



PRELIMINARY STATEMENT

BY

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ZAMBIA**

AND

HEAD OF THE SADC ELECTORAL OBSERVATION MISSION (SEOM)

TO

THE 2019 LEGISLATIVE ELECTIONS

IN

THE REPUBLIC OF MADAGASCAR

ANTANANARIVO, 29 MAY 2019

- Director of the Organ on Politics, Defense and Security Affairs representing Her Excellency, Dr. Stergomena Lawrence-Tax, the SADC Executive Secretary;
- Distinguished Members of the SADC Organ Troika;
- The Chairperson of the Independent National Electoral Commission (CENI) and its Members;
- Distinguished Members of the SADC Electoral Advisory Council (SEAC);
- Representatives of Political Parties;
- Heads and representatives of Diplomatic Missions;
- Heads and representatives of International and Regional Organisations;
- Heads and representatives of Electoral Observation Missions;
- Representatives of Religious organisations and the Civil Society;
- Election Observers;
- Partners from the media;
- Ladies and gentlemen.

I. INTRODUCTION

On behalf of the Southern African Development Community (SADC), and as mandated by His Excellency Mr. Edgar Chagwa Lungu, President of the Republic of Zambia and the Chairperson of the SADC Organ on Politics, Defense and Security Cooperation, it is my singular privilege to welcome you all to this important event of the release of the SADC Electoral Observation Mission (SEOM)'s Preliminary Statement on the conduct of the Legislative Elections in the Republic of Madagascar.

With a total of 31 personnel, the Mission observed the Legislative Elections in 7 of the 22 regions of the country. These were: Analamanga, Analanjirofo, Haute Matsiatra, Vakinankaratra, Atsinanana, Amoron'i Mania and Boeny.

In accordance with its mandate, the Mission consulted key stakeholders in Madagascar, including government ministries, CENI, the High Constitutional Court (HCC) of Madagascar, the Senate of Madagascar, political parties, civil society organisations, religious organisations and the media.

This Mission builds upon earlier engagements that SADC has had with the Republic of Madagascar, which contributed to the current democratic dispensation. These engagements included, among others, mediation and preventative diplomacy Missions, deployed within the ambit of the SADC Treaty that recognises the sovereign equality of Member States.

The Mission observed the 27 May, 2019 Legislative Elections in Madagascar in line with the *revised SADC Principles and Guidelines Governing Democratic Elections (2015)*. These principles guide the observation of national elections in all SADC countries.

This Preliminary Statement covers the Mission's observation of the pre-election process and voting day activities which include opening, voting, counting and closing processes. Our Final Report will cover our observation of the post-election processes, which include the results management, announcement and the post-election phase, and our comprehensive recommendations.

Your Excellencies,

Ladies and Gentlemen

Let me now present the summary of the Mission's *Preliminary* findings:

II. SUMMARY OF KEY FINDINGS

1) The Political and Security Environment

The political and security environment before, during, and immediately after polling day was generally peaceful. The Mission observed campaign rallies in the 7 regions of deployment, and noted the largely secure atmosphere which enabled voters to cast their ballots without obstructions. In this context, the Mission appreciates

the commitment by the security authorities in Madagascar to secure voting materials and polling stations throughout the country.

The Mission takes note of the isolated incidents of violence reported in some areas, such as Antsirabe District 1 and Analakinapa in Maintirano District. However, the Mission could not independently ascertain whether these acts were politically motivated. The Mission is of the view that these incidents did not compromise the overall conduct of the elections and the general peaceful environment.

2) The Management of the Electoral Process

The Mission observed that CENI largely discharged its mandate in accordance with the Constitution and the Electoral Law of Madagascar. The Mission noted that CENI achieved the following:

- (i) It conducted training of district electoral officers, polling staff, candidates and political party agents;
- (ii) It facilitated the inspection of the voters' register and conducted a new voters' registration exercise early this year. As a result, the number of voters for the 27 May Legislative Elections stood at 10,302,194 – an increase from 9, 949, 083 voters in the 2018 Presidential Elections.
- (iii) It facilitated the witnessing of voting and counting by political party agents; independent candidates, domestic observers and SEOM;
- (iv) Lastly it ensured the delivery of voting material to polling stations

However, the Mission observed some few challenges that may need to be addressed, including the following:

- (i) The absence of special ballot papers for the visually impaired to enable them exercise their right to vote;
- (ii) The absence of mechanisms to allow citizens of Madagascar in the diaspora to participate in the Legislative Elections; and
- (iii) The relatively low levels of civic and voter education, particularly given that the country has reintroduced the Mixed Electoral model.

