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**ELECTION OBSERVATION DELEGATION TO
THE GENERAL ELECTIONS
IN ZAMBIA
(11 August 2016)**

**Report by
MICHAEL GAHLER, Chair of the Delegation**

Annexes:

- A. Programme of the delegation**
- B. European Parliament Election Observation Delegation Statement**
- C. EU Election Observation Mission Preliminary findings and conclusions**
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Introduction

Following an invitation from the Zambian authorities and the subsequent authorisation of the Conference of Presidents, a four Member EP delegation travelled to Zambia to participate in the observation of the 2016 general elections. The delegation conducted its activities in the country from 9 to 15 August 2016 and was integrated into the EU Election Observation Mission (EU EOM) led by Chief Observer Cécile Kyenge. The EP delegation was chaired by Michael Gahler (EPP, DE), and was composed of Claudia Schmidt (EPP, AU), Neena Gill (S&D, UK) and Jean Lambert (Greens/EFA, UK).

In the first part of the programme, the MEPs received briefings from the EU Heads of Mission and the EU EOM core team on the political background, the legal electoral framework, the security environment and the media landscape in Zambia. Meetings also took place with members of the Electoral Commission and with representatives of political parties and civil society. The EP Chair, together with the Chief Observer, met the incumbent President and presidential candidate, Edgar Lungu.

The following sections are based mainly on findings from the discussions with key players and the experiences of the Members during their time in Zambia.

The context of the 2016 elections

Zambia has for many years been regarded as an African "success story" - both politically and economically. However, recent trends have been less positive with signs that it is backtracking on the democratic progress made since the restoration of multi-party elections in 1991. Moreover, economic governance has been increasingly lax and there are huge problems of inequality and malnutrition in a country where only 20% of the population has access to electricity. This has been compounded by a high level of corruption, which is deeply embedded in the system. The government has faced accusations of politicising its anti-corruption campaign through launching prosecutions mainly against opposition members.

The elections encompassed not only the Presidential vote but also those for the National Assembly and the local government councils (with - for the first time - direct election of city mayors). There was also a referendum on the incorporation of a Bill of Rights into the Constitution.

The leading candidates in the 2016 presidential elections - the sixth since the re-introduction of multi-party democracy in 1991 - were President Lungu of the Patriotic Front (PF) and Haikande Hichilema of the United Party for National Development (UPND), which was the main opposition party. Mr Lungu had taken office after winning a presidential by-election in January 2015, following the death of his predecessor and fellow PF member Michael Sata. Mr Lungu's main challenger in 2015 had also been Mr Hichilema, whom he had narrowly defeated by 48.3% to 46.7%, albeit on a very low turnout of 32.36%. Mr Lungu was basing much of his campaign in 2016 on the claim that a vote for the PF represented a vote for stability and that he deserved to be re-elected, having successfully served his

“probation” period of the past 18 months. On the other side, Mr Hichilema declared that he was confident of victory and would be likely to challenge the results if he were to be declared the loser.

One significant constitutional change since the 2015 presidential election was the requirement for the winner to obtain an absolute majority of the vote. The presence of a number of smaller opposition parties and the narrow margins of past elections made it very likely that no candidate would achieve an absolute majority and there would therefore need to be a second round. This was the most significant of a number of revisions of the legislative framework, which had entered into force on 7 June 2016 and which were therefore unfamiliar to voters.

The Electoral Commission of Zambia (ECZ) had been established in accordance with the Electoral Commission Act of 2016 and Article 229 of the Constitution. The Chair, Vice Chair and the three other full-time members had been appointed by the President for a seven-year period, which could be renewed once. These appointments must be ratified by the National Assembly, although since the enactment of the Electoral Commission Act of 2016, it was now possible for the President to remove members. The ECZ was generally viewed as being technically competent, although there was also a widespread perception that it was not strong enough to stand up to political pressures from the government and that this tendency was becoming more marked. In particular, the Commission had been accused of not speaking out more firmly on the restrictions being imposed on the media by the government (see below).

Pre-electoral environment

In the run-up to the elections the political situation had become more confrontational and differences between key political figures were more deeply entrenched. However, there were no significant policy differences between the political parties, which were largely built on clientelism and personal loyalties. Indeed, one representative of a smaller opposition party said that there would be no real difference whether or not the PF or the UNDP won as there was so much “cross pollination” or switching of allegiances between the two sides. There had been a number of violent incidents - albeit relatively mild by the standards of other countries - and many examples of hate speech and harassment of political opponents. Representatives of the government had also accused some NGOs of being “foreign agents”.

The closure on 21 June 2016 of *The Post*, which was the largest privately owned newspaper, was seen by many as a very negative step, as the paper represented an independent voice in a media landscape where the government was dominant. The EU and the US expressed their concern about this development, which - the government claimed - was due to an unpaid tax bill. The journalists had subsequently managed to produce the newspaper but with a very limited circulation of around 2,000 copies rather than the previous distribution of 47,000.

A pro-government message dominated both the two public TV channels as well as the radio, which was the main source of information for most of the population. The PF also had a dominant position when it came to paid airtime on the radio and TV. Media observers reported a tendency for the message in advertisements by the ECZ and the PF to merge. There was little use of social media by the majority of the population, partly because young people tended to be less interested in politics.

Critics of the government charged it with using the Public Order Act¹ to hamper the political activities of its opponents and cancelling opposition rallies. When the issue was raised in a meeting with the ECZ its representatives claimed not to be aware of this - "this is news to us".

The EP delegation expressed great concern during the meetings about the lack of a level playing field resulting from the restrictions on the non-state media and the limitations imposed by the Public Order Act on the opposition's ability to campaign freely.

Fears were expressed by many interlocutors that there might be further violence if the result was disputed - a development which would be "very un-Zambian" where there had been a tradition of relatively peaceful elections. Both sides expected to win and the stakes were higher than in January 2015 when the political parties knew there would be another election in 18 months. Interlocutors stressed that it was essential that international observers spoke with one voice and the African observer missions had a particularly important role to play in defusing tensions.

