



## **PRELIMINARY STATEMENT**

**OF THE**

**SADC ELECTORAL OBSERVATION MISSION TO  
THE KINGDOM OF LESOTHO**

**DELIVERED BY**

**THE HONOURABLE DR. AUGUSTINE PHILLIP MAHIGA (MP)**

**MINISTER OF FOREIGN AFFAIRS AND  
EAST AFRICAN COOPERATION  
OF THE UNITED REPUBLIC OF TANZANIA**

**AND**

**HEAD OF THE SADC ELECTORAL OBSERVATION MISSION  
TO THE 2017 NATIONAL ASSEMBLY ELECTIONS**

**HELD IN THE**

**KINGDOM OF LESOTHO**

**Delivered on 05 June 2017  
Maseru, Kingdom of Lesotho**

Your Excellency Joaquim Alberto Chissano, former President of the Republic of Mozambique and Head of the African Union (AU) Election Observation Mission to the Kingdom of Lesotho;

Your Excellency Rupiah Bwezani Banda, former President of the Republic of Zambia and Head of Mission of the Electoral Observation Mission of the Electoral Institute for Sustainable Democracy (EISA) to the Kingdom of Lesotho;

Esteemed Members of the Independent Electoral Commission of Lesotho;

Distinguished Heads of International Electoral Observation Missions to the Kingdom of Lesotho;

Your Excellency Dr. Stergomena Lawrence Tax, Executive Secretary of the Southern African Development Community (SADC);

Distinguished Members of the SADC Electoral Advisory Council (SEAC);

Retired Justice Frederick Mwita Werema, Chairperson of the SADC Oversight Committee for the Kingdom of Lesotho;

Representatives of the Government of the Kingdom of Lesotho;

Representatives of Political Parties;

Representatives of Local Election Observation Missions;

Members of the Diplomatic Corps and International Organisations;

College of Chiefs and Religious Leaders;

Members of Media, Civil Society, Women and Youth Organisations;

Distinguished Guests;

Ladies and Gentlemen;

Bo mme le bo ntate, **CHABA SA KHOMO!**

“Dumelang”

“Good morning”

It is my singular honour and pleasure to welcome you all to this important event, the presentation of the Southern African Development Community Electoral Observation Mission Preliminary Statement on the National Assembly Elections in the Kingdom of Lesotho that took place on Saturday, 03<sup>rd</sup> June 2017. We thank you all present here for gracing this occasion.

**Your Excellences;**

**Ladies and Gentlemen;**

Our Mission was officially launched on Thursday, 25 May 2017 in Maseru after which the deployment was effected on 26 May 2017 with a total of 41 observers deployed within the 10 Districts of Lesotho.

**Your Excellences;**

**Ladies and Gentlemen;**

As we indicated in our Launch Statement of 25 May 2017, the SADC Mission has observed these National Assembly Elections based on the *Revised 2015 SADC Principles and Guidelines Governing Democratic Elections*, which have introduced the electoral cycle approach and long term observation. The Mission also worked within the legal framework of the Kingdom of Lesotho.

As part of the long term observation methodology, the SADC Electoral Advisory Council undertook a Pre-Election Goodwill Mission to the Kingdom of Lesotho from 24 to 28 April 2017.

**Your Excellences;**

**Ladies and Gentlemen;**

Prior to its launch, the SADC Electoral Observation Mission paid courtesy calls on His Majesty King Letsie III, The Right Honorable Prime

Minister of Lesotho, Minister of Foreign Affairs and International Relations, the Attorney General and Chair and Commissioners of the Independent Electoral Commission of Lesotho.

The SADC Mission further engaged a wide range of stakeholders constituting state and non-state actors such as:

- (i) The Minister of Justice, Human Rights and Correctional Services;
- (ii) The Chief Justice;
- (iii) The Commissioner General and top leadership of the Lesotho Mounted Police Service;
- (iv) The Chief of Defense of Lesotho Defence Forces;
- (v) Leaders and Representatives of Political Parties;
- (vi) Heads of Diplomatic Missions and Multilateral Organisations;
- (vii) The College of Chiefs;
- (viii) Lesotho Council of Churches;
- (ix) The Lesotho Law Society;
- (x) Academia;
- (xi) Representatives of the Media;
- (xii) Non-Governmental Organisations; and
- (xiii) Local and International Observer Missions.