3) Electoral Law and Electoral System

The Mixed Electoral System incorporates the First-Past-the-Post (FPTP) and the Proportional Representation System (PR), which were introduced through Decree No 2019-189 in February 2019. The Mission noted that the stakeholders it engaged were generally in support of the new Mixed System as it was deemed to have been designed to enhance diversity and representation in the National Assembly. The following specific positive elements were highlighted by stakeholders:

- (i) The Mixed System strengthens representation by enabling a larger number of parties and candidates to garner seats in parliament based on the proportion of votes gained in their respective voting districts;
- (ii) The Mixed System combines the strengths of both the First-Past-the-Post (FPTP), such as direct accountability of the representative to the electorate, with those of the Proportional

Representation system, which include facilitating the representation of previously marginalized populations;

- (iii) The proportional aspects of the System potentially enables Political Parties to deliberately institute gender parity through gender quotas that may further enhance representation in the National Assembly;
- (iv) The Proportional Representation element is also key to fostering conflict management and resolution, as it embraces representatives from segments of society that might otherwise never have the opportunity to have voice or access to power had they used a majoritarian system such as the First-Past-the-Post (FPTP); and
- (v) The Mixed Electoral model was used during the 2013 legislative elections and the political parties may be familiar with its operational modalities.

However, the Mission notes concerns raised by stakeholders that the Decree was not well publicized in advance and the majority of the people of Madagascar may not have been aware of the re-introduction of the Mixed system.

The Mission notes that there was relative consensus amongst stakeholders that the civic and voter education that should have accompanied this fundamental change to the electoral system, was largely inadequate, contributing, therefore, to the low levels of awareness amongst the electorate.

4) Concerns over the Senate

Relatedly, the Mission notes concerns expressed by some stakeholders over the downsizing of the Senate from 63 to 18 Senators a few days before the legislative elections. The Mission is of the view that this could have an effect on representative democracy.

The Mission also notes that the amendments to the Organic Law No. 2015-007 pertaining to the downsizing of the Senate were declared constitutional by the High Constitutional Court (HCC).

5) The Party Political System

The Mission noted that there were up to 486 independent candidates registered to contest the elections, far outstripping the party-based aspirants, in these Legislative Elections.

The Mission noted that it is the fundamental right of individuals and political party candidates to vote and be voted for, in terms of the Constitution. This right is also recognized in Section 4.1.1 of the *Revised SADC Principles and Guidelines Governing Democratic Elections [2015]*.

However, the Mission observed that some stakeholders interpreted this phenomenon of proliferation of independent candidates as resulting from a lack of confidence in the party system or in traditional politicians. The underlying argument was that the general population does not consider political parties as vehicles that would champion possible improvements to their socio-economic wellbeing.

In this regard, a number of key stakeholders expressed concern that Madagascar was gravitating toward a relatively weak and an unstable party

system which could encourage the trading of power by individuals to registered political parties, without the due attention to policy orientation and development.

Furthermore, the Mission notes that it may be the case that independent candidates may not have had the capacity to mobilize the electorate to vote in these Legislative Elections.

The Mission specifically noted that the majority of the political parties did not field candidates in all the 119 constituencies of the country despite the fact that a political party is expected to have a majority of members in the National Assembly to form a government.

6) Separation of Presidential and Legislative Elections

The Mission noted that the Electoral Law requires Presidential and Legislative Elections to be held on separate dates with the aim of avoiding overlapping election campaigns and corresponding elections.

However, the Mission notes that the separation of these elections has implications on election budgets, logistics, and political stability in particular. This might arise where the parliamentary majority is elected from another party/group, other than the party whose candidate was elected as President, or where the Prime Minister is from a different party/group.

Stakeholders have indicated that concurrent elections may also lead to voter fatigue. For instance, preliminary indications are that participation in the just ended elections might be as low as 30% of the registered voters.

In addition, concurrent elections could have overloaded CENI, which managed the 1st and 2nd rounds of elections in November and December 2018 and now the Legislative Elections in May 2019.

7) Access to and Regulation of Media

The Mission noted that the public radio and television broadcasting services in Madagascar accorded equitable opportunities to political parties and independent candidates for purposes of legislative election campaigns, as required by the Electoral Law.