In his meeting with the President, the EP Chair raised concerns about reports of the cancellation of opposition campaign rallies and the limited access of the opposition to the media. Mr Lungu rejected these concerns and denied any interference in the work of the police or public media. The media was present throughout the meeting, which was widely reported on television and the press.

Election Day

On 11 August 2016, the EP Delegation split into two groups to observe the voting process both in urban and rural areas. The first team observed in the city and surrounding area of Lusaka. The second team mainly observed in Mazabuka in the Southern Province where the UPND has long been the dominant force, obtaining 87% of the vote in 2015.

The MEPs were impressed by the peaceful manner in which Election Day took place and commended the patience of the voters who were often obliged to wait for many hours. They also praised the professionalism and commitment of the polling station officials.

However, they considered some of the procedures to be cumbersome with resultant delays to the voting process. In particular, they questioned why it was necessary for officials to call out the names and identity numbers of voters or for their numbers to appear on the counterfoils of their voting slips. The facilities for voting were also sometimes inadequate with - on occasion - up to five streams voting in one room with only one door for entering and leaving. The EP delegation considered that a streamlining and rationalisation of procedures would enable officials to administer the voting process more efficiently.

Press conference and the EU EOM preliminary statement

¹ The Public Order Act required notification, but not approval, for meetings or rallies.

The EU EOM and EP press conference took place on 13 August 2016 following a separate conference involving a number of other mainly African delegations. This included the African Union Observation Mission, the Commonwealth Observer Group, SADC Parliamentary Forum, Common Market for Eastern and Southern Africa (COMESA), Electoral Institute for Sustainable Democracy in Africa (EISA) and the International Conference on the Great Lakes Region (ICGLR). The start of the EU conference was delayed because of the earlier event.

The EP fully endorsed the preliminary statement of the EU EOM - appended below. Mr Gahler's statement - also appended - emphasised the need to ensure a clear distinction between the State and the governing party and condemned any misuse of state resources by the government. The EP statement expressed regret that - in the view of some domestic observers - the elections represented a step back from the standards of previous elections and in Zambia's process of democratisation. The MEPs underlined the importance of transparency in the electoral process and called in particular for the immediate publication of verified results.

Post-election day developments

The Electoral Commission of Zambia announced the final Presidential results on 15 August 2016. This announcement had been preceded by suspicions on the opposition side that there had been tampering with ballot papers which had delayed the publication of the results.

President Lungu was declared the winner with 50.35% of the votes, putting him narrowly ahead of his main rival Hakainde Hichilema. The UPND introduced a legal challenge to the declared results contending that the conduct of the election contravened the constitution. This petition was rejected on 5 September and on 13 September Mr Lungu was sworn in as President.

Government critics continue to maintain that the elections lacked credibility and concerns remain about possible restrictions on independent voices from civil society, the media and the judiciary.

Conclusion

The European Union and the European Parliament continue to monitor developments in Zambia in the post-election environment. In particular, there are concerns about reports of rising tensions and incidents of violence, highlighted in the statement of the Spokesperson of the High Representative/Vice President Federica Mogherini on 1 September 2016, which called for dialogue and reconciliation. This statement underlined again the concerns over the restrictions that were being imposed on the independent media in Zambia.

Along with the rest of the EU, the European Parliament remains committed to Zambia's democratic, economic and social development. It awaits the publication of the EU EOM Final Report, which is scheduled to be presented by the Chief Observer in Zambia in November 2016. This will include

detailed recommendations for the strengthening of Zambia's future electoral processes, in line with Zambia's national, regional and international commitments for democratic and genuine elections. In particular, the final EOM report should address the importance of strengthening the legislation on the public media, especially but not exclusively prior to the election period in order to ensure a real plurality of opinion.

"The European Parliament and the European Union as a whole stand ready to support democracy in Zambia and look forward to the full implementation of the recommendations of the EU Observer Mission.... The people of Zambia deserve no less." (Extract from EP Chair's statement at press conference on 13 August).



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Annex A:

ELECTION OBSERVATION DELEGATION PRESIDENTIAL AND PARLIAMENTARY ELECTIONS IN ZAMBIA

11 August 2016

FINAL PROGRAMME

Members

1. Michael GAHLER, EPP, Germany - Chair
2. Claudia SCHMIDT, EPP, Austria
3. Neena GILL, S&D, UK
4. Jean LAMBERT, GREENS/EFA, UK

Secretariat

Tim Boden, Administrator
Helen Collins, Assistant

Saturday 6 August	
Time	Event
14:35	Arrival of Secretariat in Lusaka Transfer to Intercontinental hotel

Sunday 7 August	
19:30 - 21:30	Reception for STOs hosted by the EU EOM Venue: Latitude 15

Monday 8 August	
Time	Event
12:25 + 14:35	Arrival of all Members in Lusaka Transfer to InterContinental Hotel
	Finalise programme and logistics; preparation and circulation of information to Members
19:15	<i>Meet in reception</i>
19:30-22:00	Dinner hosted by Ambassador Mariani, Head of the EU Delegation Venue: Ambassador's residence 15B Serval Road, Kabulonga

Tuesday 9 August	
Times	Event
08:30	EP Delegation internal meeting Venue: Kafue room, Intercontinental

