 | <p>Press conferences:</p> <p>09:30 Common Market for Eastern and Southern Africa (COMESA) - Intergovernmental Authority on Development (IGAD)</p> <p>10:00 East Africa Community</p> <p>11:00 African Union</p> <p>Venue: Sheraton Hotel Ballroom, 1st floor</p> |
| 11:45 - 12:30 | <p>EU EOM - EP Joint Press Conference</p> <p>Venue: Sheraton Hotel Ballroom, 1st floor</p> |
| Evening | Departure of Members |

Annex B

Statement by Mr Jo LEINEN
Chair of the European Parliament Election Observation Delegation
for the Presidential and Legislative elections in Uganda

(20 February 2016)

Ladies and gentlemen,

Thank you first of all for the interest that you have shown in this press conference. As Chair of the European Parliament's delegation, which joined the European Union Election Observation Mission in Uganda, I have the honour of speaking on behalf of my colleagues.

The European Parliament delegation fully supports the preliminary findings and conclusions of the EU Election Observation Mission. I would also like to thank my colleague, Mr Eduard Kukan, the EOM Chief Observer and his team for the excellent cooperation during the time we have been working together.

Prior to the elections we met with the main candidates in the presidential elections, as well as the Electoral Commission and representatives of civil society.

An election is not simply about one day. Therefore the European Parliament delegation was particularly concerned that there had been very limited implementation of the previous Election Observation Mission recommendations in 2011. Moreover, there are question marks over the independence of the Electoral Commission. We were also disturbed at reports of large scale use of state financial resources to encourage voters to support the ruling party - it is essential that there should be a clear distinction between the State and the government party. The government's overwhelmingly dominant position in the media also meant that there was no level playing field for candidates. We were concerned too about a number of cases of intimidation of the opposition that were raised with us during our meetings, and the instances of provocative rhetoric. These issues must be addressed.

From start to finish of Election Day we observed a large number of polling stations in Kampala and in the Jinja and Masaka districts - both in urban and rural areas. We were extremely impressed by the strong engagement of voters - young and old - in the campaign and their desire for a government which truly reflected and responded to the will of the people. We were pleased that women played such a major role in the election proceedings.

Nevertheless, we also all witnessed significant delays in opening the polling stations, which resulted in large numbers of people waiting for many hours. This situation was particularly pronounced in

Kampala, where organisation of polling stations was often inadequate and the long queues extended well past the official closing time. This is totally unacceptable and the voters of Uganda deserve better. We also cannot accept the shutdown of social media; such communication must be part of a democratic dialogue.

The European Parliament and the European Union as a whole stand ready to support further democratisation in Uganda and look forward - this time - to the full implementation of the recommendations of the EU Observer Mission. We also look forward to a peaceful dialogue in Uganda in the post-election period. The people of Uganda deserve no less.

Thank you for your attention.

Annex C: Preliminary statement



European Union Election Observation Mission

Uganda 2016

Presidential, Parliamentary and Local Council Elections

PRELIMINARY STATEMENT

Kampala, 20 February 2016

Voter enthusiasm for democratic process eclipsed by atmosphere of intimidation and ruling party control of state resources in Uganda's third multi-party elections

Summary

Voters actively participated in campaign events and expressed a remarkable determination while waiting for long hours on the election day to cast their ballots. Furthermore, for the first time in Uganda's political history a presidential debate with all candidates, including the incumbent, took place. However, the National Resistance Movement's (NRM's) domination of the political landscape distorted the fairness of the campaign and state actors were instrumental in creating an intimidating atmosphere for both voters and candidates. The incumbent had access to funding and means, including to public media that were not commensurate with those available to his competitors. The lack of transparency and independence of the Electoral Commission (EC), and its markedly late delivery of voting material on election day to several districts considered opposition strongholds – most notably in Kampala, decreased the opportunity for voters to cast their ballots. The Uganda Communication Commission blocked access to social media on election day which unreasonably constrained freedom of expression and access to information.