**Your Excellences;  
Ladies and Gentlemen;**

Against this backdrop, the SADC Electoral Observation Mission wishes to share the following Preliminary Findings on the electoral process of the National Assembly Elections:

1. The Mission notes that the IEC enjoys the support and confidence of a broad range of stakeholders which is a significant factor in ensuring the integrity of the elections.
2. The Mission finds that the unregulated practice of floor crossing under the first-past-the-post segment of this Mixed Member Proportional (MMP) system contributes to needless re-configuration of power leading to snap elections and instability in the political system.
3. Furthermore, there is no legislative provision stipulating the operational modalities for coalition governments.
4. Although political parties are registered under the Societies Act, 1966, for electoral purposes, they are also required to be registered with the IEC in terms of Section 24 of the National Assembly Electoral Act, which provides, amongst others, that the political party must have a minimum of 500 paid up members/electors to qualify for registration.

All registered political parties and independent candidates participating in an election are entitled to campaign funding for election purposes under Section 70 of the National Assembly Electoral Act. A considerable number of stakeholders, and in particular, the IEC are concerned that public funding for political campaign purposes appears to be a strong incentive for the proliferation of political parties, particularly given the very low threshold of 500 paid-up members. Although there are safeguards

against the abuse of campaign funds under the Act, these are in practice difficult to enforce and campaign funds abuse is a reality.

5. Whilst the Lesotho Mounted Police Service are the main security institution charged with providing security in the electoral context, some considerable concerns have been raised by stakeholders regarding the involvement of the military in the elections. In terms of logistics, the Lesotho Defence Force provide critical assistance to the Electoral Commission to deliver election materials to remote constituencies. Beyond this practical arrangement, the roles of the Police and the Military as separate institutions are not clear. This is because Section 5 of the Lesotho Defence Forces Act permits the military to venture into ordinary law enforcement that is not specifically limited to emergencies. This can be misconstrued as military interference, which may be unfortunate in a competitive multiparty context.

In this respect, many stakeholders expressed fears that the Military would influence the conduct of the election and perhaps not even accept its outcomes. However, the Mission has been assured by the Strategic High Command of the LDF that they will support whichever party wins the 03 June Elections and that the Defence Forces will operate within the confines of the law as provided for in the Constitution. Our Long Term Observers will continue to observe this situation very closely.

6. Section 30 of the National Assembly Electoral Act obliges political parties to facilitate the full participation of youth, women and the disabled on the basis of equality, but the provision does not specify any implementation mechanism, to achieve this noble goal. In

contrast, as provided for under Section 47 (2) of the Act, gender parity is required only for the purpose of party lists for the allocation of the 40 Proportional Representation (PR) seats.

## **7. Access to Public Media**

There are three aspects of the law under Section 67 of the National Assembly Electoral Act regarding access to the media for election purposes:

- (i) The right of all registered political parties to have the substance of their election propaganda covered in the Government-owned media and ANY newspaper circulating in Lesotho whether government-owned or private owned;
- (ii) In the case of news broadcasts by the Government-owned media, specific conditions on the coverage of political parties' campaign propaganda. These conditions are:
  - a) The content of the news shall be professionally determined by the media;
  - b) The media shall maintain neutrality in the manner of reporting the news of the campaign propaganda and generally in its commentaries; and
  - c) The Electoral Commission is required to monitor the news broadcasts and ensure such news coverage is done.
- (iii) Apart from news coverage on Government-owned broadcasts, the third aspect relates to the allocation of time on Government-owned radio and television. This is done by the IEC by arrangement with the Government-owned media.

The first aspect of the law relating to election news coverage, that is the right to have the substance of party political propaganda covered in the news applies to both Government-owned media, and **any newspaper**. However, the requirement for neutrality applies specifically to news broadcasts on Government-owned media.

**Your Excellences;  
Ladies and Gentlemen;**

The Mission notes that there is media pluralism and diversity, occasioned by state and privately owned electronic and print media. According to Lesotho National Broadcasting Services, there is only one local television station in the Kingdom of Lesotho, owned by the government. The Government also owns two radio stations; one newspaper; and a news agency, the Lesotho National News Agency.

Information gathered from the Media Institute of Southern Africa indicates that there are at least sixteen privately owned community, religious and commercial radio stations. In addition, there are eight print media institutions which are privately owned. However, the state owned media, both print and electronic, are dominant in outreach.