It further noted that the media environment in Madagascar, despite its diversity, is characterised by a concentration of ownership in the hands of a few private individuals/entities, and politically affiliated actors. The Mission has observed that the private media in Madagascar is not subjected to the same conditions of impartiality as the public media and they have been used to exclusively campaign for affiliated political party candidates. That notwithstanding, the Mission has not observed the use, to a great degree, of inflammatory language that could possibly contribute to tensions between contestants.

8) Impartiality of Public Officials

The Mission observed that the Electoral Law requires that public officials be impartial before and during election periods. In this regard, the Mission noted concerns from stakeholders that a high ranking public officer was involved in a disguised campaign for a legislative candidate from his party. In general, the Mission did not observe this as a wide spread phenomenon.

III. OBSERVATIONS ON ELECTION DAY

On Election Day, the Mission observed the following at Polling Stations:

Preparedness of CENI and Election Security

- i) Election materials were available at the polling stations;
- ii) Voting proceeded peacefully at all polling stations;
- iii) Presence of Police to maintain law and order and guarding voting materials at polling stations;
- iv) The atmosphere was largely peaceful at the Polling Stations;
- v) No significant incidences of violence were observed;
- vi) Voter turnout was generally low in most of the polling stations;
- vii) 79 percent of the polling stations observed by SEOM opened on time at 06:00 hours as stipulated by the electoral law. Delays in some of the stations were due to lengthy procedures;
- viii) Opening procedures were generally followed;
- ix) Voters took an average of 3 minutes to cast ballots;
- x) Voters exercised their right to a secret vote;
- xi) Persons with disabilities, the infirm and expectant mothers were generally assisted by electoral officials or persons of their choice;

- xii) Most polling stations were accessible to persons with disabilities;
- xiii) Local observers and party agents were present at most polling stations;
- xiv) Uniformed Police Officers were present as required by law and were largely professional in their conduct;
- xv) Voting proceeded in accordance with established regulations, supervised by requisite polling and security staff;
- xvi) Generally, all polling stations closed on time at 17.00hrs, except in cases where opening was delayed;
- xvii) Closing procedures were adequately conducted in the presence of party agents, local and international observers;
- xviii) After the close of polling, the process of counting of votes began immediately at all polling stations and results were displayed at the polling stations;
- xix) The absence of a corresponding serial number on the ballot paper issued to voters was noted. Although the CENI reassured the SEOM that the ballots are traceable some stake holders were not entirely convinced of the integrity of the ballot.

IV. RECOMMENDATIONS

The Mission is aware that the Government of the Republic of Madagascar is still implementing the recommendations that the SEOM proffered during

a similar Mission following the 1st and 2nd Rounds of Presidential Elections in 2018.

However, in light of the aforementioned observations, and considering the issues highlighted by the various stakeholders, the SEOM proposes the following recommendations for consideration by the Republic of Madagascar:

a. The Management of the Electoral Process:

In order to strengthen the work of CENI, the Mission urges:

- i) CENI to regularly allow voters to inspect the voters' register to verify their names and to update the registers;
- ii) the Government to speed up the issuance of national identity cards to ensure that all citizens of Madagascar, who are eligible to vote, possess all the requirements for voters' registration. This will greatly contribute toward the integrity of future elections through enhanced participation and transparency; and
- iii) CENI to introduce Braille Ballots to enable the visually impaired to vote in secret. This practice is in line with the *Revised SADC Principles and Guidelines Governing Democratic Elections (2015)*.

b. Electoral Law and System:

The Mission commends Madagascar for re-introducing a more inclusive Electoral System which will enhance representation of the people. However, it is recommended that the Government and the CENI invest in broad-based civic and voter education to ensure that all stakeholders have a reasonable understanding of the dual methods used to vote and calculate the results. Clarity on its operations may minimise possibilities of disputes after the polls. Civic and Voter Education are also essential for inculcating knowledge on a wide range of aspects to the electoral process that could empower the voter to render an informed choice.

Furthermore, the Mission urges the Government to consider the following:

- (i) To reduce the amount required for political parties and candidates to contribute to the costs of printing ballot papers (now five (5) million Ariary), as this curtails the freedom to contest in Legislative Elections;
- (ii) To initiate amendments to the Electoral Law to change the current position that in the hypothetical instance that two (2) candidates obtain equal votes in an electoral district with one seat, the oldest would be declared elected which is contrary to the principles of democracy.

c. The Party Political System:

Given the fears expressed by stakeholders that the party political system was in danger of being undermined by lack of confidence from the general public; and in order to restore trust in political parties and institutional

stability, the Mission recommends that modalities for supporting registered political parties be instituted.