- Voting was conducted in a calm and peaceful environment in the vast majority of the country. However, in certain areas the voting material arrived late and the EC failed to communicate effectively the steps that would be needed to calm the growing frustration and tensions among voters deferred from voting. The EC chairman only announced the three-hour extension of voting in Kampala and Wakiso shortly before the official closing of the polling stations. Additionally, this was poorly communicated to the polling staff in affected areas. Counting was generally assessed as transparent, however one in five the numbers in the result forms did not reconcile. The tallying process was described as slow and lacking transparency.
- While the EC Chairperson was announcing the preliminary results of the presidential polls and the political parties were still following tallying and collecting data from their agents in the field, the police stormed FDC's party headquarters using teargas and arrested the flag bearer Kizza Besigye and the party's leadership. This action severely violates freedom of expression.

- The EC lacks independence, transparency and the trust of stakeholders. The EC narrowly interpreted its mandate by limiting it to the organisation of the technical aspects of the elections. Moreover, the EC lacked transparency in its decisions and failed to inform the voters and contestants on key elements of the electoral process in a timely and comprehensive manner.
- Vibrant campaign events attracted large crowds across the country and were generally peaceful. The candidates conducted some 900 campaign events, largely following the EC's harmonized schedule, and made considerable efforts to reach out to the electorate.
- Intimidation and harassment of opposition by police and law enforcement bodies, as well as arrests of supporters and voters were reported from more than 20 districts. Opposition candidates' ability to campaign freely was restricted on several instances during the campaign period. This particularly affected Forum for Democratic Change (FDC) and The Democratic Alliance (TDA)/Go Forward. In the run-up to the elections, the large scale nation-wide recruitment of Crime Preventers, acting outside a clear legal framework, was broadly perceived as 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 (RDCs) 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 are 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 the law, led to the disproportionate expenditure on behalf of the ruling party and incumbent. This distorted the fairness of the campaign. While legislation contains provisions on reporting and disclosure of political finance, these are neither followed by parties or candidates, nor enforced by the EC.
- A small number of outspoken commercial media offered a pluralistic discourse, with the first ever *live* presidential debates as its highlight. However, the overall reporting environment was conducive to self-censorship. State actors interfered with local radio stations' programming. Reports on violations on of freedom of expression were received from more than 15 districts, including on the harassment and assault of journalists. Thus, the variety of information available across the media was constrained, limiting voters' ability to make an informed choice.
- Uganda Broadcasting Corporation (UBC) failed to fulfil its specific duties as a public broadcaster and neglected the legally binding provision of equal access of all presidential candidates. The incumbent was granted more than 90 per cent of airtime allotted to presidential candidates within the UBC's prime-time news programmes. The EC and the broadcasting sector's regulatory body remained silent on this breach.
- The new voter register compiled from the National Identification Register was introduced as an effort to achieve inclusiveness and accuracy. However, establishing the cut-off date of 11 May 2015 for inclusion in the voter register disenfranchised potential voters who turned 18 after this date.
- Civil society displayed a commendable commitment to the democratic process. It proposed the 'Citizens' Compact' document proposing necessary amendments for the conduct of democratic elections, *inter alia* independence of the electoral administration and a legal framework granting a level playing field for all contestants. The Civil Society Organizations also

thoroughly scrutinized the pre-electoral environment, including candidate's campaign expenditures and the conduct of media and deployed a large number of observers on the election day.

Preliminary Findings

I. POLITICAL BACKGROUND

The 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.

In a highly competitive race, eight candidates stood for the presidential elections. The three most prominent contenders were the incumbent, Yoweri Museveni; the main opposition leader, Kizza Besigye, from the Forum for Democratic Change (FDC); and Amama Mbabazi, a former Prime Minister, who ran as independent with the backing of the Democratic Alliance (TDA)/ Go Forward. The 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. Opposition parties did not field candidates for a further 82 seats, leaving those to be contested by NRM and independent candidates.

