



PRELIMINARY STATEMENT

BY

**HIS EXCELLENCY MR. ENOCK KAVINDELE,
FORMER VICE-PRESIDENT OF THE REPUBLIC OF ZAMBIA AND
HEAD OF THE SADC ELECTORAL OBSERVATION MISSION (SEOM) TO
THE 2024 NATIONAL AND PROVINCIAL ELECTIONS
OF THE
REPUBLIC OF SOUTH AFRICA**

31ST MAY 2024

- **His Excellency Uhuru Muigai Kenyatta, Former President of the Republic of Kenya and, Head of the African Union Electoral Observation Mission (AUEOM);**
- **His Excellency Goodluck Ebele Azikiwe Jonathan, Former President of the Federal Republic of Nigeria and, Head of the Electoral Institute for Sustainable Democracy, in Africa (EISA) Electoral Observation Mission;**
- **Distinguished Members of the SADC Organ Troika;**
- **Distinguished Representatives of the Government of the Republic of South Africa;**
- **Chairperson and Representatives and Members of the Independent Electoral Commission;**
- **Distinguished Representatives of International Electoral Observation Missions;**
- **Your Excellencies, Heads and Representatives of the Diplomatic Missions Accredited to the Republic of South Africa;**
- **Members of the SADC Electoral Advisory Council (SEAC);**
- **SADC Election Observers;**
- **Representatives of Local Election Observers;**
- **Religious Leaders and Members of Civil Society Organisations;**
- **Members of the Media;**
- **Distinguished Guests;**
- **Ladies and Gentlemen.**

1. INTRODUCTION

On behalf of the Southern African Development Community (SADC) and as mandated by His Excellency, Mr. Hakainde Hichilema, President of the Republic of Zambia, and the Chairperson of the SADC Organ on Politics, Defense and Security Cooperation, it is my honour to welcome you all to this important event of the release of the Preliminary Statement of the SADC Electoral Observation Mission (SEOM) on the conduct of National and Provincial Elections, held on 29 May, 2024, in the Republic of South Africa. As Head of Mission, I am well supported by representatives from the Republic of Namibia and the United Republic of Tanzania, who are the other two members of the SADC Organ Troika. Our Mission is also advised by two members from the SADC Electoral Advisory Council (SEAC).

The SADC Electoral Observation Mission (SEOM) comprises 84 observers from 11 SADC Member States, namely, the Kingdoms of Eswatini and Lesotho, the Republics of Angola, Botswana, Malawi, Mozambique, Namibia, Zambia, Zimbabwe, Democratic Republic of Congo, and the United Republic of Tanzania. These observers were deployed to all the nine provinces of the Republic of South Africa namely Eastern-Cape; Free State; Gauteng; KwaZulu-Natal; Limpopo; Mpumalanga; Northern-Cape; North-West; and Western-Cape. Given its larger population, 6 Teams were deployed to Gauteng which has 6 Districts. We also deployed 2 Teams each to all the other 8 provinces.

The Mission observed the National and Provincial Elections in accordance with the Revised SADC Principles and Guidelines Governing Democratic Elections (2021) and the Laws of the Republic of South Africa.

As part of its mandate, the Mission engaged key stakeholders in the Republic of South Africa, including the Independent Electoral Commission (IEC), Department of International Relations and Co-operation, Political Parties, Civil Society Organisations, the Solicitor General, Academia, SADC Ambassadors and High Commissioners accredited to the Republic of South Africa, the South African Police Service and the Media.

This Preliminary Report covers the Mission's observation of the Pre-Election Process, Special Voting, Voting Day and Counting. The Final Report will include our observations of the Post-Election Process, which include the results management and announcement.

2. SUMMARY OF KEY FINDINGS

2.1 The Political and Security Environment

The Mission observed that the country was calm and peaceful in the pre-election, election-day, and the immediate post-election period. I must emphasise that this was a very conducive environment for the elections, where only a few isolated incidences of political violence were reported. It was the concern of stakeholders that the incidences prevented special voting and final election campaign events in the areas.

Apart from these isolated incidences, our observers deployed across the country witnessed numerous peaceful, well planned, and highly attended political rallies.

The South African Police Service (SAPS) maintained its vigilance and preserved peace by providing the necessary security for a conducive electoral environment. The Mission observed that the SAPS deployed more resources to high-risk areas to address eventualities.

2.2 Electoral Law and Electoral System

The elections are for electing members of the National and Provincial Legislatures and are mainly governed by the Constitution of the Republic of South Africa of 1996; and legislation that includes the following:

- (i) Electoral Act (No.73 of 1998) and notably, for emphasis, the **Electoral Amendment Act, 1 of 2023**;
- (ii) Electoral Commission Act (No. 51 of 1996);
- (iii) Public Funding of Represented Political Parties Act (No. 103 of 1997);

- (iv) Political Party Funding Act, (No.6 of 2018) ; and
- (v) Promotion of Access to Information Act of 2000.