The Mission notes that a wide range of stakeholders registered their concerns on biased news coverage by the state broadcaster. While the political campaign slots allocated in terms of the National Assembly Electoral Act appear to be adhered to, stakeholders have largely focused their concerns on the news reporting which they allege skewness to the ruling coalition. The SADC Electoral Observation Mission noted that opposition coalition parties across the country raised similar concerns that public media such as the Lesotho



TV did not adequately cover activities and content for the opposition coalition, but only displayed insignificant clips.

**Your Excellences;  
Ladies and Gentlemen;**

On the Election Day, the SADC Electoral Observation Mission observed the following:

- (i) In general, polling stations opened on time, and the opening procedures were followed in accordance with the provisions of the National Assembly Electoral Act;
- (ii) The polling process generally went smoothly and that there was no violence reported;
- (iii) The presence of the police within the perimeters of the polling stations and that of the military in the periphery of some polling stations;
- (iv) Local and International observers were present at the opening and closing of the majority of the polling stations that we observed;
- (v) The layout of the polling stations promoted easy flow of voting, as such throughout the process, voting was orderly;
- (vi) Most polling stations closed at 1700 hours as provided for in the National Assembly Electoral Act. There were no voters who were still in queues at the formal closing of the polling stations;

- (vii) Counting at most polling stations started immediately after the closing of the polling stations. The prescribed counting procedures were adhered to by the Counting Officials; and
- (viii) However, some polling stations, such as St. Cyprian Primary School in Botha Bothe, lacked power which hampered the counting process. Election officers resorted to using torches from their cellular phones.

**Your Excellences;  
Ladies and Gentlemen;**

The SADC Mission is also of the view that the Independent Electoral Commission has generally made commendable efforts to render the management of key aspects of the electoral process reasonably transparent and credible.

**Your Excellences;  
Ladies and Gentlemen;**

In line with our revised SADC Principles and Guidelines Governing Democratic Elections, the SADC Electoral Observation Mission shall continue to observe the post-election period before coming up with a final statement and assessment of the process.

I am certain you will agree with us that given the country's history of elections, the outcome of these elections is just as important as the reform process that is urgently required in the immediate aftermath of the polls to bring stability and inclusiveness that will lead to renewed commitment to political stability for sustainable development and prosperity of the Basotho.

Taking this into consideration, the SADC Electoral Observation Mission presents the following recommendations:

1. In the immediate post-election period, the new government is urged to comply with the Decision of the Double Troika Summit of March 2017 and under-take time-bound wide Constitutional, Judicial, Legislative, Security Sector, Public Sector and Media Sector reforms in order to depoliticise and stabilise the forthcoming Government.
2. It is recommended that for clarity and predictability, the Constitution should be amended to make provision for a timeframe within which a Government must be formed after an election; make provision for caretaker governing arrangements and for specific modalities for possible coalition governments.
3. Review the electoral model in order to regulate floor crossing and stabilise the political system;
4. Continuous registration process for voters is a positive arrangement which, if effectively linked to continuous voter education, could enhance voter participation.
5. Political party campaign funding should be reviewed to increase the threshold of paid-up members so that only political parties with a reasonable national representation are eligible for campaign funding.
6. It is recommended that Section 5 of the Lesotho Defence Force Act be reviewed to ensure clear separation of powers and responsibility, and to ensure their accountability to the civilian Government.
7. In terms of the participation of women, youth and physically challenged, it is critical to institute mechanisms to enhance women

and physically challenges representation and participation of the youth;

8. Effective application of the Article 67 (1) of the 2011 National Assembly Electoral Act to ensure that media access is facilitated equally to all political parties and relevant stakeholders during elections; and
9. While waiting the outcome of the elections, we highly encourage the observance and implementation of the pledges which all political leaders and stakeholders signed prior to the National Assembly Elections.

**Your Excellences;  
Ladies and Gentlemen;**

Let me take this opportunity to wish the next Government a good start and success.

Finally, on behalf of the Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, His Excellency Dr. John Pombe Joseph Magufuli, President of the United Republic of Tanzania; and the SADC Electoral Observation Mission; and indeed on my own behalf, may I take this opportunity to wholeheartedly congratulate the People of the Kingdom of Lesotho for the manner in which they conducted themselves during the electoral process.

**Thank you very much! Merci beaucoup! Obrigado! Ahsante sana! Kea Leboha!**