II. LEGAL FRAMEWORK

The legal framework consists of the Constitution, Electoral Commission Act (ECA), Presidential Election Act (PEA), Parliamentary Election Act (PPEA), other relevant laws and EC regulations. The legal framework is generally consistent with international and regional commitments of the country, but several areas remain under-regulated, and enjoyment of fundamental rights and freedoms is not adequately guaranteed.

The right to vote is constitutionally provided to every citizen of eighteen years of age and above. The right to stand is guaranteed by the Constitution to every citizen having the right to participate in the affairs of the government, individually or through his or her representatives according to the law. 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 posting severely limits the right to stand.

While legal amendments, advocated by civil society groups under the 'Uganda Citizens Compact on Free and Fair Elections,' could have improved the electoral process and increased respect for fundamental freedoms across the country, they were only partially considered by the authorities. Key proposals to increase the transparency in the appointment of EC's members, to restore presidential term limits, and to improve campaign finance reporting, were disregarded. On the other hand the new voter register was enacted. Other amendments were contrary to the objectives of the 'Citizens Compact', such as increase of the nomination fees for presidential and parliamentary candidates and the shortening of polling time.

Authorities repeatedly interrupted meetings and dispersed gatherings under the 2013 Public Order Management Act (POMA). Vaguely and broadly worded provisions of this act enable selective interpretations and allow for excessive discretionary power of the police. Citizens should be able to peacefully assemble in support of political candidates. The fact that the Uganda Human Rights Commission was not operational between April 2015 and February 2016 further limited human rights protection in the country. The recent appointment of the commissioners should be seen as a positive development.

The Constitution provides for representation of special groups, including military, youth, workers, and persons with disabilities (PWD) through indirectly elected representatives. 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 Article 25 of the ICCPR.

Large population discrepancies between electoral constituencies violate the principle of equality of the vote, provided for by the ICCPR. The Constitution subordinates the requirement to meet the population quota to the requirement that each county has to have at least one constituency, thus rendering adherence to the principle of equally weighted votes not implementable.

III. ELECTION ADMINISTRATION

The Electoral Commission is a body mandated to organise, conduct and supervise all elections and referenda as provided for in the Constitution and the Electoral Commission Act 1997. While the Constitution guarantees the independence of the EC, the President with the approval of Parliament appoints the commissioners of the EC. Due to the appointment system, the EC does not reflect the complete political spectrum and does not enjoy widespread confidence. The opposition parties and civil society expressed deep concerns regarding the impartiality of the EC.

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 EC met the first target. The objective to have a comprehensive voter information programme was not met, as was not the consolidation of the procedures and guidelines. Those failures casted further doubts on the EC's efficiency.

The EC planned some other safeguards to enhance the integrity of the process, such as introduction of a biometric voter verification system (BVVS) and a voter location slip (VLS). However, the late introduction of new technology into the process combined with the lack of communication to both the electorate and political parties created an atmosphere of mistrust among all stakeholders.

In the approach to election day itself, the EC largely met legal 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 failure by the EC to convene the Inter-Party Liaison Committees at the national level and the District Election Security Committees at the lower levels as constitutionally provided for negatively affected consensus building and resolution of disputes among stakeholders. The inaccessibility of the EC website for several weeks during the period December to January 2016 left the public without accurate information regarding the electoral process.

IV. 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. This change was reportedly not sufficiently communicated, leaving many stakeholders without an understanding of the connection between the ID registry and the VR. The final VR contained 15.277 million voters, extracted from the NIR database of about 16.46 million citizens aged 16 years and above at the time of registration in 2014.

The creation of a new VR extracted from the NIR data did not conform with the established legal framework as the EC is mandated by law to independently compile, maintain, revise and update the VR.¹ Despite changing the voting system from active to passive, necessary legislative changes, determining relevant procedures for the new registration exercise were not enacted. Instead, the EC issued press releases and acted upon provisions in the ECA, which were not fully consistent with the new system. 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. 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 should have been included in the voter register.

