



European Union
Election Follow-Up Mission

GHANA

Final Report



September 2019



FINAL REPORT

EUROPEAN UNION ELECTION FOLLOW-UP MISSION TO GHANA

5 September – 2 October 2019

The Election Follow-up Mission is independent from the institutions of the European Union. The views and opinions expressed in this report are those of the authors and do not necessarily reflect the official policy and position of the European Union.

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I. Acronyms

BVR	Biometric voter registration
CDD	Ghana Centre for Democratic Development
CFI	Ghana Civic Forum Initiative
CM	Chief of Mission
CI	Constitutional Instrument
CLGA	Centre for Local Governance Advocacy
CODEO	Coalition of Domestic Election Observers
CSO	Civil Society Organisation
EC	Electoral Commission
ECOWAS	Economic Community of West African States
EEAS	EU External Action Service
EU	European Union
EFM	Election Follow-up Mission
ERMES	European Resource for Mediation Support
EU EOM	European Union Election Observation Mission
GBC	Ghana Broadcasting Corporation
GIBA	Ghana Independent Broadcasters Association
GJA	Ghana Journalists Association
IDEG	Institute of Democratic Governance
IGI	Independent Government Institutions
IPAC	Inter-Party Advisory Committee
LI	Legislative Instrument
MMDCEs	Metropolitan, Municipal and District Chief Executives
MoGCSP	Ministry of Gender Children and Social Protection
NCA	National Communications Authority
NCCE	National Commission for Civic Education
NDC	National Democratic Congress
NMC	National Media Commission
NPP	New Patriotic Party
MP	Member of Parliament
PNC	People's National Convention
PPP	Progressive People's Party
PVT	Parallel Vote Tabulation
ROPAA	Representation of the People Amendment Act
RTI	Right to Information
UNDP	UN Development Programme
USAID	United States Agency for International Development

II. Executive Summary

- A European Union (EU) Election Follow-up Mission (EFM) was deployed in Ghana from 5 September to 2 October 2019, in order to assess the progress made on the implementation of the recommendations of the EU Election Observation Mission (EU EOM) to Ghana for the 2016 Presidential and Parliamentary elections. The EFM was deployed during a key moment for the political and electoral landscape of the country, as preparations for a constitutional referendum and local elections were underway.
- The EU EOM 2016 concluded that although the Electoral Commission managed to generally administer the electoral process effectively, it faced challenges in regards to communication, voter registration, ballot printing and special voting, while it did not make full use of the Inter Party Advisory Committee. The Mission further identified additional shortcomings related to campaign finance and media regulations, participation of women, adjudication of electoral disputes and the election results management system. It offered 20 recommendations for improvement of the electoral process; among these, it identified crucial areas that needed to be addressed through nine priority recommendations.
- Following extensive consultations with stakeholders during the high-level visit of the Chief of the EFM and Chief Observer of the EU EOM 2016 Mr. Tamas Meszerics, a press conference was organised in Accra on 20 September 2019. In his preliminary conclusions, Mr. Meszerics said: *“We are encouraged to see that initiatives have been undertaken to improve future electoral processes. We urge all electoral stakeholders to engage in good faith in extensive consultations in view of achieving the necessary bi-partisan consensus and an environment conducive for a greater level of public confidence in the electoral process.”*
- On the same day, the EFM also held a roundtable, bringing together key electoral stakeholders in order to exchange views and build consensus on how the EU EOM recommendations could be better implemented, in the run up to the 2020 general elections. A total of 26 representatives from the Electoral Commission, political parties, independent institutions, media, civil society organisations and leading Ghanaian think tanks, EU Member States representatives and development partners attended the event.
- Out of the 20 recommendations offered by the EU EOM 2016, 14 require legal reforms. By the time of deployment of the EFM, only one had been fully addressed, related to the adoption of the Right to Information Bill. From the six EU EOM recommendations involving EC operational reforms, two have been partially addressed.
- Regarding recommendations that would require reforms of the legal framework, a crucial one necessitating an amendment of a constitutional clause, notably in regards to the appointment process of Electoral Commission members, has not been discussed. Two other bills that were initiated before

the 2016 elections have not been further debated, while no other piece of legislation addressing the EOM recommendations has been laid before Parliament. Several key legislative reforms that could have a significant impact on the electoral process remain outstanding and their implementation ahead of the 2020 general elections appears unrealistic.

- All stakeholders met during the EFM share the opinion that no significant amendments to the electoral legislation will be made before the 2020 elections for either lack of time or political will. The major shortcomings that were identified by the EU EOM 2016, including the appointment process of the Electoral Commission members, regulation of the campaign environment including misuse of state resources, effective implementation of campaign finance provisions and timelines for the resolution of election disputes are not a priority topic of discussion among the main political parties and members of Parliament.
- The Electoral Commission is taking some steps to improve parts of the electoral process through either administrative reforms or adoption of Constitutional Instruments.¹ It is still though premature to determine if actual progress will be made and in any case these reforms do not reflect all EU EOM recommendations.
- The Electoral Commission is currently undertaking preparations in anticipation of the constitutional referendum and District Level Elections of 17 December 2019. A limited Voter's Registration exercise was just finalised, leading to a total of 1,035,947 new voters being included in the provisional Voter's Register. In addition to the compilation of a new Voter's Register, the Commission is aiming to implement more than 20 activities for the preparation of the 2020 Presidential and Parliamentary elections, involving mainly capacity building of EC officials, voter outreach, training of media personnel on electoral issues and strengthening the EC's communication strategy.
- Electoral stakeholders are preoccupied by the flare-up of violent groups of political supporters ("vigilantes") since the 31 January 2019 by-election in the Greater Accra Ayawaso West Wuogon constituency. The nature of the relationship between these groups and political parties led to some EFM interlocutors expressing apprehension about their increasing involvement in inter- and intraparty disputes in the run-up to the 2020 general elections.

¹ A Constitutional Instrument (CI) is any Order, Rules and Regulation made by a person or authority under a power conferred by the Constitution. It should be laid before Parliament, published in the Gazette and come into force within 21 days, unless is annulled by the votes of not less than two-thirds of all members of Parliament.

III. Mission Information

The European Union (EU) deployed an Election Follow-up Mission to Ghana in order to assess the progress made on the implementation of the recommendations of the 2016 EU Election Observation Mission (EOM), as well as to discuss ways to further improve the electoral framework. The EFM was deployed during a key moment for the political and electoral landscape of the country, as preparations for a constitutional referendum and local elections were underway. The Mission was led by Mr. Tamas Meszerics, Chief Observer of the 2016 EU EOM to Ghana, who visited Accra from 16 to 20 September 2019. Two independent electoral experts arrived in country on 5 September and remained until 2 October 2019.

The EFM met, among others, with the Acting Inspector General of Police, the Leadership of Parliament, the National Media Commission, the Chairperson and Commissioners of Electoral Commission of Ghana (EC), the Election Working Group co-chaired by UNDP and EU, executives of the New Patriotic Party (NPP) and the National Democratic Congress (NDC), the Institute of Democratic Governance (IDEG), the Ghana & Civic Forum Initiative (CFI), the Coalition of Domestic Election Observers (CODEO) and the Ghana Centre for Democratic Development (CDD), the National Commission for Civic Education (NCCE) and the STAR Ghana.

The EFM organized a roundtable on 20 September 2019. A total of 26 representatives from the Electoral Commission, political parties, independent institutions, media, civil society organisations and leading Ghanaian think tanks, EU Member States representatives and development partners attended the event. The discussions focused on the recommendations whose implementation is considered crucial for the strengthening of the electoral process.

Groups' findings showed a strong interest to implement the 2016 EU EOM recommendations, coupled with a solid technical knowledge of the electoral legal framework, the challenges of the EC and the overall political and legislative constraints. The Chief of Mission held a press conference prior to departure from Ghana and the Press Release is contained in Annex I.

IV. Political and Institutional Context since 2016 elections

President Nana Akufo-Addo, the fifth President of the Fourth Republic, took office in January 2017. One of his campaign promises and long term NPP commitment was to oversee the direct election of Metropolitan, Municipal and District Chief Executives (MMDCEs) within 24 months of election into office, so as to coincide with the District Assembly elections in late 2019.