09:00	Briefing with Core Team (Presentation of findings) Venue: EU EOM meeting room, Intercontinental
10:40	<i>Meet in reception</i>
11:00	Electoral Commission of Zambia: Ms Priscilla Isaacs, Director (Mr) Hon. Chulu Chairperson (together with CO and DCO) Venue: ECZ Office
12:00	President of the Republic and Patriotic Front Presidential Candidate (together with CO; Mr Gahler; DCO; EU HoD) Venue: State House
13:00-14:30	Lunch hosted by H.E Mr Timo Olkkonen, Ambassador of Finland (with CO) Guest - Professor Ibrahim Gambari, Commonwealth Special Adviser on Political Dialogue Venue: Ambassador's residence 13 Ngumbo Road, Longacres
14:30 - 15:30	Meeting with NDI Venue: EU EOM meeting room
16:00 - 17:00	Civil Society Organisations Round Table Meeting (also present: CO, DCO, Elections Expert, Legal Expert) <ul style="list-style-type: none">• Operation Young Vote• Disability Rights Watch• Zambia Elections Information Center• Zambia Episcopal Conference• Christian Churches Monitoring Group• Law Association of Zambia Venue: EU EOM meeting room
19:15	Meet in reception
19:30-22:30	Dinner hosted by H.E. Mr Achim Burkart, Ambassador of the Federal Republic of Germany to Zambia Venue: Latitude 15

Wednesday 10 August	
Times	Event
08:15	<p>Meet Stuart Poucher, Security Expert, to test satellite phones and vehicle trackers (<i>Secretariat only</i>)</p> <p>Venue: Intercontinental Hotel car park</p>
08:45 - 09:00 09:00 - 09:30	<p>1. Security briefing for EP delegation by Stuart Poucher</p> <p>2. Discuss e-day schedule with drivers and guides</p> <p>Venue: Kafue room</p>
09:30-11:00	<p>Core Team briefing (Polling Day Procedures) (also present: CO)</p> <ul style="list-style-type: none"> • Election analysts <p>Venue: EU EOM meeting room</p>
11:30-13.30	<p>Observe a political rally in Lusaka</p>
	<p>Lunch</p>
14:00	<p>Ms Edith Nawakwi, presidential candidate, Forum for Democracy and Development (FDD) + 2 FDD representatives</p> <p>Venue: Kafue room</p>
15:00	<p>Mr Fisho Mwale, Independent candidate for Mayor of Lusaka (also present : CO)</p> <p>Venue: Kafue room</p>
15:30	<p>Observe a political rally in Lusaka</p>

Thursday 11 August - ELECTION DAY

Polling stations are open from 06:00 to 18:00

Observation of Opening, Voting and Vote Count (*possibly, in Lusaka only*)

Team A Lusaka : Michael Gahler (Chair) + Neena Gill + Tim Boden (staff)

Team B Kafue + Mazabuka : Claudia Schmidt + Jean Lambert + Helen Collins (staff)

Friday 12 August

Time	Event
09:00	Christian Churches Monitoring Group (CCMG) press conference Venue: Intercontinental 8th floor
09:30	EP internal debriefing Venue: Kafue room
10:30	Joint debriefing (EP and EU EOM) <i>Head of EP Delegation</i> Venue: EU EOM meeting room
11:45	<i>Meet in reception</i>
12:00	Meeting with all international EOMs called by the African Union <i>Head of EP Delegation only</i> Venue: Taj Pamodzi Hotel
12:00	Observe at the counting centre in Chawama (Lusaka) Claudia Schmidt, Neena Gill + Jean Lambert
15:00	Joint debriefing with EU Heads of Mission <i>Head of EP Delegation only</i> Venue: EU EOM meeting room

Saturday 13 August

12:00	Press conferences: AU; COMESA; SADC; Commonwealth; Carter Center and others Venue: Intercontinental - Ballroom
14:45	EU EOM Joint Press Conference Venue: Intercontinental Hotel - Makumbi room
Afternoon	Departure of all Members

Annex B

<p style="text-align: center;">Statement by Mr Michael Gahler (delivered by Ms Jean Lambert) Chair of the European Parliament Election Observation Delegation for the Presidential and Legislative elections in Zambia</p>

(13 August 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, I have the honour of speaking on behalf of myself and my three fellow MEPs.

The European Parliament delegation fully supports the preliminary findings and conclusions of the EU Election Observation Mission. I would also like to express my appreciation of the very comprehensive work carried out by my colleague, Ms Cécile Kyenge, the EOM Chief Observer, and her team.

The Chief Observer has already given a thorough overview of the Mission's preliminary findings and I therefore wish to focus on a few issues relating both to Election Day and what we learned during our earlier meetings.

From start to finish of Election Day we observed many polling stations. We were very impressed at the peaceful manner in which Election Day took place, with the citizens - young and old, women and men - showing great patience as they waited to vote, often for many hours in long queues. We also commend the polling station staff who generally displayed impressive professionalism and commitment.

Nevertheless, their work was hampered by lengthy procedures, which significantly delayed the voting process. The European Parliament delegation questions why it is necessary for officials to call out the

names and identity numbers of voters or for their numbers to appear on the counterfoils of their voting slips. A streamlining of procedures would allow officials to administer the vote more effectively.

However, an election is not simply about what happens on one day.

It is crucial that there be a level playing field for all parties and candidates and the European Parliament delegation shares the concerns by the Chief Observer about the many reports of serious restrictions on the freedom of the media. The provisions of the Public Order Act were applied in a way that impeded the opportunities of the opposition parties to campaign freely.

And to underline again, it is essential that there should be a clear distinction between the State and the governing party; State resources should never be the exclusive preserve of those who hold power.

We note, too, the opinion of some domestic observers that these elections represent a step back from previous elections and in Zambia's process of democratisation. Their concerns must be addressed.

An excellent way to address this is transparency in the process at all levels and all times.

The ECZ owes the results to the voters. This means in concrete terms that verified results should be published.

The European Parliament and the European Union as a whole stand ready to support democracy in Zambia and look forward to the full implementation of the recommendations of the EU Observer Mission. We also look forward to a peaceful resolution of any disagreements in the post-election period. The people of Zambia deserve no less.

Thank you for your attention.