Allow me to congratulate the people of South Africa for having reached 30 years of democracy this year. These elections are also symbolic in this regard and in view of the country's tortured past. Like all growing democracies the electoral environment goes through changes. Our Mission noted that the legal framework and the electoral system have been dynamic. Some of the laws I referred to above have recently been amended to accommodate the introduction of independent candidates at the national elections level and to enhance and adjust the rules governing the funding of political parties and independent candidates.

In addition to the Electoral Amendment Act, 2023, which was gazetted on 17th April 2023, the SEOM noted that a number of legal changes were made late into the electoral cycle. The latest of these changes being the Electoral Matters Amendment Act, (Act 14), 2024, which was gazetted on 7th May 2024, just three weeks before election day. The legal changes took effect immediately on the next day, 8th May 2024. Following these late amendments, there was some confusion amongst the stakeholders regarding the determination of the upper limit and the disclosure threshold for the purpose of donations to political parties and independent candidates. In view of the potential of those affected, to breach the law and therefore attract criminal sanctions, this lack of clarity may have been addressed had the relevant amendments been made within a reasonable time before the elections.

It is normal in a democratic environment for such changes in the law and other ordinary inter and intra political party issues to spill into the courts of law. Our Mission, and indeed, the Independent Electoral Commission and most stakeholders, noted the relatively high level of electoral litigation compared with previous elections. While some saw this as a concern, others felt it was an indication of the trust the stakeholders have in the judiciary. Reflecting the diverse range of interests and concerns, the electoral litigation also clarified certain aspects of the electoral law, and this is a welcome process of the consolidation of democracy.

The SEOM also noted that given its implications on the election of the President of South Africa, there was considerable local, regional, and international interest in the correct interpretation of section 47(1)(e) of the country's Constitution . This particular provision is of interest as it deals with the eligibility or otherwise of a candidate to the National Assembly where that person has been convicted of an offence and sentenced to more than 12 months' imprisonment. The SEOM took note of the decision of the Constitutional Court in this matter and acknowledges the role of the Constitutional Court in providing clarity on the appropriate interpretation of section 47(1) of the Constitution, which assists voters, candidates, and all stakeholders in appreciating aspects of the requirements for eligibility to stand for election to the country's highest office.

Our Mission also noted the satisfaction of most stakeholders on the introduction of Special Voting in line with Section 33 of the Electoral Act, particularly the Home Visits that increased the number of voters in these elections in a situation where a lot of these voters would not have been able to make the trip to the polling stations to cast their vote.

2.3 Management of the Electoral Process

The elections were overseen by the Independent Electoral Commission, which is established by Chapter 9 of the Constitution of the Republic of South Africa. The Commission manages National, Provincial and Municipal elections.

In this regard, the Mission observed the following:

- (i) In general, there is confidence and trust amongst stakeholders in the manner in which the past and current elections have been organized and conducted. The majority of stakeholders believe in the integrity and independence of the Independent Electoral Commission based on their regular interactions with the Commission, expeditious resolution of issues raised in their consultative platforms, responsiveness and openness to the public.

- (ii) Voter registration was generally well conducted in the two rounds of the voter registration exercise by the Independent Electoral Commission, one at the beginning of November 2023 and the second one at the beginning of February 2024. Stakeholders were satisfied with the preparations made by the Independent Electoral Commission and the security agencies. The online registration of voters was noted as having assisted in increasing the number of young and first-time voters, and those in the diaspora.
- (iii) Out of a total population of approximately 62 Million a total of 27, 782, 477 people registered to cast their votes on 29th May 2024 with 55.23% representing females, and 44.77% representing males. Out of the total number of registered voters, 1,682,316 were special voters who registered to cast their votes on 27th and 28th May 2024. A significant proportion of the registered voters on the voter's roll were below the age of 49.
- (iv) However, it was the view of some stakeholders that not enough civic and voter education was provided by the Independent Electoral Commission to sensitise the voters on the new law reforms relating to the introduction of Independent Candidates, the third ballot paper, and the implication of section 24 (A). Further, the systematic issues such as the methodology for the allocation of seats, the distinction, if any, between Regional and Provincial seats and ballots was generally not well understood by some stakeholders.
- (v) The electoral stakeholders were impressed by the establishment of an advanced results operational centre equipped with modern digital infrastructure meant to enhance transparency. The Mission noted the use of Information Communication Technology in the capturing, management and dissemination of electoral data and information. The data management and accessibility significantly improved the transparency of the electoral process and confidence in the management of the elections for the enhancement of democracy in the country.

- (vi) Whilst our Mission did not observe the voting by South African residents outside the country, we received positive reports regarding this process from SADC Ambassadors and High Commissioners accredited to the Republic of South Africa and who are from sister Member States in which South Africa has Diplomatic Missions.

2.4 Gender representation

The Republic of South Africa is known for the relatively higher number of women in elected political positions, such as in the National Assembly. However, this is largely due to the internal arrangements of a few political parties that actually implement gender parity policies. In the context of the proportional representation system, a few political parties utilize the “Zebra list” system whereby a male candidate is followed by a female candidate or vice versa on the party election list. In 2024, only 15 political parties out of the 52 on the national compensatory ballot list achieved a 50-50 gender representation, consequently, almost 60% of the candidates were men. This is despite the reassurances that the Mission received from all political parties that we consulted that they are committed to gender equity.