V. CANDIDATE REGISTRATION

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. District Returning Officers (DRO) 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 nomination period by enacting amendments to the PEA and the PPEA. The EC was subsequently forced to extend the nomination period by a month.

¹ Constitution, Chapter 5, Section 61 (e) and Section 62

VI. 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, on some occasions the campaign was marred by violent clashes between the different candidates' supporters. 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 FDC supporters in Jinja, Mukono and Wakiso, and violent clashes between NRM and independent candidates who lost NRM primaries in Mbale, Mbarara, Mitooma, and Kayunga.

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

The orchestrated use of state resources for campaign purposes was observed. The large-scale recruitment, training and deployment of 'crime preventers' in the run-up to the elections was criticised by opposition parties and civil society as illegal and politically motivated, contributing to an atmosphere of intimidation. According to police, crime preventers are recruited and trained to monitor and report incidents of crime under the framework of community policing to complement the efforts of regular police. The EU EOM received reports of intimidation and harassment of opposition parties by security agencies as well as arrests of supporters and voters from more than 20 districts. The disappearance and alleged death of Christopher Aine, the head of Amama Mbabazi's security team, added tensions to the campaign environment.

The campaign was polarized and marred by use of violent rhetoric that became prominent prior to election day. The incumbent's high-ranking NRM cadres and Police officials repeatedly stated in public that they would use force against anybody opposing state power.² 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 recognize the election results in case of rigging and malpractice. The FDC also mobilized 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.

² 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).

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 Resident District Commissioners (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 campaigns³, 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. Last November, President Museveni made a pledge to provide a total of 18 million hoes to six million households. The distribution of hoes during NRM campaign events was observed by the EU EOM in Arua on 8 February.

VII. CAMPAIGN FINANCE

Ugandan legislation does not contain campaign finance provisions to level the playing field – there are no donation limits, no spending caps, and no state subsidies for presidential or parliamentary election campaigns. The disproportionate expenditure on behalf of the ruling party and incumbent president distorted the fairness of the campaign. Media ads, posters, and party logo items promoting Museveni/NRM have been observed over six times more frequently than those of all other candidates combined. These observations are in line with estimates of local NGOs, according to whom Museveni/NRM spent eight times more than all the other candidates combined.

Two weeks before the election, the EU EOM observed NRM candidates and mobilizers gathered in Kampala receiving so-called "facilitation" cash. In the following days, the EU EOM observed cash being distributed to voters in locations across the country. While both giving and receiving bribes are illegal, political parties, candidates and civil society organisations confirmed that bribery is widespread. Authorities, however, do not take necessary steps to investigate numerous well-documented allegations of cash and goods being distributed to voters.

Significant problems were observed in candidates' and parties' keeping of income and expenditure records, reporting procedures, and the EC's disclosure of public financial documents. While legislation contains provisions on reporting and disclosure of political finance, these are not followed by parties or candidates and not enforced by the authorities. Political parties and candidates confirmed to the EU EOM that their own financial reports are inaccurate and that most of their donations are not included. For the 2016 campaign, the FDC presidential candidate was the only one to disclose the total amount of his donations in the 2016 campaign, which was 96 million UGX. While the EC is responsible for collecting financial reports, it has confirmed that most of the reports were never submitted. The lack of information available for public scrutiny and the lack of enforcement of transparency rules limit the transparency and accountability of campaign finance and is not in line with Article 7(3) of the UN Convention Against Corruption.

³ Section 27 PEA, Section 25 Parliamentary Elections Act (PPEA).

VIII. MEDIA

While a small number of outspoken commercial media at national and local level 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. The EU EOM received numerous reports on state actors, most notably RDCs, interfering with local radio stations' programming. Radio station owners affiliated to the NRM exerted a direct influence on editorial decisions. Assaults and harassment of journalists in Arua, Abim, Bujumba, Gulu, Hoima, Jinja, Mbale, Mbarara, Moroto, Mukono and Masaka further impinged on the freedom of expression. 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.