Annex C: Preliminary statement



EUROPEAN UNION
ELECTION OBSERVATION MISSION – ZAMBIA 2016
GENERAL ELECTIONS AND REFERENDUM
PRELIMINARY STATEMENT
Generally well-administered and peaceful Election Day marred by systematic bias in state media and restrictions on the campaign

Lusaka, 13 August 2016

EXECUTIVE SUMMARY

- On election day, the EU EOM observed voting at 520 polling stations throughout the country. The conduct of voting was positively assessed in almost all polling stations observed. Voting procedures were well implemented. The overall assessment of the closing and counting process, though protracted, was good or very good in most polling stations observed. The EU EOM continues to observe the totalling of results. As so far observed, initial findings indicate totalling was generally orderly but slow.
- The Electoral Commission of Zambia (ECZ) prepared for the election in a professional manner, but failed to remedy public media bias in the campaign. The electoral calendar was respected. Despite issues of mistrust and accusations of bias from some political parties, many stakeholders at district and provincial levels expressed a high degree of trust in the electoral process. The ECZ made efforts to increase transparency in the electoral administration, but did not allow international nor domestic observers to access a number of important activities, thus missing opportunities to further enhance the transparency of, and trust in, the process.
- During the campaign, both the Patriotic Front (PF) and the United Party for National Development (UPND) made statements that inflamed tensions, harming public confidence in the integrity of the elections and instilling a climate of fear in parts of the country. The suspension of

the campaign in Lusaka and Namwala, Southern province, was disproportionate and unduly affected small parties and independent candidates. In campaign events observed, contestants usually respected regulations, but rhetoric was occasionally aggressive and intolerant. While in many areas the police were commended for their management of campaign security, this was not the case in all provinces.

- State media demonstrated systematic bias in its failure to provide fair and equitable coverage of the campaigns of all parties, limiting the possibility for voters to make an informed choice. News coverage of the state broadcaster was biased in favour of the PF and largely excluded other parties, or only reported other parties negatively. Restrictions on private newspaper *The Post* constituted a serious infringement on freedom of expression during the campaign and severely limited opportunities for the opposition to access print media.
- The revised legal framework provides a good basis for the conduct of genuine elections, and generally provides for freedoms of assembly, movement, expression and association, in line with Zambia's regional and international commitments. However, the provisions and application of the Public Order Act unreasonably restricted freedom of assembly, to the benefit of the ruling party. There are unclear provisions, gaps, and contradictions between the constitution and legislation and key areas such as campaign finance remain unregulated.
- There are no unreasonable requirements to register as a voter. The voter register, though inclusive, was only finalized on 31 July, and made available to political parties on 5 August. Earlier release of the register could have increased overall public confidence in its reliability.
- The PF unduly benefited from its position as the incumbent party. The EU EOM observed the misuse of state resources for campaign purposes in contravention of the law, further contributing to an unlevel playing field. The inauguration of a number of infrastructure projects during the campaign further blurred the distinction between state and ruling party, reinforcing PF's campaign advantage.

The EU EOM will remain in Zambia to observe the ongoing tabulation of results and the complaints process and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process.

The European Union Election Observation Mission (EU EOM) has been present in Zambia since 29 June 2016 following an invitation from the Government of the Republic of Zambia and the Electoral Commission of Zambia (ECZ). The Mission is led by Chief Observer Cécile Kyenge, a Member of the European Parliament (MEP). In total, the EU EOM deployed across the country around 120 observers from the 28 EU Member States, as well as from Norway, to assess the entire electoral process in

accordance with international commitments for genuine and transparent elections and the laws of Zambia. A delegation from the European Parliament, headed by Michael Gahler MEP, also joined the mission before election day and fully endorses this statement. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation commemorated at the United Nations in October 2005. The EU EOM expresses its appreciation to the Government of the Republic of Zambia, the ECZ, political parties, civil society, media, as well as the people of Zambia for their cooperation and assistance in the course of the observation. The EU EOM is grateful to the Delegation of the European Union to Zambia and the European Union Member States' diplomatic missions in Zambia for their support throughout.

PRELIMINARY FINDINGS

BACKGROUND

On 11 August 2016, the Republic of Zambia held its sixth multi-party general elections since the abolition of the one-party system in 1990. Elections for president, parliament, mayors/local council chairpersons and local councillors were held simultaneously with a referendum on amending the constitution. The Republican President, Edgar Lungu, stood as the candidate of the ruling Patriotic Front (PF) against eight other candidates, of whom the most prominent were Hakainde Hichilema of the United Party for National Development (UPND) and Edith Nawakwi, the candidate for the Forum for Democracy and Development (FDD), the only woman in the race. There were 652 candidates competing for the 156 directly elected seats in the National Assembly, 331 candidates competing for mayor/local council chairperson, and 4,566 candidates competing for local council seats.

LEGAL FRAMEWORK

The legal framework for the 2016 elections and referendum was substantially changed shortly before the elections. Extensive amendments were made to the constitution in January 2016, and the Electoral Process Act and ECZ Act only entered into force in June 2016. The rushed drafting process resulted in a number of unclear provisions, gaps, and contradictions between the new acts and the constitution. The late introduction of these revisions, contrary to best international practice, meant the legal framework was unfamiliar to many electoral stakeholders. The ECZ continued to adopt new procedural regulations even after the campaign had begun, with the regulations on polling and counting only affirmed on 9 August, two days before the elections.

Some legislation foreseen by the new constitution, such as a law on campaign finance, is not in place, weakening safeguards in the electoral process. There is no specific law regulating political parties, which remain subject to the 1957 Societies Act. The constitution now extends the franchise to prisoners, but the ECZ did not act to enable prisoners to vote in this election.

Nevertheless, the legal framework provides a good basis for the conduct of genuine elections, and generally provides for freedoms of assembly, movement, expression and association, in line with Zambia's international and regional commitments. However, both the provisions and the application of the Public Order Act unreasonably restricted freedom of assembly, to the benefit of the ruling party. Even though a formal permit for a public meeting is not required, the Act requires parties to provide notice of events to the police, who have broad powers to impose conditions and directives concerning the date and place of an event as well as the content and speakers. The police can advise parties not to hold meetings, ban public meetings due to security concerns and may disperse an assembly or, in certain circumstances, arrest all its participants without warrant. Additionally, public meetings of the president, the vice-president and ministers are exempt from notification under the Public Order Act.