As provided in the 1992 Constitution, Ghana's local government system of District Assemblies is part (majority)-elective but on a strictly non-partisan basis, and part (minority)-appointive² while the executive part is entirely appointive by the

² According to articles 242 and 246 of the 1992 Constitution, elections to the District Assemblies are being held every four years for seventy per cent of the seats; the remaining thirty per cent of the District Assembly members are appointed by the President in consultation with traditional authorities

President. Therefore, the government initiated efforts to amend the Constitution in order to advance decentralisation and allow for full citizens' participation in local governance.

Two constitutional amendment bills were introduced before Parliament in 2018, both in relation to the local government elections. The first one seeks an amendment of clause 1 of article 243 of the 1992 Constitution in order to provide for the election of MMDCs by universal suffrage within a district,³ instead of the current regime that provides for their appointment by the President with the prior approval of at least two-thirds majority of the members of the Assembly present and voting.

The second bill proposes to amend clause 3 of article 55 of the 1992 Constitution, which would allow political parties to sponsor or endorse candidates for election to District Assemblies or lower local government units. This being an entrenched provision of the Constitution, it requires public approval through a national referendum with 75 per cent favourable vote of at least 40 per cent turnout of registered voters. Exercising its constitutionally conferred powers, the Electoral Commission (EC) adopted on 3rd July the relevant regulations to organise the conduct of the referendum.⁴

During the EFM visit, the Electoral Commission was engaged to a very large extent with the preparations for the upcoming referendum to amend Article 55(3) of the 1992 Constitution and the District Level Elections,⁵ finally set for 17 December 2019. Even if analysing the referendum and the local elections of this year goes beyond its mandate, the EFM takes the opportunity to reflect on these preparations, as many of them will have an impact on the 2020 general elections.

The exhibition of the Provisional Voters Register at all the 31,702 exhibition centres, intended to clean the register of ineligible persons ahead of the December polls and to allow voters the opportunity to check their data, was finalised on 20 September.⁶ A total of 1,035,947 new voters are included in the provisional voter register. The examination of claims for corrections and objections took place between 18 September and 17 October. Within three months from the end of the registration period on 20 September 2019, the EC is required to compile a provisional voters' register, and, at the end of the compilation period, to provide a copy to each registered political party.⁷ Despite this legal timeline, the National Democratic Congress (NDC) reportedly filed a petition against the Electoral Commission on the grounds of failure to supply the NDC with a copy of the provisional voters register.

and other local stakeholders. The President also appoints each Metropolitan, Municipal and District Chief Executive who is also member of the local assembly.

³ Constitution (Amendment) Bill 2018, published in the Gazette on 26 September 2018.

⁴ Referendum Regulations 2019, CI 120, published in the Gazette on 3 July 2019. As the Writ of Referendum stipulates, the issue for determination is "Are you in favour of the Bill to amend clause (3) of article 55 of the 1992 Constitution by substituting clause (3) to allow political parties to sponsor candidates for elections to District Assemblies or lower level government units? YES or NO?"

⁵ Two polls will be set for the District Level Elections on 17 December: one for the District Assembly Elections and the other for the Unit Committee Elections.

⁶ Initially scheduled from 10 to 17 September 2019, it was prolonged for three days on 14 September by decision of the Electoral Commission.

⁷ According to Article 22(1) of Constitutional Instrument 91.

According to the Coalition of Domestic Election Observers (CODEO), the Limited Voter's Registration Exercise faced a number of problems; these include the fact that it was conducted only at the EC District Offices and 1,573 electoral areas nationwide that were difficult to access, thus somehow limiting the inclusiveness of the registration due to the long distances people had to cover. In addition, the Biometric Voter Registration (BVR) devices were not utilised due to bad condition, while in some exhibition centres the provisional Voters' Registers were not available for inspection the first few days – hence the extension of the exhibition period. To respond to these challenges, the EC announced that it is procuring new biometric equipment with an enhanced feature of facial recognition, to be used for the 2020 general elections.

The upcoming December 2019 referendum and District Assembly elections will be the first countrywide elections to be organized by the current Electoral Commission, the Chair of which and two deputies were only sworn into office in August 2018.⁸ In fact, all EC Commissioners except one were appointed for the first time in 2018. The former EC Chairperson and her two deputies were removed from office on 28 June 2018, on grounds of “misbehaviour and incompetence”, following a judicial panel report that found them guilty of mismanagement related to the award of contracts during the 2016 general elections.⁹ The non-inclusive appointment process of the EC members by the President in consultation with the Council of State, as stipulated in the 1992 Constitution, contributes to the lack of trust by the opposition in its impartiality, as already stressed by the EU EOM 2016.

The National Commission on Civic Education (NCCE) launched on 18 September, in collaboration with the Ministry for Local Governance, its Citizen Education and Awareness Raising Campaign on the December 2019 polls. A civil society organisations' “Coalition on the national referendum and the election of MMDCEs”, created in August 2019 by the Ghana Centre for Democratic Development (CDD), the Centre for Local Governance Advocacy (CLGA) and the Institute for Democratic Governance (IDEG), is also preparing to conduct voter information activities. Planning forward towards the 2020 elections, the CODEO secured funding by USAID to observe the polls as well as to conduct a Parallel Vote Tabulation (PVT) exercise.

The Electoral Commission is aiming to implement more than 20 activities for the preparation of the 2020 Presidential and Parliamentary elections. These involve general capacity building of EC officials at the 34 new Districts created by the 2018 referendum as well as specific trainings on gender-based issues at regional level; voter outreach, also targeting women and people with disabilities; training of media personnel on electoral issues; interaction of traditional leaders; strengthening the EC's communication strategy to include social media and live TV interaction with the electorate; and holding monthly Inter-Party Advisory Committee (IPAC) meetings.

⁸ The new Chairperson of the Electoral Commission is Mrs Jean Mensa, former Executive Director of the Institute of Economic Affairs, while the two Deputy Chairpersons are Mr Samuel Tettey (former EC Director of Elections) and Dr. Eric Asare Bossman, head of political science department of the University of Ghana.

⁹ A 27-point petition filed by EC members in July 2017 had laid the legal ground for their removal from office, detailing instances of “abuse of power, mismanagement of public funds and causing of financial loss to the state”. The other three EC members reached retirement age.

The organisation of IPAC meetings on a regular basis has already started. However, several concerns, some politically-motivated, have been already raised criticizing the EC for refusing to consider the opinions of political parties, on the ground that IPAC has only an advisory role in the process. Taking into account the already strenuous relationship between the election administration and the opposition, the EC needs to reinforce its communication strategy expeditiously, to take a proactive role and engage further with all political parties in the run up to the 2020 elections, while building and keeping its integrity.

Among the recently and not uncontroversial EC decisions is to set the closing time of polls an hour earlier so that counting will be conducted during daylight, aiming to promote the security of the elections and allow for earlier release of provisional results. This decision will not be applicable during the December polls though, as according to the Referendum Regulations (CI 120 of 3 July 2019), the polling will take place between 07:00 and 17:00.

The EC has set up two internal committees to deliberate on proposals for reforms, or operational activities. One is the Boundary and Demarcation Committee and the other is the Electoral Reform Committee; both are constituted by two Commissioners each, heads of departments and regional directors. The reform areas are related to electoral boundaries and review of constituencies, revision of the Constitutional Instruments (CI) on voter registration and conduct of elections, and modalities of out-of-country voting for the implementation of a 2018 Supreme Court judgment on the Representation of the People Amendment Act (ROPAA).

Stakeholders are preoccupied by the flare-up of violent groups of political supporters (“vigilantes”) since the 31 January 2019 by-election in the Greater Accra Ayawaso West Wuogon constituency.¹⁰ The nature of the relationship between these “foot-soldiers” groups and political parties led to some EFM interlocutors expressing apprehension about their increasing involvement in inter- and intraparty disputes, in the run-up to the 2020 general elections. In a proactive move, the President gave assent to the Vigilantism and Related Offences Act, 2019 on 9 September 2019.