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 implementation poorly. Such gaps can lead to arbitrary applications of power, as demonstrated by the Uganda Communication Commission (UCC), broadcast media's regulatory body, which closed and seized equipment from 13 radio stations in January. Such actions subdued dissenting voices and undermined Uganda's international commitments, most notably ICCPR General Comment 34.

The conduct of the media throughout the elections has been poorly regulated; the few statutory instruments contain ambiguities such as prohibition against using "unauthorized sources". The PEA and PPEA grant 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. The absence of effective redress for infringement of those 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.

The media landscape is further skewed by state media's subservience to the NRM. The news programming of the public Uganda Broadcasting Corporation (UBC) TV was the most explicit example, with the NRM's share of exposure reaching 89 per cent. In total, the incumbent was granted with more than six hours of direct speech within the UBC's prime-time coverage allotted to political communication, while Kizza Besigye and Amama Mbabazi received only seven minutes each. EU EOM media monitoring⁴ shows that 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.

The NRM was equally prevalent on the local radio stations that are the primary source of information for the general public. In 11 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 (GF) was reported. The EU EOM's media monitoring highlighted local radio's lack of balance. On *King's Radio* in Masindi, 93 per cent of the presidential candidate's coverage was devoted to Museveni; half of Mbale's *Open Gate* radio's programming allotted to the FDC was negative in tone and 66 per cent

⁴ 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* (Masindi), *Open Gate Radio* (Mbale), *Voice of Kigezi* (Kabale) and newspaper *New Vision* and *Daily Monitor*.

of the election related coverage on Kabale's *Voice of Kigezi* was paid for, thus never subjected to any critical analysis.

For the first time two issue-oriented live presidential debates were organized by Kampala-based commercial media 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. However, due to its limited range, the balanced approach applied by Kampala-based commercial media did not verifiably alter the overall picture. *NTV*, *Daily Monitor* and *Radio One* devoted equitable coverage to key candidates of the presidential and parliamentary races and *Radio Simba* was the only broadcaster who granted Besigye slightly more airtime than the incumbent.

Social media sustained a critical narrative throughout the electoral period and revamped traditional media's agenda. Politically coloured, interconnected profiles on *Facebook* and *Twitter* were instrumental for campaigning and in disseminating the "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. The UCC blocked social media on election day "due to the security reasons". Such justification falls short of ICCPR Art 19.

IX. CIVIL SOCIETY

Civil society organizations (CSOs) thoroughly scrutinized the pre-electoral environment and the conduct of elections and issued regular statements highlighting the drawbacks of the process. The Citizens Election Observers Network-Uganda 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. The Uganda Joint Christian Council was equally active. Both groups issued regular reports that highlighted key drawbacks of the election preparations.

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 since summer 2015 in 74 constituencies. It concluded that voter bribery was widespread and that difference between size 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.

X. GENDER ISSUES

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.

For the presidential election, one of the eight 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' and are dominated by the patronage system of politics. 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 media, including on public media. Another positive step was civic education programmes in media aimed at encouraging women's participation in elections.

XI. COMPLAINTS AND APPEALS

The electoral dispute resolution system allows for complaints and appeals in all phases of the electoral process. The EC and the courts both have jurisdiction to adjudicate election complaints. 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. The hearings on candidates' nomination petitions remained ongoing until the election day, failing to provide a timely remedy.

The number of complaints submitted to the relevant authorities in the field was low, highlighting the lack of trust in the judiciary at the district level and the slow review of complaints. Court fees and corruption are reported obstacles to those seeking legal remedy. Thus, in most cases aggrieved persons preferred to resort to mediation. At the national level the EC presented to the EU EOM a list of 160 cases mainly related to candidate registration and only a few on the violations of campaign regulations. Comprehensive information on the total number of complaints submitted either to the EC, to courts or to the police, was not available to the public.

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 MP 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. Civil society interlocutors expect similar cases of disenfranchisement to follow after elections.