In this regard, the Government may consider amending the Electoral Law to enable the funding of political parties in accordance with conditions and modalities to be prescribed. This could be tailored toward encouraging the sustainability of political parties, fostering policy focus for the said parties; and encouraging the formation of broad-based party institutions. In addition, it could assist in stabilising political parties as viable policy forums that aggregate the interests of various sections of society based on measurable and auditable performance indicators.

d. Independent Candidates

To ensure stability to the parliamentary system, the government may wish to consider the institution of legislation to regulate the conduct of independent candidates, particularly in respect of floor crossing and changing political affiliation within their elective tenure.

e. Separation of Presidential and Legislative Elections:

The Mission reiterates that the Government considers revising the legal provisions pertaining to the elections in order to harmonise the Presidential elections with those of Legislative Elections and other key elections at national and sub-national levels. These may go a long way in addressing concerns around voter fatigue, low participation and reduce the strain on the resources of the CENI.

Access to the media: Despite the mandate that CENI has in monitoring the use of media for election campaigns, the Mission reiterates that the Government initiates the establishment of non-statutory regulatory

mechanisms for the media during elections designed to ensure equitable access to political stakeholders. Media platforms allow for wider dissemination of party policy positions which are essential for voters to make informed choices. Fostering reasonable allocation for airtime and space in the media for the contestants is one of the fundamental means of contributing to a levelled playing field.

f. Impartiality of Public Officers:

The Mission recommends that the Government initiates amendments of the Electoral Law so that the law becomes clearer on the position of high ranking public officials regarding campaigning for legislative election candidates from the parties they lead. Clarity in law is also required on actions that may amount to campaigning.

V. CONCLUSION

In conclusion, Distinguished Ladies and Gentlemen, I wish to state that this Mission does not signify the end of SADC's engagement with Madagascar.

You will recall that since Madagascar joined SADC in 2005, SADC has in collaboration with the Government of Madagascar and other stakeholders, undertaken initiatives aimed at providing long-lasting solutions to the security and development challenges facing the country. These initiatives have included mediation and preventative diplomacy.

In this regard, SADC had deployed a Special Envoy, H.E. Joaquim Chissano, the former President of the Republic of Mozambique, since June 2005. He mediated in peace talks that contributed to the level of democracy that the Republic of Madagascar currently enjoys.

Apart from the Special Envoy, SADC deployed SADC Electoral Observation Missions (SEOMs) that observed, the 2013 National Elections; as well as the first and second rounds of the 2018 Presidential Elections in the Republic of Madagascar that took place on 7 November 2018 and 19 December 2018, respectively.

Building upon this background, this SADC Electoral Observation Mission observed the pre-election and voting phases of the 2019 Legislative Elections, taking into account the comprehensive context of the conduct of past elections and the historical imperatives that conditioned this country's transition to a widely accepted electoral outcome in 2018.

In line with the *revised SADC Principles and Guidelines Governing Democratic Elections (2015)*, therefore, the SEOM, as stated earlier, will release its Final Report within 30 days of the end of this electoral cycle. This Final Report will contain the qualification of these elections taking into account, the pre-election, election and post elections period, which include the results management, processing and announcements, as well as the dispute resolution processes.

Furthermore, the SADC Electoral Advisory Council (SEAC) is mandated by Article 7.3.1 of the *revised SADC Principles and Guidelines Governing Democratic Elections (2015)*, to under-take a post-election review in collaboration with the Electoral Management Body (EMB) in the Member State holding elections. This review is conducted through public forums involving all stakeholders, where the recommendations of SEOM may be discussed further and modalities for their implementation, collectively agreed upon.

To this end, the Mission urges all political leaders and their supporters to remain calm whilst CENI and the High Constitution Court finalises the process of releasing the results of the Legislative Elections.

SADC fully appreciates the progress that Madagascar has made in nurturing its democracy and therefore looks forward to the country's increased engagement with the SADC region as requested by some key stakeholders, in developmental activities that will help to alleviate poverty and improve the living standards of the Malagasy people.

Finally, I wish to commend the people of Madagascar for once again demonstrating a resolve to sustain the peaceful conduct of their national elections, which present an opportunity to open a new chapter in the country's history.

Thank you very much

Muito Obrigado

Merci beaucoup

Misaotra Tompoko