In some provinces, notably Lusaka, the police have continued to interpret the advisory role and provision of notification in contradiction with the May 2016 guidelines issued by the Supreme Court, which stated that it is a duty of the police to protect persons who are properly exercising their right to assemble from those that are threatening to infringe upon that right.

ELECTION ADMINISTRATION

The Electoral Commission of Zambia (ECZ) prepared for the election in a professional manner. The electoral calendar was respected. While the ECZ has no decentralised structures, the EU EOM assessed communication between the ECZ and local levels of electoral administration as generally effective. Some parties raised concerns at local government officials with electoral duties being transferred shortly before, as well as during, the electoral process. In some cases, local government officials were mandated to perform the duties of several election officers.

Political parties and civil society organisations (CSOs) expressed concern at the procedure of appointment of ECZ commissioners, which following the recent adoption of the ECZ Act, provides that commissioners are subject to removal by the president at any time and without cause. Despite continuing issues of mistrust and accusations of bias from some political parties, many stakeholders at district and provincial levels expressed a high degree of trust in the electoral process.

The ECZ organised stakeholder meetings, press briefings and outreach on social media, publicly disclosed findings of the voter registration audit, involved stakeholders in the process of ballot paper production, and granted access to representatives of the presidential candidates to the verification phase of national tabulation, in efforts that increased transparency in the electoral administration. However, the ECZ did not allow international nor domestic observers to access a number of important activities, such as verification of results at national level, a series of stakeholder and mediation meetings, the arrival of ballot papers, nor did it provide copies of all draft regulations and

an electronic list of voters per polling station, thus missing opportunities to enhance the transparency of, and trust in, the process.

Voter education committees, established by the ECZ at both national and district levels, comprised CSOs, faith-based organisations and state agencies. Except for the referendum, voter education efforts were assessed positively by the EU EOM and stakeholders. The voter education campaign began on 29 May, with the exception of the referendum awareness campaign which only began after the referendum question was decided. The late start of this campaign, the complexity of the subject and the linking of two questions, lack of familiarity with referenda, and low literacy amongst some of the population contributed to a limited understanding of the referendum by voters.

The equality of the vote is compromised by significant disparities in the number of voters between parliamentary constituencies. This contravenes the constitution and the international principle of equality in representation. In many constituencies, the current register shows greater inequality than previously, due to an increase in urban population. For example, there is a 16-fold difference in the number of voters in Mandevu, Lusaka province compared to Lufubu, Central province. Six new constituencies were created this year, but this addition has not remedied these inequalities.

VOTER REGISTRATION

There are no unreasonable requirements to register as a voter in Zambia. The holding of a national registration card (NRC) is a condition to register as a voter. Consequently, the voter registration update conducted earlier this year was organised in parallel with a NRC issuance exercise. Some political parties criticised the scheduling of the voter registration update exercise, claiming that some eligible voters had not yet received their NRCs. The number of voters eventually registered is close to the ECZ's projected targets. Following the update, 6,698,372 voters are on the register, an increase from 2011 of 1,543,281.

The ECZ commissioned a voter registration audit parallel with the inspection of the registry. Apart from the high number of deceased voters on the register, the anomalies identified do not appear to undermine the register's accuracy or inclusiveness. While allegations of foreign registration were raised by some political parties, some interlocutors state the registration of foreign nationals in border areas is not atypical, and has been a recurring feature of national registration in Zambia. The voter register was finalized on 31 July, and only made available to political parties on 5 August. Earlier release of the register could have increased overall public confidence in its reliability, and allow political parties and civil society organisations to better plan their electoral activities.

CANDIDATE NOMINATION

Requirements for candidate nomination are reasonable, and independent candidates are now allowed to stand for all elections. However, the amendment to the constitution introduced a new eligibility requirement that candidates for all elected positions have the minimum academic qualification of a completed secondary education, attested by a Grade 12 certificate, its equivalent, or a superior qualification. Such a requirement both limits the right of citizens to stand for election and the choice afforded to voters, especially when it comes to prospective female candidates and those from rural areas. The Examinations Council of Zambia verified education certificates and announced that 100 were forged, but did not disclose which candidates held a forged certificate. Although eventually reduced from the figures first set, the significant increase in the nomination fees, particularly at councillor and parliamentary levels, were criticised by many political parties as prohibitive. The increase in fees further restricted the right to stand, particularly of women.

All nomination petitions relating to parliamentary and local government candidates were filed after the prescribed seven-day period and rejected by the High Court on this ground. This, coupled with the incorrect filing of some nomination petitions at the newly established Constitutional Court, underlines the lack of understanding of the newly adopted procedures.

ELECTION CAMPAIGN

The electoral campaign began on 16 May and ended on 10 August. No schedule of presidential campaign events was agreed, which led to mistrust between political parties and some avoidable scheduling conflicts. The suspension of the campaign in the districts of Lusaka and Namwala, Southern province, from 9 – 18 July was a disproportionate action by the ECZ, and unduly affected small parties and independent candidates, particularly in light of credible reports and direct EU EOM observations that the ruling party did not fully comply with the suspension order. In making this decision, the ECZ appears to have exceeded its authority to adopt and amend the election timetable; on this ground, the decision has been challenged by FDD at the Constitutional Court.

Throughout the campaign, both the PF and the UPND made statements that inflamed tensions. The PF painted the UPND as the instigator of mass violence, and claimed the opposition party would commit electoral fraud by encouraging ECZ staff to deliberately invalidate ballots. The UPND alleged the PF had threatened the lives of some of its candidates and that the constitutional referendum would be used to allow non-registered voters to also cast votes in the election. These claims weakened public confidence in the integrity of the elections. While there were several serious incidents of violence around the country, the narrative by the ruling party that violence would be the result if citizens voted for the opposition instilled a climate of fear in parts of the country.