V. EU Actions on EU EOM Follow-up

Between 2011 and 2018 the EU supported the performance of the three Independent Government Institutions (IGI), acting as constitutional bodies, involved in the Ghanaian electoral process, namely the Electoral Commission (EC), the National Commission for Civic Education (NCCE) and the National Media Commission (NMC).

The project “Support to Independent Governance Institutions Involved in the Election Process (2012-2016)” had four components targeting different governance institutions. In particular, the Electoral Commission was supported through capacity building, improvement of electoral processes and increasing its role as a regional reference for election managing training and counselling. The NCCE was supported

¹⁰ During this by-election, a pro-NPP vigilante group/National Security Council security squad stormed the NDC candidate residence and molested NDC MP Samuel George, resulting in the NDC candidate Mr Kwasi Delali Brempong withdrawing from the race.

through capacity building and strengthening of its operational capacity to deliver civic education activities; finally, the NMC was supported through capacity building, strengthening its advocacy role and development of a consistent policy and case law.¹¹

An additional action targeting the 2016 general elections was implemented, with the aim to enhance the transparency and efficiency of the electoral process. Pre-election, election and post-election activities were developed,¹² based on the lessons learned from the 2011-2016 electoral cycle. Support was given to the EC, the NCCE and the NMC to develop their institutional and operational capacity and to implement a coordinated civic and voter education campaign targeting women, minorities and other disadvantaged groups.

Following the finalisation of the actions of the afore-mentioned programmes in 2016, there is no other EU election related programme currently active.

VI. Implementation Status of EU EOM Recommendations

The EU EOM 2016 concluded that although the EC managed to generally administer the electoral process effectively, it faced challenges in regards to communication, voter registration, ballot printing and special voting, while it did not make full use of the Inter-Party Advisory Committee (IPAC). The EU EOM identified additional shortcomings related to campaign finance and media regulations, participation of women, adjudication of electoral disputes and the election results management system.

The EU EOM offered 20 recommendations for improvement of the electoral process, addressed to the Electoral Commission, the Parliament, political parties and media institutions; among these, it identified crucial areas that needed to be addressed through the implementation of nine priority recommendations.

Out of the 20 recommendations, 14 require legal reforms, either in the Constitution (one recommendation) or primary and secondary legislation. By the time of deployment of the EFM, only one of them had been fully addressed, related to the adoption of the Right to Information Bill. A crucial recommendation necessitating an amendment of a constitutional clause has not been even discussed. Six recommendations involve EC operational reforms; two of these have been partially addressed and their implementation is still ongoing.

Two other bills that were initiated even earlier than the 2016 elections have not been further debated, while no other piece of legislation addressing the EU EOM recommendations has been laid before Parliament. The EC is undertaking some steps

¹¹ FED/2010/22225 with a total funding of 11.5 million Euro. Support was also granted to the Constitutional Review Commission (CRC) to complete the Consultative Review of the 1992 Constitution by the end of 2011; an additional 4.5 million Euro was granted to increase support during the 2014 District Level Elections.

¹² FED/2015/038372 with a total funding of 5 million Euro. The EU also provided support through successive EU EOM missions and, through the EIDHR, to Ghanaian CSOs or statutory bodies. *Vid.* “2018_400329-1 Global Evaluation of the EU Support Projects on Elections, Electoral Cycle 2012-2016 Final Report”.

to improve parts of the electoral process through either administrative reforms or adoption of Constitutional Instruments; it is still though premature to determine if actual progress will be made and in any case these reforms do not reflect all EU EOM recommendations. Most importantly, several key legislative reforms that could have a significant positive impact on the electoral process remain outstanding, and their implementation ahead of the 2020 general elections appears unrealistic.

All stakeholders met with the EFM share the opinion that no significant amendments to the electoral legislation will be made before the 2020 general elections. Especially the major shortcomings that were identified by the EU EOM 2016 recommendations, including the appointment process of the EC members, regulation of the campaign environment including misuse of state resources, effective implementation of campaign finance provisions and timelines for the resolution of election disputes are not a priority topic of discussion among the main political parties and members of Parliament.

A. Legal Framework ¹³

Pass the Right to Information Bill, which would give substance to Article 21 of the Constitution and transparency to many aspects of the elections.

The only recommendation that has been fully implemented thus far is related to the Right to Information Bill, which was approved by Parliament on 26 March 2019 and assented into law by the President on 21 May. Drafted in 1999, reviewed in 2003, 2005 and 2007, presented to Parliament in 2013 and amended at numerous instances, its implementation as of January 2020 will be closely monitored by media and civil society organizations whose proposals however, notably on more effective and defined timelines for requestors, were not accepted by the Parliament.

The overall comprehensive and structured in line with the international standards Right to Information Act holds that everyone (including non-citizens and legal entities) has the right to file requests for information concerning all documentation held by or on behalf of public authorities, which is recorded in any format, regardless of who produced it.¹⁴ In general, the scope, requesting procedures, exceptions and refusals present limitations and disadvantages when assessed against international best practice that should be tested and scrutinized by CSOs, which set up an RTI Implementation Committee to work in cooperation with the Ministry of Information.¹⁵ To date, the EC does not seem to be operationally prepared to handle requests for information based on the RTI Act neither does it appear familiar with the relevant obligations deriving from the Act. Enforcement of the Act will be crucial and active monitoring of its implementation by civil society organisations is essential, according to EFM interlocutors. Therefore the capacity of think tanks, media and CSOs to

¹³ Recommendation #1.

¹⁴ On 24 March 2019, the Minister of Information, Mr Kojo Oppong Nkrumah, announced the preparation of a road map for the implementation of the Right to Information Act that would include the establishment of information units in all public offices, the recruitment and training of information officers and the establishment of an RTI Commission.

¹⁵ Based on an evaluation by the Global Right to Information Rating (RTI Rating), a methodology that comparatively assesses the strength of legal frameworks for the right to information around the world, the RTI bill obtained a score of 89 out of total 150 points: <http://www.RTI-Rating.org>.

effectively control its implementation, by identifying and pursuing of cases that would ensure the RTI Act is correctly interpreted and enforced, might trigger reforms in national policies and further enable individuals to seek remedies, in the run up to the 2020 elections.

B. Electoral Administration¹⁶

Establish an inclusive parliamentary mechanism for cross-party involvement in the selection and approval of EC members and with a reasonable limited tenure of office, in order to increase stakeholder confidence and enhance independence of the body.

The EC is an independent constitutional body composed of seven members including the Chairperson and two Deputy Chairpersons. Its members are appointed by the President, on the advice of the Council of State, for an indefinite term of office without any requirement for consultation with the opposition. The lack of inclusiveness of the appointment mechanism does not ensure the independence of the election administration and the trust of the electoral stakeholders. During the 2016 electoral period, the then opposition party NPP, as well as some other smaller parties, frequently questioned the neutrality and competence of the EC. Likewise, the NDC that is currently in opposition is expressing mistrust in the impartiality and professional capacity of the EC Chairperson, which was also conveyed during meetings with the EFM.

Identifying this institutional weakness the EU EOM 2016 recommended the establishment of an inclusive parliamentary mechanism for the selection and approval of EC members with a limited tenure of office. The implementation of this recommendation requires the amendment of article 43 of the Constitution, which is an entrenched provision; it therefore requires a lengthy parliamentary process¹⁷ and its adoption through a nationwide referendum. As both main political parties benefit from the *status quo* while in power, they expressed no intention to move beyond their polarized strategies and initiate discussions before Parliament ahead of the 2020 polls. Therefore, the EFM concludes that this recommendation will not be implemented before the 2020 elections.

The EC should work with full transparency, making all information of public interest immediately and easily accessible, including decisions, meeting minutes, key legislation, voter registration data and full and timely publication of polling station results.

During the 2016 elections, the EC website, which was supposed to be the main communication channel to outside stakeholders, contained minimal useful information while essential information, such as the EC decisions, minutes of the EC meetings, key legislation and detailed voter registration data, was missing completely. Besides, the EC did not make frequent use of social media.

¹⁶ Recommendations #2 to #5.

¹⁷ The process involves the introduction of the Bill before Parliament, its publication in the Gazette and its submission to a national referendum before being passed by the Parliament and assented by the President.