XII. PERSON WITH DISABILITIES

Although Uganda ratified 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. Disability organizations proposed Braille ballot papers and the EC did not accommodate their requests. Consequently, blind persons can only vote through another person. Many polling stations are not accessible (add statistics) and persons in mental hospitals do not have the possibility to vote, both of which contravene the Convention.

XIII. 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 the election day added to the tense environment. Additionally, the UCC blocked access to social media, which contributed to the overall uncertainty and constrained freedoms of expression and access to information.

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. 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 lack of effective communication by the EC fuelled frustration and tensions among voters. 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. This was poorly communicated to the polling staff in affected areas.

Throughout election day, EU EOM observers noted a number of problems in polling stations visited. In one out of five polling stations observed, ballot boxes were unsealed or not properly sealed, in 12 per cent of polling stations EU EOM observers witnessed proxy voting and in 11 per cent of observed polling stations, the layout compromised secrecy of the vote. 11 per cent of polling stations lacked essential equipment. The EU EOM observers reported isolated cases of electoral malpractices, including vote buying, ballot stuffing and influencing of polling staff and voters by party agents.

EU EOM observers reported that the newly introduced biometric voter verification device was functional and broadly used, yet significantly slowed polling, thus frustrating voters. The voter register was not used consistently as the main means of voter verification in 20 per cent of polling stations observed.

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, yet adherence to counting procedures was often lacking. In 37 per cent of polling stations observed, the Presiding Officer had difficulties completing the Declaration of Result Forms (DRF) and in 20 per cent of polling stations observed the numbers in the DRFs did not reconcile. In 95 per cent of polling stations observed, results were posted outside the polling stations, as required by law.

The tallying process was described as slow and lacking transparency. The environment outside district tally centres was tense. Crowds thronging tally centres were dispersed in several instances by police using teargas. In only 10 of 42 tally centers observed by the EU EOM, District Residing Officers distributed print-outs of sub-county results broken down to polling station level, a key feature to enhancing the transparency. Results were transmitted to National Tally Centre (NTC). The system provided for the cancellation of polling stations results where the total number of votes cast exceeded the number of registered voters, but lacked other key fraud mitigation measures.

On 19 February, while the EC Chairperson was announcing the preliminary results of the presidential polls and the political parties were still following tallying and collecting data from their agents in the field, the police stormed FDC's party headquarters using teargas and arrested the flag bearer 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.⁵

⁵ 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."

The European Union was invited by the Government of Uganda to observe the elections of 18 February 2016 and Memorandums of Understanding were signed by the EU with the Government of Uganda and the Electoral Commission on 23 November 2015. The EU EOM is led by Eduard Kukan, MEP from Slovakia. The mission comprises a core team of ten analysts who have been present in Kampala since 28 December, 30 Long Term Observers, who have been present since 9 January, and 54 Short Term Observers, who have been present since 12 February. In addition, the mission is joined by 27 Local Short Term Observers and a 7 person Delegation of Members of the European Parliament, led by Jo Leinen, MEP from Germany. Overall the EU EOM deployed 137 observers on election day, drawn from all 28 EU member States, as well as Norway.

The EU EOM assesses all aspects of the electoral process and the extent to which the election process complies with national laws and international standards for democratic elections. The mission is independent in its findings and conclusions and operates in accordance with the Declaration of Principles for International Election Observation. Observers were able to cover all 112 districts of Uganda and have met with election officials, government representatives and local authorities, candidates, parties, media representatives, civil society groups, domestic observers and voters. On Election Day, observers reported from 56 out of 290 constituencies, observing in around 350 polling stations. Observers will remain to follow the tabulation of the results and the EU EOM will continue to observe post-election developments. A final report will be issued later, containing detailed findings, conclusions and recommendations.

The EU EOM wishes to express its appreciation for the cooperation of the people of Uganda, the Government, the EC, Ugandan Police Force, political parties, media, civil society, EU Delegation and Missions of the EU Member States.

Mission details

The English-language version of the EU EOM Preliminary Statement is the only official version

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