The EU EOM observed 47 campaign events in all 10 provinces, of which 23 were for PF, 20 were for UPND, one was for FDD, one was for UNIP and two were of independent candidates. In observed

campaign events, candidates and parties campaigned vigorously, and usually respected campaign regulations, but the aggressive rhetoric of some speakers contributed to an occasionally intolerant tone. Disputes between activists of PF and UPND were witnessed in some parts of the country, but such incidents did not typically result in serious escalation.

While in many areas the police were commended for their management of campaign security, this was not the case in all provinces, notably in Copperbelt, Lusaka and Northern. Smaller and independent candidates in Copperbelt, Northwestern and Southern provinces reported limited or ineffectual police action in response to alleged incidents of intimidation from the larger PF and UPND. All parties usually relied on their political activists to ensure event security rather than on the police. The provisions of the Public Order Act were exploited to favour the PF, allowing events of the president and vice-president to unfairly block those of other parties at short notice, throughout the campaign period. The interpretation by police that no campaign events could be held in the same province as that in which the president was present was unnecessarily broad and an excessive restriction on the right to campaign.

The PF unduly benefited from its position as the incumbent party. The EU EOM observed the misuse of state resources for campaign purposes in Copperbelt, Eastern, Northern and Western provinces, in contravention of Zambian law, further contributing to an unlevel playing field. In Luapula and Southern provinces, permission to use campaign venues used by the PF was denied to opposition parties. The PF used its position of incumbency to offer new incentives to the electorate during the campaign, including the allocation of land to former miners and the cancellation of water bills in Copperbelt province, the distribution of subsidized fertilizer in Central province, and the initiation of new road projects in Southern province. The inauguration of a number of infrastructure projects during the campaign further blurred the distinction between state and ruling party, reinforcing PF's campaign advantage.

CAMPAIGN FINANCE

New constitutional provisions establish a framework for regulation of the sources of funding for political parties, the submission of audited accounts by political parties, and the maximum amount of money that can be used for election campaigns. The presidential, vice-presidential and parliamentary candidates must publicly declare their assets and liabilities in order to qualify for nomination. These provisions provide a reasonable basis for transparency in political finance, but it is unclear whether all provisions also apply to individual candidates. However, for this election campaign, neither regulation of the sources of funding, nor limits on campaign spending, are in force, which fails to comply with constitutional requirements.

On 20 July, in compliance with constitutional requirements, the ECZ published the list of assets and

liabilities of the presidential and vice-presidential candidates, in both the national print media and on the commission's website. The ECZ informed the EU EOM that disclosure of the assets and liabilities of parliamentary candidates was done at district level, but as of the date of this report these declarations had not been posted on the ECZ website.

MEDIA

Although the constitution guarantees freedom of expression, the penal code retains clauses on defamation of the president with disproportionate sanctions inconsistent with international practices protecting freedom of expression. In combination with laws such as the State Security Act, the present environment induces self-censorship and limits freedom of speech.

Elections dominated the broadcast and print media during the campaign. However, the imbalanced coverage provided by public media, the absence of genuine political discussion across print and broadcast media, and a lack of original editorial content limited the independent and analytical reporting available and decreased the possibility for voters to make an informed choice. The PF dominated media coverage of the elections in the state owned media, which was inconsistent with Zambian laws and regional and international standards on free and equal access to the media during elections. Key programming such as news bulletins of the state Zambia National Broadcasting Corporation (ZNBC) were biased in favour of the PF and largely excluded other parties, or only reported other parties negatively.

Incidents of violence and intimidation against journalists also restricted media's ability to report freely. On 8 July, a journalist of *The Post* was arrested by the police and briefly detained. On 16 July, police raided Radio Mano in Kasama, Northern province, in an attempt to stop a live programme featuring the UPND vice-presidential candidate. On 3 August, an off-duty reporter of *New Vision* was attacked in Chainda, Lusaka by an alleged UPND cadre.

The media environment was marred by the seizure on 21 June of the offices and printing facilities of private newspaper *The Post* by the Zambia Revenue Authority in a bid to recover an outstanding tax debt. Despite the severe restrictions, *The Post* continued to be produced and published, with very limited circulation and substantially reduced contents. While it is beyond the scope of the EU EOM to assess tax compliance, the timing of action against *The Post* was inappropriate. It constituted a serious infringement on freedom of expression during the campaign, as it severely limited opportunities for the opposition to access print media, and contributed to decrease the diversity of viewpoints and the right of voters to freely receive information.

In prime time news and current affairs coverage from 6 July – 10 August¹, EU EOM media monitoring showed ZNBC TV1 provided 60 per cent of time to PF and the president; 24 per cent to government

and seven per cent to ECZ. President Lungu's main challenger, Hakainde Hichilema of the UPND, received three per cent of time. Other parties with presidential candidates were provided less than two per cent each. The incumbent president, the vice-president and some ministers also obtained airtime through coverage of their official activities. A similar trend was observed on ZNBC TV2. ZNBC TV coverage of PF and the president was overwhelmingly positive in tone; in contrast, coverage of other parties was neutral or, in the case of UPND, usually negative.

Opposition parties received very little access to state radio. Within the combined monitored time on both ZNBC Radio One and Radio Two, of news coverage of political actors, PF received 63 per cent, government 14 per cent, ECZ 11 per cent, while UPND received five per cent and all other parties less than two per cent each. The two state-owned daily newspapers, *Times of Zambia* and *Zambia Daily* Radio One and Radio Two, and four private, Sky FM, QFM, Phoenix and Hot FM, monitored from 0600 – 0900 and 1200 – 1345) and four daily newspapers (two state-owned, *Times of Zambia* and *Zambia Daily Mail*, and two private, *Daily Nation* and *The Post*). Three radio stations in the regions, Icengelo, in Kitwe, Copperbelt; Breeze FM, in Chipata, Eastern; and Radio Mano, in Kasama, Northern, were also monitored. *Mail*, dedicated a combined 59 per cent of their coverage to PF, 11 per cent to government and the president and seven per cent to ECZ. The UPND received 10 per cent of coverage; FDD three per cent, UNIP two per cent, and other parties with presidential candidates less than two per cent each. The tone of state radio and state newspapers followed the trend of state television.