The EU EOM related recommendation for the EC to enhance its transparency has been partially addressed, as the EC website, “under construction” since 2016, has been reactivated at the end of September 2019, to admittedly fulfill the EC obligation to publish the voter register. At the time of writing this report, the information available remains partial.¹⁸ During its meetings with the EFM, the EC leadership stressed that the EC is also aiming to set up a communications department. Nevertheless, the full proactive implementation of this recommendation could not be confirmed during the EFM deployment.

EC communication with stakeholders should be improved, including through more frequent IPAC meetings in the immediate pre-election period.

The Inter-Party Advisory Committee (IPAC) was established in 1994 under the auspices of the EC to handle pre-election disputes and promote inter-party consensus building for peaceful elections. The IPAC structure is replicated at the district and regional levels, although most Regional Inter-Party Advisory Committees (RIPAC) and District Inter-Party Advisory Committees (DIPAC) are underfunded and barely convene. Although representatives of the international donor community, CSOs and think tanks are allowed to observe IPAC meetings, the IPAC has not been open to the general public or the media.

During the 2016 elections the monthly periodicity of IPAC meetings proved to be insufficient to adequately provide information to political parties. Furthermore, its communication was generally limited to *ad hoc* press releases, public presentations and media interviews.

Political parties and civil society organisations shared with the EFM their concern over the EC’s transparency and communication, as well as its way of conducting the IPAC meetings, which they consider as merely a communication tool for all parties involved without substantial impact in EC’s decision-making. At the time of the EFM, the EC had already started the organisation of regular IPAC monthly meetings that it pegged as the “institutionalization” of IPAC. The EC leadership expressed the intent to hold more frequent meetings in the run up to the elections. However, results of this so far limited improvement in its communication policy are yet to be confirmed.

The next review of parliamentary constituency boundaries should ensure a revision of such boundaries so as to adequately provide for equal suffrage.

The 1992 Constitution mandates the EC to demarcate electoral boundaries for both national and local elections, including the creation of single member constituencies for the purpose of Parliamentary elections. Electoral redistricting is mandatory at least every seven years or within one year of the release of population census figures, and comes into effect upon the next dissolution of Parliament.¹⁹ The Local Government Act²⁰ provides for Members of Parliament to be members *ex officio* of only one District Assembly.

¹⁸ See <https://www.ec.gov.gh>

¹⁹ Sections 43 and 47 of the 1992 Constitution.

²⁰ The Local Government Act 1993 (Act 462) provides for the creation of administrative districts by the President upon recommendations of the Electoral Commission. Spelling out the criteria for district

These provisions have created in practice an intermingled decision-making process to determine the number of seats in Parliament, since administrative districts become *de facto* constituencies. The EC prerogatives over electoral mapping are therefore contingent upon decisions from the Executive; the EC is compelled to create at least as many constituencies as there are administrative districts, irrespective of their electoral pertinence or representability. The only way for the EC to mitigate political inclination to redraw electoral constituencies is to compensate the creation of administrative districts with additional electoral constituencies in most populous districts. However, the EC has tended to simply increase the number of constituencies each time, by dividing existing constituencies rather than demarcating on the basis of a need to achieve some sort of balance in the respective sizes of the constituencies. The last revision of boundaries was conducted just prior to the 2012 elections, increasing the number of constituencies from 230 to 275.

A review of parliamentary constituency boundaries will not take place before the 2020 elections, as specified by the EC leadership, on the grounds that not only the EC is considering conducting a new voter registration exercise but also because a new national population census will take place in 2020. The EC Boundary Demarcation Committee that was set up to examine the existing constituency boundaries is tasked to finalise its report by the end of 2019, so that the EC might lay a new Constitutional Instrument (CI) before Parliament if deemed necessary. Notably, the existing boundaries and the equality of the vote appear not to be a concern for the main political parties.

C. Voter Registration ²¹

Voter registration has always been a contentious issue in Ghana since 1992. Over the different electoral cycles there have been continuous arguments about the accuracy and credibility of the process. However, both main political parties may have a vested interest in keeping the *status quo* since an inflated voter register may equally benefit each party in their respective strongholds. Therefore, the IPAC persistently dismissed legitimate calls from think-tanks and civil society organizations to audit the voter register.²²

The EC be given the right to apply to court to remove deceased and other unqualified persons from the provisional voter register based on information provided by relevant state institutions.

The EU EOM 2016 found that although “the voter register was ultimately accepted by all parties, questions remain regarding the process for removing ineligible or deceased voters from the register.” In addition, special voting for election, security and media personnel experienced widespread problems, disenfranchising many voters,

delineation, article 1(4) of the Act provides for the EC to consider several factors including population, geographical continuity and economic viability of the area.

²¹ Recommendations 6 to 7.

²² Think tanks have constantly called for the voter roll to be audited. For instance, *Prof. Mike Oquaye Strengthening Ghana's Electoral System: a precondition for stability and development, The Institute of Economic Affairs*, n° 38, IEA Monograph 2012, *The controversy surrounding Ghana's Voter Register: suggestion from the CDD-Ghana*, 23 September 2015, and *Towards a clean and credible voters register for the November 2016 elections: suggestions from the CDD-Ghana, the CODEO Secretariat*, 15 June 2016.

particularly security personnel who were unable to vote since their names were not included on the voter register at the polling stations where they intended to vote.

Apparently, the EC is willing to take some steps towards addressing the shortcomings identified in the previous elections. It has initiated discussions with the Birth & Death Register, the Unit Committees and the churches so that they communicate such information to it. However, this will bring limited improvement to the inflated voter register as long as the EC is not granted a mandate to remove the deceased and other unqualified persons from the provisional voter register and does not directly address the relevant EU EOM recommendation. Most importantly, the NDC leadership informed the EFM that the party would not support any amendment of the law giving powers to the EC to remove deceased voters, invoking their concern that this power could be manipulated by the ruling party.

Deadlines for the provision of various voter registers to political parties and for the closure of the special voter register be reviewed to correspond to the operational reality on the ground.

While not committing to having the deadlines for the provision of the various voters registers to political parties reviewed by the EC Electoral Reform Committee, the EC admitted that logistical issues constrained the timely delivery of the voter register to political parties.

D. Candidate Registration ²³

The nomination deposits, particularly for parliamentary candidates be reduced, including a possible special dispensation for female candidates to also help promote women's participation in political life.

The EU EOM 2016 offered two priority recommendations related to candidate registration and addressed to the EC. It concluded that a significant increase in the nomination fees, criticized by almost all political parties, has likely prevented several parliamentary candidates from running, especially women. For the 2020 general elections, the EC informed the EFM that it is planning to reduce the nomination deposits, also in order to encourage the participation of women candidates.

As the EU EOM 2016 further noted, timelines for nomination of presidential candidates lacked coherence while the management of the process by the EC raised concerns as to the equal treatment of candidates.

The candidate nomination process be organised in a way that allows candidates a meaningful opportunity to correct any errors in the submitted nomination forms.

Recognising the uncertainty of many candidates in regards to the filling of nomination forms, the EC informed the EFM of its intention to allow five days for candidates to rectify any errors as well as to simplify the forms. These measures, if properly and timely implemented, will give effect to the EU EOM recommendations.

²³ Recommendations 8 to 9.

E. Political Parties and Campaign Environment ²⁴

Provisions for regulating the campaign environment and the conduct of political parties in their campaigning should be included in statutory legislation that should include the length of the official campaign period, a period of moratorium for campaigning immediately prior to elections, and penalties for infringement.

There is no specific legal framework regulating the campaign and the official campaign period is not defined in the law. In the absence of campaign regulations, there are no guarantees for a level playing field for political parties and candidates, as this situation clearly favours the two leading parties to the detriment of smaller political formations, and potentially fosters inequality and expressions of violence.

The amendment of the Political Parties Law (Act 574, 2000) is required in order to implement the EU EOM 2016 recommendation. All interlocutors noted that supporting this reform would warrant a paradigm shift in mentality of political parties. Although both main political parties acknowledged, in their meetings with the EFM, the rationale behind this reform, general impetus is lacking. Therefore no related bill has been introduced to Parliament and this recommendation will remain unaddressed ahead of the 2020 elections.