The Electoral Process Act obliges ZNBC to allocate public airtime equally to all political parties and candidates for party political broadcasts. ECZ shall prescribe the amount of airtime in any given language on public television or radio to be allocated to a political party or candidate. ECZ agreed with ZNBC's decision to provide access to opposition parties mainly through talk shows and interview style programmes, but this approach did not ensure equal opportunity for all contestants. Balance was better on ZNBC TV1 and TV2, where debate-style programme *Race to Manda Hill* featured candidates participating in the elections with a more equitable share.

Opposition candidates and political parties received wider coverage in private print and broadcast media. The polarization of political positions influenced the tone of coverage in the print media. While newspaper *Daily Nation* clearly favoured PF and tended to associate the UNPD with violence, *The Post* favoured UPND and strongly criticised the PF, particularly President Lungu. Muvi TV provided more objective and factual reporting, despite dedicating more time to UPND than to PF in prime time news and current affairs programming. Private radio followed the same trends in tone, with some instances of positive reporting favouring PF and the incumbent government.

Candidate debate-style programmes, some of which were sponsored by civil society organisations, granted some access to contestants, but neither the incumbent president nor the vice-president participated, limiting the representativeness of the programmes.

The Electoral Process Act does not regulate paid advertising. Regulations previously in force limited the airtime a party can purchase on state owned broadcast media, not to exceed 30 minutes in any single vernacular language per week. For most of the campaign, it was uncertain which regulations were in place, with ECZ stating the previous regulations were still valid, while ZNBC allowed coverage in excess of 30 minutes, notably during PF rallies, which were marketed as political adverts.

PF and UPND purchased large amounts of time in various print and broadcast media. The increased cost of airtime during the election period on both public and private media disadvantaged smaller parties and independent candidates, and contributed to an uneven playing field. PF paid for 93 per cent of the overall airtime allocated to political advertisement on TV1. UPND paid for five per cent of airtime, while FDD paid for two per cent of airtime and UNIP and independent candidates for less than one per cent each. TV2 aired PF advertising, 98 per cent of the time and UPND advertising two per cent of the time. Radio One and Radio Two aired paid advertisements of PF, UPND, FDD, and UNIP. On Muvi TV, UPND paid for 62 per cent of the overall airtime allocated to political advertisement, PF paid for 32 per cent, FDD four per cent and PAC, UNIP and independent candidates less than one per cent each. UNIP and UPND reported delays in approval by ZNBC of the content of political adverts, which disadvantaged candidates and appeared politically motivated.

ELECTORAL JUSTICE

The law mandates resolution of electoral disputes and complaints first be attempted by mediation at the Conflict Management Committees (CMCs), established at district and national level. However, the competencies of the CMCs are not clearly defined and CMCs were often called upon to deal with matters of a criminal nature, without having the requisite legal authority and powers of enforcement, and which may have been more appropriately the responsibility of the police and the courts. CMCs lacked defined procedures for hearings, had limited transparency, and do not regulate public and observer access to hearings. Nevertheless, in many districts, CMC mediation helped diffuse tensions and solve minor disputes between parties, although their performance and effectiveness greatly varied, and some interlocutors expressed little confidence in the utility of the mechanisms. The most common complaints dealt with were destruction of campaign material, inflammatory language and personal insults.

The national CMC met five times during the campaign period to mediate high profile political and campaign related disputes, almost exclusively focusing on PF and UPND. Although the parties usually reached agreement, the practical implication of these was minimal, as for example in the agreement not to abuse state transportation, including ZAR aircraft, for campaign purposes.

The new Electoral Process Act gave ECZ the power to disqualify a candidate or party for breach of the

Electoral Code of Conduct. On 8 August, the ECZ enacted a regulation prescribing the disqualification procedure, but ultimately the ECZ did not invoke this power.

The results of all elections as well as the referendum can be challenged by election petitions to the competent courts on grounds of non-compliance with the constitution and/or the electoral legislation or if a corrupt or illegal practice is alleged. Legislation provides for expeditious proceedings to decide the petitions, in compliance with regional and international standards.

PARTICIPATION OF WOMEN AND PERSONS WITH DISABILITIES

The constitution provides that the electoral system ensure gender equity in the National Assembly and local councils but no specific measures to achieve this are prescribed in legislation. The constitution also requires the two deputy speakers of the National Assembly must 'not be of the same gender.'

In addition to the one female presidential candidate from the FDD, three vice-presidential candidates, from PF, United Progressive People and Democratic Assembly, are women. Amongst parliamentary and councillor candidates, women were significantly underrepresented, constituting only 16 per cent and nine per cent of candidates respectively. Amongst polling staff observed by the EU EOM, 30 per cent of presiding and assistant presiding officers, and 58 per cent of polling assistants, were women.

All major parties fell far short of pledges to nominate 40 per cent female candidates, citing fears that they would not attract enough support from a traditionally patriarchal electorate. Given educational and financial constraints, women are especially affected by requirements to hold a Grade 12 certificate and by the increase in the nomination fees.

Female candidates received minimal media coverage during the campaign. Almost all monitored coverage was provided to PF politicians and candidates, notably the incumbent vice-president. The law provides for a special vote for persons who cannot vote at a polling station due to physical infirmity or disability, but the ECZ did not put such procedures in place in these elections. Legislation states reasonable provisions on assisted voting in the polling station. The ECZ installed ramps in some polling stations to provide wheelchair access, following a 2011 High Court ruling ordering the ECZ to implement measures to ensure persons with disabilities are not disadvantaged. 72 per cent of polling stations observed were assessed as accessible to persons with disabilities.