An effective sanctioning mechanism against the misuse of state resources, including administrative and security apparatus, during the election period be established. This includes a limiting of role of the government during the election period as strictly limited to caretaker functions.

The abuse of state resources and incumbency is a recurring problem in Ghanaian elections and leads to an unlevel playing field. In the absence of legal provisions on the campaign period, no measures to regulate use of state resources have been introduced. Furthermore, the system of presidential appointment of regional and district chief executives limits the ability of public administration to act in a neutral manner. As reported by the EU EOM 2016, many regional ministers and district/town chief executive officials were directly participating in the campaign of the ruling party, contributing to the widespread abuse of incumbency. The implementation of the relevant EU EOM recommendation requires an amendment of the existing Political Parties Law and so far no political discussions have been initiated; consequently, this reform will not be implemented before the 2020 elections.

If public funding of political parties is considered, it should be in the context of ensuring inclusivity, including women's participation, and a more level playing field. Such funding measures, should they be adopted, also need to ensure utmost transparency and accountability.

The legal framework does not provide for public funding of political parties and of the election campaign. A Public Funding of Political Parties Bill was drafted by the Institute of Economic Affairs in 2007, approved by four political parties and submitted to the Attorney General with a request to sponsor it to Parliament. No action has been taken since then.

²⁴ Recommendations 10 to 12.

The Speaker of Parliament shared with the EFM that both parties concurred on the need to introduce public funding, but several modalities should be analysed, such as how public funding does not become a profit-making venture and lead to the proliferation of political parties. NPP was amenable to state-funded campaign, through a negotiated and inclusive process using the national GDP as measure. Yet, no bill has been laid before Parliament and this recommendation will not be implemented ahead of the 2020 polls.

F. Campaign Finance ²⁵

In order to ensure utmost transparency and accountability, the EC's capacity to enforce the provisions of the law on political/campaign finance should be enhanced. Alternatively, responsibility could be given to another body if deemed appropriate.

The 1992 Constitution requires that all political parties publically declare the sources and amount of their revenues and assets; it also entails the annual publication of their audited accounts.²⁶ By law, political parties are compelled to submit to the Electoral Commission statements of their accounts, sources of funding, expenditures and liabilities upon receiving their final certificate of registration, prior and after an election and once a year.²⁷

In its Final Report, the EU EOM stated that most political parties did not comply with these obligations, on the grounds of absence of any public funding. The main political parties criticised the EC for not being able to enforce the campaign finance requirements. The EFM interlocutors commented on the increase of the corrupting influence of money in politics, as a result of the opaqueness of the system, and stressed the importance of monitoring and auditing the political party and campaign finance.

In their meetings with the EFM, the EC leadership acknowledged that it lacks the capacity to monitor the implementation of campaign finance provisions, and would welcome shifting this responsibility to the Auditor General; this would require bi-partisan amendment of the Political Parties Act. For the upcoming elections the EC is aiming to design a reporting format to be used by the political parties for their financial statements, as this uniformity might facilitate their respect of their obligations. In conclusion, the EU EOM recommendation remains to date unaddressed.

G. Media ²⁸

A broadcasting law should be introduced, with clear and detailed procedures for issuing broadcasting licenses. The provision of such licenses should be on the basis of guaranteeing pluralism, political independence and preventing monopolisation of ownership. To this end, the National Media Commission (NMC) could be given responsibility for content licenses and the National Communications Authority (NCA) for technical licences following receipt of a content license. The independence of all

²⁵ Recommendation 13.

²⁶ Articles 55 (14) of the 1992 Constitution.

²⁷ Political Parties Act 574, articles 13, 14 and 21 respectively.

²⁸ Recommendations 14 to 15.

existing licensing authorities should be reinforced and guaranteed. [L] [SEP]

The EU EOM 2016 concluded that the National Media Commission (NMC) lacks adequate regulatory powers, despite its mandate to promote media quality and to ensure the independence of state-owned media from the executive. In addition, according to its media monitoring findings, state-owned media failed to meet their obligation to provide equal coverage to all parties and candidates.

In fact, the major weakness of the Ghanaian media lie in the overcrowding of the airwaves²⁹ with authorisation that the market can no longer support,³⁰ and the inflation of hate speech and un-sourced news in the electronic media, notably in vernacular language; this is linked to the increasing polarization of the political scene and the close ties of most private electronic media owners to political parties. The upsurge of political involvement in private local language radios coupled with some recent incidents involving hate speech by state officials and physical attacks on journalists by police officers³¹ could be a source of concern for the 2020 general elections.³²

The last attempt at regulating broadcast content was the Legislative Instrument (LI) 2224 “Content Standards Regulations 2015” that was put forward by the NMC and voted by Parliament on 9 December 2015.³³ In January 2016, the Ghana Independent Broadcasters Association (GIBA)³⁴ filed an application at the Supreme Court to abrogate LI 2224 Regulations as contrary to article 162 of the 1992 Constitution on the freedom of the media. In November 2016 the Supreme Court unanimously declared the regulations unconstitutional. As a result, the implementation of LI 2224 or any other attempt to frame, regulate or confront the issue of hate speech and false or un-sourced news in private electronic media has been averted.

The Ghana Broadcasting Corporation (GBC) should be reformed to ensure it fulfils its obligations as a public service broadcaster. A transparent mechanism should be set up to ensure the independence and public accountability of state-owned media and

²⁹ As of December 2018, Ghana has a total of 88 television stations airing out of the 136 authorized and 398 FM radio stations in operation. Out of which 31 are state-owned, 5 foreign-owned, 358 are commercial, 71 are community-owned and 22 are operated by universities. See National Communications Authority (NCA) “List of authorised TV broadcasting stations in Ghana as at fourth quarter, 2018”.

³⁰ See US, UN and MS funded Media Foundation for West Africa “Capacity Assessment of Media in Ghana, 2019”.

³¹ Ghana ranks 23rd out of 180 countries in Reporters Without Borders (RSF) 2019 World Press Freedom Index, losing three points since 2016 and its status as Africa’s best-ranked country in the Index.

³² See <https://rsf.org/en/ghana> One notable case is the murder, in January 2019, of investigative reporter Ahmed Hussein-Suale (*TigerEye PI*), who had collaborated in a major documentary on Ghanaian soccer corruption. Ruling party MP Kennedy Agyapong had called for Hussein-Suale to be beaten during an appearance on a TV channel run by his wife, *NET 2 TV*.

³³ According to the LI 2224 Regulations, media owners would be required, *inter alia*, to apply for content authorization, to submit a programme guide for approval and to abide by a set of rules; fines and imprisonment are foreseen in case of infraction.

³⁴ The two major journalism associations, Ghana Independent Broadcasters Association (GIBA) and the Ghana Journalists Association (GJA) mirror the divide between private electronic media and state owned media. GJA is the biggest umbrella organization with two sitting members on the NMC board. Journalists working for state-owned media are automatically GJA members: their membership fees are directly collected from their salaries.

a clear regulatory mechanism introduced to guarantee impartiality and balance in state media.

Although all EFM interlocutors regret the declining quality of journalism in the country, very few are officially willing to back legislation framing the content of private media, invoking the constitutional guarantees of freedom of speech; without however proposing alternative measures to prevent incitement to violence or fake news. Think-tanks and others interlocutors attribute this situation to the pressure of politicians who notoriously own private local media and block all legislative attempts to limit politically driven inflammatory content, as well as to the National Communications Authority (NCA) for its opaque radio and TV licensing mechanism.

While the NMC informed the EFM that it requested to form a commission to review the activities and redefine the mandate of the GBC, apparently lack of funding impedes any progress on this. No official action towards the implementation of these recommendations has been initiated to date and it is highly unlikely that there will be any positive change in this regard ahead of the 2020 elections.

H. Participation of Women ³⁵

Enact the Affirmative Action Bill promoting at least a 30 % quota of women in governance and decision-making positions.

Though an increasing number of women have been contesting parliamentary elections since 1992, women's representation has not increased significantly.³⁶ Administrative guidelines impose since 2002 the requirement that 50 percent of appointed members of district assemblies are women; although this quota has contributed to an increase of women's participation, local government assemblies have not adhered totally to it. Noticeably, a number of appointed women in government prominent positions has helped raise the profile of women's participation in public affairs.