DOMESTIC OBSERVERS

Some 10,000 domestic observers were deployed by the Foundation for Democratic Process with

5,000 observers, the Southern African Centre for Constructive Resolution of Disputes with 4,000 observers, Transparency International Zambia with 500 observers, Operation Young Vote and Zambia National Women's Lobby each with 300 observers. Some geographical coordination of domestic observers was facilitated through the Zambia Election Information Centre. The EU EOM found domestic observers present in 95 per cent of polling streams observed.

POLLING AND CLOSING

On election day, the EU EOM followed voting procedures at 520 polling streams in all ten provinces of the country. Voting was conducted in a calm atmosphere, with some disturbances observed in the vicinities of six polling stations. Voters showed remarkable determination by waiting in long queues, particularly in the morning. The conduct of voting was positively assessed in 97 per cent of polling streams observed. Voting procedures were well implemented, providing appropriate safeguards to ensure the integrity of the vote and transparency of the voting process. Although prescribed by polling day regulations, recording the voter card number on the ballot counterfoil could possibly compromise secrecy of the vote, as a unique serial number was printed on both the ballot and counterfoil. Polling assistants did not consistently check voters' fingers for possible presence of indelible ink. In some instances, the voters' wish to vote in some but not all elections was not respected.

72 per cent of polling streams observed opened on time or with a delay of less than 10 minutes. There were, however, some isolated cases of polling stations where voting only started much later in the day, as announced by ECZ. Political party representatives were present in polling streams observed and were not seen to interfere with the process. The number of ballot papers or boxes was insufficient in some polling streams, which led to merging of streams in a few cases. Some materials were missing in 41 streams. The self-inking stamp used in the official marking of ballot papers was ineffective after prolonged use in a number of cases, as also announced by ECZ. Some cases of overcrowded polling streams were observed, at times because multiple streams shared the same room. The performance of the majority of polling staff was assessed as good or very good. The EU EOM, as well as domestic observers, was able to observe the voting process without restriction in almost all polling streams. The transparency of the voting process was rated as good or very good in 72 per cent of cases.

Counting started immediately after closing in almost all polling streams visited and was conducted in the presence of political party representatives and observers, usually without interference. Although protracted, the overall assessment of the closing and counting process was good or very good in most polling stations observed by the EU EOM, while the transparency of the process was assessed as good or very good in 90 per cent of polling stations. In 38 per cent of polling streams observed, polling staff had difficulties completing results forms. In several polling stations figures on the forms

did not reconcile. Copies of the results forms were provided to party representatives in most cases. In some cases, results were not posted outside the polling stations.

The EU EOM continues to observe the totalling of results, but regrets that its observers do not have access to the verification of results at the national results centre, despite formal requests. As so far observed, initial findings indicate totalling was generally orderly but slow, and with some technical difficulties. Party agents and observers had sufficient access to constituency totalling centres. The EU EOM welcomes the anticipated publication on the official ECZ website of all individual polling station results forms, to ensure transparency and build confidence in the results, and urges this be done in a timely manner. The EU EOM will follow the complaints and appeals process before reaching its final conclusions.

The preliminary statement is available on the EU EOM's website www.eueom.eu/zambia2016

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ANNEX D: EU EOM PRESS RELEASE

Generally well-administered and peaceful election day marred by systematic bias in state media restrictions on the campaign

Lusaka, 13 August 2016

On election day, the European Union Election Observation Mission (EU EOM) observed voting at 520 polling streams throughout the country. The conduct of voting was positively assessed in almost all polling stations observed. Voting procedures were well implemented. The overall assessment of the closing and counting process, though protracted, was good or very good in most polling stations observed. The Mission's Chief Observer, Ms Cécile Kyenge said this at a press conference in Lusaka, when she presented the preliminary statement of the Mission, outlining the main findings of her team's long-term observations.

Chief Observer Cécile Kyenge commended the Electoral Commission of Zambia (ECZ) for demonstrating professionalism in its preparations for the elections, despite issues of mistrust and accusations of bias present in the pre-election period. *"We have closely followed the work of ECZ since the end of June. Navigating this complex and sensitive process so far is an achievement in itself"* - Ms Kyenge said. She added, however, that ECZ did miss opportunities to enhance transparency and trust in the electoral process amongst political parties and the general public.

Campaign activities were hindered by several factors. among others by ECZ's decision to suspend campaigns for ten days in Lusaka and Narnwala, which the EU EOM saw as a disproportionate move, and which unduly affected small parties and independent candidates. Police also had a role in limiting the campaign, by broadly interpreting the provisions of the Public Order Act, and using its provisions to unfairly block events of opposition parties at short notice.

State media demonstrated systematic bias in its failure to provide fair and equitable coverage of the campaigns of all parties. limiting the possibility for voters to make an informed choice. "News coverage of the state broadcaster was biased in favour of the PF and largely excluded other parties, or only reported other parties negatively" - Chief Observer Kyenge said. She also added that restrictions on private newspaper *The Post* constituted a serious infringement on freedom of expression during the campaign and severely limited opportunities for the opposition to access print media.

The EU EOM continues to observe the totalling of results, but regrets that its observers do not have access to the verification of results at the national results centre, despite formal requests. As so far observed, initial findings indicate totalling was generally orderly but slow, and with some technical difficulties. Party agents and observers had sufficient access to constituency totalling centres.

The EU EOM welcomes the anticipated publication on the official ECZ website of all individual polling station results forms, to ensure transparency and build confidence in the results, and urges this be done in a timely manner. Michael Gahler, head of the European Parliament delegation that joined the EU EOM before election day, especially underlined *"the necessity to provide for transparency of all stakeholders at all levels and all times."*

The EU Election Observation Mission's preliminary findings are based on the long-term observation that it conducted in Zambia since 29 June. The statement is preliminary because the election process is not yet over, with counting and tabulation still ongoing. The EU EOM remains in Zambia until the end of the process and will also observe the complaints process after the election results are communicated. Approximately two months after the conclusion of the electoral process a comprehensive final report will also be presented by the Mission, with recommendations for future elections.

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