Identifying women issues in the context of an extreme political polarisation has remained quite challenging for most advocacy groups. In the absence of affirmative action legislation, traditional norms militate against the participation of women into a male-dominated political arena. In addition, the monetisation of politics and the continuous campaign require significant funds for any candidate running for office.³⁷ The growing verbal attacks against women in public offices³⁸ signal a society that seek to resort to intimidation to stifle female leaders from the effective execution of their duties, and can also serve as a convenient pretext for political parties' reluctance to promote women participation and growth within party structures.

³⁵ Recommendation 16.

³⁶ In the first multi-party Parliamentary elections 1992, women made 8 per cent of the seats, 9 per cent in 1996, 8,26 per cent in 2000, 10,9 per cent in 2004, 8,7 per cent in 2008, peaking to 21,8 per cent in 2012 and diving back to 13.1 per cent in 2016.

³⁷ See Institute Of Local Government Studies (ILGS) and Friedrich-Erbert-Stiftung "A Gender Analysis Of Political Appointments in Ghana Since Independence, 2018"
[http://www.fesghana.org/uploads/PDF/Gender%20ILGS%20\(Final\)%20FES.pdf](http://www.fesghana.org/uploads/PDF/Gender%20ILGS%20(Final)%20FES.pdf)

³⁸ See Fida-Ghana, the Ghanaian chapter of the International Federation of Women Lawyers,
<http://www.fidaghana.org/old/about-us.php>

The essential and much awaited enactment of the Affirmative Action Bill, first drafted in 2011 and promoting at least a 40 per cent quota of women in governance and decision-making positions, has been raised in all EFM meetings and its importance was acknowledged by most stakeholders. While part of the President's agenda, this measure seems to be given a large praise in theory but has faced serious obstacles in its implementation, as both parties and their parliamentarians try to avoid hard quotas.

Lobbying activities have increased over the last month: an Affirmative Action Bill Advocacy and Communication Strategy Plan workshop was organised by the Ministry of Gender, Children and Social Protection (MoGCSP) with UNDP support in early August 2019.³⁹ Furthermore, a media advocacy campaign was launched on 19 September 2019 by the Friedrich Ebert Foundation Ghana and the International Federation of Women Lawyers Ghana for the passage of the bill.

The EFM interlocutors indicated that progress in terms of its adoption is being made. Upon request of the new cabinet at the first presentation of the draft bill in April 2018, the MoGCSP simplified and shortened the draft and agreed to implement a large awareness campaign and consultation with the private sector, aiming at a progressive representation of 50 per cent of women quota to be reached by 2030. Demonstrating an inclusive approach, the MoGCSP submitted the draft for comments to the Trade Union Congress, CSOs, political parties, ministries of Education and Health and the Electoral Commission. A UNDP-drafted strategic communication plan, built for “pre-passage” and “post-passage” of the bill has been produced. The revised bill is scheduled to be presented to the MoGCSP cabinet by mid-October 2019 and after final approval to be laid before Parliament. The EFM was informed that limited and not sufficiently dissuasive sanctions are included in the bill, thus depriving it of its reforming power; paradoxically, this may open the way for its successful adoption by the Parliament before the 2020 elections.

I. Election Disputes ⁴⁰

The EU EOM 2016 proposed three recommendations on the existing mechanisms for electoral dispute resolution, to address concerns related to access to justice and the right to an effective and timely remedy. Although they all require legislative change, this concerns the amendment of Constitutional Instruments, which is a perspicuous and non-complicated process.

Consider establishing administrative dispute resolution mechanisms for 1st instance grievances against decisions and actions of the election administration in order to reduce over-reliance on the court process and lessen the pressures on the election calendar.

The electoral legislation does not provide for administrative dispute resolution. A citizen with an electoral complaint can only seek redress at the court, which can be an

³⁹ The Ministry of Gender, Children and Social Protection in collaboration with the UNDP have held a stakeholders meeting on the Affirmative Action Bill Advocacy and the Communication Strategy Plan in Accra on 8 August 2019. The purpose of the workshop was to furnish the various stakeholders with a well-formulated plan of action and strategy towards Advocacy and Communication as far as the Affirmative Action Bill is concerned.

⁴⁰ Recommendations 17 to 19.

expensive and lengthy process. Although alternative dispute resolution mechanisms are outlined in the Courts Act, they are rarely used, as the EU EOM 2016 noted.

The implementation of the afore-mentioned recommendation requires the amendment of the Public Elections Regulations, 2016 (CI 94). The EC leadership informed the EFM that it concurs on an administrative process, even at the district and regional level, that would have the mandate to resolve some electoral disputes; within the remit of the EC Electoral Reform Committee the EC will consider this recommendation. Although the EFM maintains concerns about its implementation, it is premature to conclude whether this recommendation will be finally addressed.

Establish a reasonable timeframe for the resolution of presidential and parliamentary election petitions, which will increase stakeholder access to an effective remedy and also increase public and political confidence.

The law does not provide any timeframes for the resolution of petitions challenging the election results, thus delaying legal redress in a time sensitive period. An amendment to provide a 42-day deadline for the Supreme Court to decide on presidential election petitions was submitted to Parliament before the 2016 elections, but has not been passed yet.

The EU EOM 2016 recommendation requires amendment of the Constitutional Instruments regulating jurisdictional procedures (CI 47 and CI 16) and of the Supreme Court Rules, 2012 (CI 74). To date this was not a priority issue for political parties and was not raised extensively during the EFM meetings by election stakeholders. Although this recommendation could still be implemented within the fifteen months remaining before the next Presidential and Parliamentary elections, no official action has been initiated so far.

Ensure there is adequate time in the election calendar for the resolution of election disputes so as to avoid unduly impacting on subsequent phases of the process, especially during candidate nomination.

A review of the Constitutional Instruments on jurisdictional procedures (CI 47 and CI 16) and of the Supreme Court Rules, 2012 (CI 74) should be initiated for this recommendation to be implemented, but no official action has taken place to date.

J. Polling, Counting and Collation ⁴¹

Clear procedures for the presiding and returning officers be stipulated on how to proceed in case of any irregularities occurring during the counting and collation process, including over-voting, not matching reconciliation and mistakes in the results forms.

Following a 2013 judgment of the Supreme Court on a presidential election petition,⁴² the EC simplified the result forms in 2016. Nevertheless, the EU EOM 2016 observed

⁴¹ Recommendation 20.

⁴² Writ No. J1/6/2013 of 29 August 2013, *Nana Akufo-Addo, Dr. Bawumia, Jake Obetsebi-Lamprey vs. John Mahama*, Electoral Commission, NDC.

widespread problems in counting procedures that were frequently not being followed, including for reconciliation, and difficulties in completing the results forms. The Mission concluded that the EC's Election Results Management System failed and the communication of partial results was incomplete.

According to the EC leadership, the EC Legal Reform Committee might consider improving deadlines and procedures for counting and collation. Therefore, it is premature to assess whether this recommendation will be finally implemented.

VII. Conclusions

The proposed EU EOM 2016 recommendations offered several improvements to the conduct of elections in Ghana, notably in regards to the full enjoyment of the right to information, enhancement of transparency and accountability of the election administration, ensuring the right to equal suffrage and the right to stand, providing for a level playing field, guaranteeing media pluralism and ensuring impartiality in state media, and finally providing for a dispute resolution process that guarantees the right to an effective legal remedy.

A very limited number of these recommendations has been implemented by the relevant institutions; however, all the others remain pertinent and are yet to be addressed. Some of these recommendations draw attention to systemic problems entrenched in the political culture of the country, requiring large-scale legal reforms that cannot be implemented before next year's Presidential and Parliamentary elections. In particular, reforms pertaining to the campaign environment and abuse of incumbency will not be advanced, not only due to a lack of political commitment but also because of the lengthy parliamentary process for adoption or amendment of primary legislation.

However, despite the relatively short period before the 2020 elections, some other recommendations could still be addressed through Constitutional Instruments which adoption is relatively uncomplicated. These include improvement of the EC transparency and communication with stakeholders, review of candidate nomination deposits and process, reinforcement of the EC's oversight responsibility on political party and campaign finance, establishment of administrative dispute resolution mechanisms within its structure and clarification of the ambiguous procedures on counting and collation process.

Continuously over the past electoral cycles, the electoral administration has been struggling with internal management issues, lack of funds and misuse thereof leading to management problems and largely affecting the quality of its internal and external communication. For the 2020 elections, emphasis should be placed on ways to internally reform the institution all the while cutting operational costs through an improved and transparent financial management.

The non-revision of parliamentary constituency boundaries before the 2020 elections will once again lead to the violation of the principle of equality of the vote. Ultimately, a major missed opportunity is the failure to address the recommendation on the selection and tenure of the EC members. As a consequence, the lack of trust in

the impartiality of the election administration by the opposition, and potentially by other stakeholders, could lead to questioning the management of the entire process and to a highly polarised environment that will not bode well for the immediate pre- and post-election period. The aggravation of the opposition's mistrust towards the ruling party and the EC could lead to a disruption of their engagement within IPAC's already weakened mitigating conflict mechanisms and lead them to resort to violence through the vigilante groups. While acknowledging the political freedoms and the relatively limited scale of election-related violence in the previous polls, efforts should aim at ensuring enough measures to enhance the inclusivity and credibility of the 2020 elections.

VIII. Annexes

Annex I: Press Release



European Union Election Follow-up Mission Ghana 2019

PRESS RELEASE

Accra, Ghana, 20 September 2019

The EU Election Follow-up Mission encourages further implementation of key recommendations ahead of the 2020 elections

The European Union deployed an Election Follow-up Mission (EFM) to Ghana on 5 September 2019. The Mission is led by Mr. Tamas Meszerics, Chief Observer of the European Union Election Observation Mission (EU EOM) for the 2016 presidential and parliamentary elections in Ghana.

The main objectives of the Follow-up Mission are to assess the degree to which the EU EOM recommendations have been implemented, as well as to discuss ways to achieve further progress in this regard. The 2016 recommendations were based on an impartial assessment of all aspects of the electoral process and guided by regional and international standards for elections.

The Mission met with the Ghana Electoral Commission, the leadership of Parliament and political parties, constitutional bodies and government agencies, civil society organisations, media and the international community.

The EFM found that an important recommendation has been addressed with the adoption of the Right to Information Bill. The EFM believes that its effective implementation will help to ensure transparency to key aspects of the electoral process. Even if progress in the implementation of other relevant EU EOM recommendations remains limited, a certain number of legal and administrative reforms are being discussed and should be further considered. These relate to the work of the Electoral Commission, campaign environment and finance, electoral dispute resolution mechanisms and political participation of women.

The EFM also organised a roundtable on 20 September 2019 to share its preliminary findings and facilitate stakeholders' discussion and identification of recommended electoral reforms that could be agreed upon in the lead up to the 2020 elections.

In a press conference held today, Mr Meszerics said: “We are encouraged to see that initiatives have been undertaken to improve future electoral processes. We urge all electoral stakeholders to engage in good faith in extensive consultations in view of

achieving the necessary bi-partisan consensus and an environment conducive for a greater level of public confidence in the electoral process.”

A comprehensive final report will be published in the next couple of months and will be used to further the EU’s ongoing engagement to support Ghana’s democratic institutions.

Annex II: Roundtable Concept Note and Agenda

ROUNDTABLE CONCEPT NOTE

The purpose of the roundtable is to bring together key electoral stakeholders in order to exchange views and build consensus on how the EU EOM 2016 recommendations could be better implemented, in the run up to the 2020 general elections. The discussions will focus on these recommendations whose implementation is considered crucial for the strengthening of the electoral process.

The opening session will be conducted by the Chief of Mission (CM) and former Chief Observer of the EU EOM 2016, Mr Tamás Meszerics and the EU Ambassador to Ghana, Mrs Diana Acconcia. Mr. Meszerics will present the result of his consultation with stakeholders during his visit in the country, and the recommendations identified as still relevant and feasible ahead of the 2020 elections.

Participants will then be organised in three groups. Each group will discuss during one hour a set of recommendations among those proposed by the EU EOM 2016 and in particular:

- Identify three recommendations whose implementation is considered essential for the improvement of the 2020 electoral process;
- Discuss the main challenges to their implementation;
- Propose actions that participants can take as well as institutional and international support needed;
- Suggest a timeframe for their implementation;

Each group will appoint its spokesperson who will present the conclusions and proposals of the group at the end of the discussion. Then the EC Deputy Chairperson will make his remarks on the discussions of the roundtable. Subsequently the Chief of the Election Follow-up Mission will summarise the main conclusions of the groups, namely on the way forward to implement the recommendations considered a priority. Finally the EU Ambassador will address the participants and present some concluding remarks.

Thematic groups:

Group 1: Electoral Administration (4), Voter Registration (2), Polling, Counting and Collation (1)

Group 2: Candidate Registration (2), Political Parties and Campaign Environment (3), Campaign Finance (1)

Group 3: Media (2), Election Disputes (3), Participation of Women (1).

Time	ACTIVITY
10:00 - 10.15	Registration of Participants
10:15-10.45	Opening session: Chief of the EFM, EU Ambassador, EC Deputy Chairperson
10:45- 11.45	Working Groups Debate
11:45 – 12.30	Working Groups' presentation of conclusions
12:30 – 13.00	Q&A and Conclusion - Chief of the EFM, EU Ambassador
13:00 – 14.00	Lunch

Annex III- Matrix on the Implementation Status of EU EOM Recommendations

Category	Description	Guidance
1	No change.	No action has been taken to implement this recommendation.
2	Action or activity is ongoing but implementation of the recommendation has not yet been confirmed.	Examples may include the formation of a working group to review legislation, or the preparation of a legislative bill of reform, but the change has not yet been confirmed by legislative change.
3	Partial implementation of recommendation.	The recommendation has been addressed/implemented in part, but other elements of the recommendation have not been addressed.
4	Full implementation of recommendation.	The recommendation has been implemented in full e.g. electoral legislation has been amended and all aspects of the recommendation have been addressed.
5	Too early in electoral cycle to determine.	Some recommendations may relate to administrative action/practice which can only be assessed at a later stage i.e. strengthening of civic/voter information.
6	Recommendation is no longer relevant.	For example, a change in the electoral system may make redundant a recommendation on candidate registration under the old electoral system.

Summary

Implementation status of the 20 recommendations offered by the EU EOM 2016:

- 12 No change (60%)
- 1 Action or activity is ongoing but implementation has not yet been confirmed (5%)
- 2 Partial implementation (10%)
- 1 Full implementation (5%)
- 4 Too early in electoral cycle to determine (20%)

Date of assessment: 1 October 2019

No.	Year	Recommendation	Electoral Theme	Status (1-6)	Comments and Additional Information
1	2016	Pass the Right to Information Bill, which would give substance to Article 21 of the Constitution and transparency to many aspects of the elections.	Legal Framework	4 Full implementation	This recommendation was implemented with the adoption of the Right to Information Bill by the Parliament on 26 March 2019 (placed before Parliament in March 2018). The President gave assent to the Right to Information Act on 21 May 2019. The Act will take effect in the next succeeding year after its approval by Parliament and assent by the President, thus in January 2020.
2	2016	Establish an inclusive parliamentary mechanism for cross-party involvement in the selection and approval of EC members and with a reasonable limited tenure of office, in order to increase stakeholder confidence and enhance independence of the body.	Electoral Administration	1 No change	The amendment of article 43 of the Constitution is required for the implementation of this recommendation; this is an entrenched provision therefore necessitating a lengthy parliamentary process and its adoption through a nationwide referendum. To date, no bill has been introduced before Parliament and it extremely unlikely that this reform will be implemented ahead of the 2020 elections.
3	2016	The EC should work with full transparency, making all information of public interest immediately and easily accessible, including decisions, meeting minutes, key legislation, voter registration data and full and timely publication of polling station results.	Electoral Administration	3 Partial implementation	This implementation of this recommendation is ongoing. The EC website became finally operational in late September 2019 and it includes updated information on the voter registration and the upcoming referendum. It is premature though to determine whether the recommendation will be fully implemented in the run up to the 2020 elections.
4	2016	EC communication with stakeholders should be improved,	Electoral Administration	3	The EC has taken steps, as part of its recent efforts to

		including through more frequent IPAC meetings in the immediate pre-election period.		Partial implementation	regularise IPAC, to set up a calendar of monthly meetings and invite political parties early in advance to ensure their participation. This has been done during the last three monthly meetings. In addition, the EC leadership is planning to increase the frequency of the meetings as the elections approach. In regards to the improvement of its overall communication strategy, the EC intends to establish a public affairs department in order to reinforce its external communication with stakeholders.
5	2016	The next review of parliamentary constituency boundaries should ensure a revision of such boundaries so as to adequately provide for equal suffrage.	Electoral Administration	1 No change	The last population census was conducted in 2010 and the last review of constituency boundaries was undertaken prior to the 2012 elections. The National Statistical Service is planning a new census in 2020. The EC recently set up a Boundary Demarcation Committee, with the purpose to examine the existing constituency boundaries and submit its report to the EC leadership by December 2019 so that the EC could lay a new CI before Parliament, if necessary, in early 2020. As the EC confirmed, any redistricting will be conducted for the 2024 elections.
6	2016	The EC be given the right to apply to court to remove deceased and other unqualified persons from the provisional voter register based on information provided by relevant state institutions.	Voter Registration	1 No change	So far this recommendation has not been implemented. The EC is planning a new voter registration exercise ahead of the 2020 elections. It also has initiated discussions with the Birth & Death Register, the Unit Committees and the churches so that they communicate information on deceased voters; however, this will bring limited improvement to the inflated voter register as long as the EC is not granted this mandate and does not directly address the EOM

					recommendation.
7	2016	Deadlines for the provision of various voter registers to political parties and for the closure of the special voter register be reviewed to correspond to the operational reality on the ground.	Voter Registration	1 No change	A new Constitutional Instrument (CI) should be adopted but no reform has been made to date.
8	2016	The nomination deposits, particularly for parliamentary candidates be reduced, including a possible special dispensation for female candidates to also help promote women's participation in political life.	Candidate Registration	5 Too early to determine	The nomination deposits are set by EC decision. It is too early to determine whether this recommendation will be implemented. The EC leadership is planning to reduce the nomination deposits, so as to also encourage the participation of women candidates.
9	2016	The candidate nomination process be organised in a way that allows candidates a meaningful opportunity to correct any errors in the submitted nomination forms.	Candidate Registration	5 Too early to determine	It is too early to determine whether the recommendation will be addressed. The EC leadership is planning to allow five days for the rectification of errors on the nomination forms.
10	2016	Reiterating the recommendation from the EU EOM of 2008 - Provisions for regulating the campaign environment and the conduct of political parties in their campaigning should be included in statutory legislation that should include the length of the official campaign period, a period of moratorium for campaigning immediately prior to elections, and penalties for infringement.	Political Parties and Campaign Environment	1 No change	To implement this recommendation, the amendment of the Political Parties Law (Act 574, 2000) is required. No official action has been undertaken so far. While it appears that both main political parties recognise that a defined campaign period should be set, impetus to implement this reform is lacking in the Parliament and within the parties' leadership.
11	2016	An effective sanctioning mechanism against the misuse of state resources, including administrative and security	Political Parties and Campaign Environment	1	The existing laws should be amended in order for this recommendation to be implemented. There is no

		apparatus, during the election period be established. This includes a limiting of role of the government during the election period as strictly limited to caretaker functions.		No change	intention by political parties to address this recommendation at this stage.
12	2016	If public funding of political parties is considered, it should be in the context of ensuring inclusivity, including women's participation, and a more level playing field. Such funding measures, should they be adopted, also need to ensure utmost transparency and accountability.	Political Parties and Campaign Environment	1 No change	The Public Funding of Political Parties Bill was drafted by the Institute of Economic Affairs in 2007, backed up by four political parties and submitted to the Attorney General to sponsor it to Parliament. According to the leadership of Parliament, both main parties agree on benefiting from public funding but still need to analyse all relevant details.
13	2016	In order to ensure utmost transparency and accountability, the EC's capacity to enforce the provisions of the law on political/campaign finance should be enhanced. Alternatively, responsibility could be given to another body if deemed appropriate.	Campaign Finance	1 No change	Both main political parties criticized the EC for not fulfilling its duties in monitoring political party/campaign finance, while the EC leadership informed the EFM that the Commission does not have the capacity to monitor campaign finance and would welcome shifting this responsibility to another body, such as the Auditor General.
14	2016	A broadcasting law should be introduced, with clear and detailed procedures for issuing broadcasting licenses. The provision of such licenses should be on the basis of guaranteeing pluralism, political independence and preventing monopolisation of ownership. To this end, the National Media Commission (NMC) could be given responsibility for content licenses and the National Communications Authority (NCA) for technical licences following receipt of a content license. The independence of all existing licensing authorities should be reinforced and guaranteed. [L] [SEP]	Media	1 No change	The Draft Broadcasting Bill of 2014 should be simplified and enacted or a new broadcasting law should be adopted. The NCA Act 1996 (Act 524) should also be amended to this effect. In its judgment of 30/11/2016 following a petition by the Ghana Independent Broadcasters Association, the Supreme Court struck down the NMC Regulations (Content Standards) 2015 (L.I.2224) as unconstitutional. No further action has been taken to implement the recommendation.

15	2016	The Ghana Broadcasting Corporation (GBC) should be reformed to ensure it fulfils its obligations as a public service broadcaster. A transparent mechanism should be set up to ensure the independence and public accountability of state-owned media and a clear regulatory mechanism introduced to guarantee impartiality and balance in state media.	Media	1 No change	The Ghana Broadcasting Corporation Act 1968 (NLCD 226) should be amended in order for this recommendation to be implemented. The NMC requested a commission to review the activities and redefine the mandate of the GBC, but funding for this is not available. This recommendation remains unaddressed.
16	2016	Enact the Affirmative Action Bill promoting at least a 30 % quota of women in governance and decision-making positions.	Participation of Women	2 Action or activity is ongoing	There is some progress towards the passage of the Affirmative Action Bill. It will be presented to the cabinet of the Ministry of Gender by mid-October 2019 and after final approval, will be laid before Parliament. As senior executives from the Ministry informed the EFM, MPs from both political parties are genuinely committed to pass the Bill to pass within 2020.
17	2016	Consider establishing administrative dispute resolution mechanisms for 1 st instance grievances against decisions and actions of the election administration in order to reduce over-reliance on the court process and lessen the pressures on the election calendar.	Election Disputes	5 Too early to determine	The Public Elections Regulations, 2016 (CI 94) have to be amended for this recommendation to be addressed. The EC leadership concurs with this recommendation and indicated that the EC Legal Reform Committee could examine it. It is too early though to determine whether this recommendation will be finally addressed.
18	2016	Establish a reasonable timeframe for the resolution of presidential and parliamentary election petitions, which will increase stakeholder access to an effective remedy and also increase public and political confidence.	Election Disputes	1 No action	The Constitutional Instruments regulating jurisdictional procedures (CI 47 and CI 16) and the Supreme Court Rules, 2012 (CI74) would have to be amended. The Rules of Court Committee and the Parliament should take the lead for this reform, but no action has been undertaken so far.
19	2016	Ensure there is adequate time in the election calendar for the resolution of election disputes so as to avoid undue	Election Disputes	1	This recommendation requires amendment of the Constitutional Instruments regulating jurisdictional

		impacting on subsequent phases of the process, especially during candidate nomination.		No action	procedures (CI 47 and CI 16) and the Supreme Court Rules, 2012 (CI 74). The Rules of Court Committee and the Parliament could initiate this reform, but no action has been taken.
20	2016	Clear procedures for the presiding and returning officers be stipulated on how to proceed in case of any irregularities occurring during the counting and collation process, including over-voting, not matching reconciliation and mistakes in the results forms.	Polling, Counting and Collation	5 Too early to determine	Desirable to be secured in a new CI. No action has been initiated to date, but could still be addressed ahead of 2020 elections.