2.5 Role of the State-Owned Media and Media in general

Most stakeholders, particularly political parties were satisfied with the media coverage of the election campaign, including the coverage by the public broadcaster, the SABC. Only one negative issue was raised against the SABC, which was related to its refusal to air a controversial advertisement by one political party. However, based on the robust domestic institutions, the Independent Communication Authority of South Africa dealt with this particular matter.

The media in general was highly commended for its wider coverage of political parties and promotion of democracy. It is important to note that Political Parties have acknowledged the efforts of the media that have made them more visible in the electoral process. In this context,

the Mission also commends the work of non-profit organisations that seek to enhance the role of the media in the consolidation of democracy.

However, stakeholders and the Independent Electoral Commission are concerned about the abuse of social media for disinformation, misinformation and undue electoral influence. The Mission noted that, as is the case elsewhere, the sources of some of this online mischief also include interests from far-flung places in pursuit of their own agenda.

3. OBSERVATION ON SPECIAL VOTING

3.1 The Mission observed Special Voting at **176 polling stations** on 27th and 28th May 2024 and noted the following:

- (a) The environment outside the polling stations was peaceful in 99% of the polling stations observed;
- (b) 9% of voting stations failed to open on time due to among others, the following: technical challenges with the Voter Management Device; late arrival of election officials and material; slow opening procedures; and the inexperience of election officials.
- (c) 9% of polling stations were not accessible to all voters including persons with disabilities. It was observed that some polling stations were located on the first floor of certain buildings, while others had no ramps for wheelchairs;
- (d) All our observers were granted free access to the polling stations;
- (e) 26% of polling stations were free of campaign materials or visible campaign activities;
- (f) There were no Police Officers at 32% of the polling stations at the time of observation;

- (g) At 12% of the polling stations, some voters were not allowed to vote owing to various reasons including, lack of identification document, not having registered to vote, and being in the wrong voting station;
- (h) In 47% of the polling stations observed, voters requiring assistance were assisted;
- (i) At 95% of the polling stations, polling materials were available in sufficient quantities at the time of our observers' visit;
- (j) Voting at 97% of the polling stations was free from irregularities;
- (k) The Voter Management Devices kept going offline, causing delays at the polling stations;
- (l) There were some cases of confusion, lack of knowledge or experience on electoral processes on the part of the presiding officers;
- (m) Ballot papers were put in an envelope marked or labelled with the voter's name which made some voters complain of compromised secrecy of the vote; and
- (n) Although great efforts were made by the Independent Electoral Commission to undertake home visits, some voters were not found in their homes when the Independent Electoral Commission arrived at their homes.

4. OBSERVATIONS ON ELECTION DAY

On Election Day, the Mission observed the following at 372 polling stations:

- (a) The environment at the polling stations was calm and peaceful at 98% of the polling stations.

- (b) Our observers were granted free access to all the polling stations.
- (c) 84% of the polling stations opened on time. 12% of the polling stations observed opened late, due to primarily the following 4 reasons:
 - (i) Late arrival of polling officials;
 - (ii) Late arrival of electoral materials;
 - (iii) Slow opening procedures; and
 - (iv) Technical challenges with the Voting Management Device.
- (d) The presence of security personnel in the form of the Police was observed at 99% of the polling stations. The Mission noted that the police conducted themselves in a professional and vigilant manner.
- (e) There were some cases of confusion, lack of knowledge or experience of electoral processes on the part of the presiding officers.
- (f) 7% of the polling stations observed were not accessible to voters with disabilities due to voters blocking the entrance owing to poor crowd control. Some polling stations were positioned on the second floor and lacked ramps for wheelchairs.
- (g) The voting process was inclusive as voters who needed assistance such as people living with disabilities, the elderly and pregnant women, were given priority to vote.
- (h) At 98% of the polling stations, voting proceeded without interruption. However, the Mission observed 7 cases of the interruption of voting. The reasons for the interruptions included:

- Malfunctioning of the Voting Management Device that delayed the process by between 45 minutes to 2 hours;
 - Police officers had to leave their posts at the polling stations to control noisy and disruptive activities at tents erected by some political parties right outside the boundaries of the polling stations. These tents and desks are prevalent during election periods. Section 108 of the Electoral Act only prohibits political activities within the boundaries of polling stations; and
 - An isolated case of intimidation of electoral officers by some voters in the absence of security.
- (i) At 12% of the polling stations some voters were not allowed to vote for various reasons including:
- Attempting to vote without an identity document;
 - Not having registered to vote;
 - Some voters had little understanding of Section 24(A) of the Electoral Act and assumed they could vote at any polling station; and
 - Some voters could not be verified in using the Voter Management Device as it was offline.
- (j) 62% of the polling stations observed closed on time. The Mission noted that others could not close at the prescribed time due to the late opening of the polling stations.
- (k) At all the polling stations where our Mission observed closing procedures, there was no disruption of the closing procedures.
- (l) All the voting stations from where we observed the election-day activities were free from irregularities.

5. BEST PRACTICES

5.1 The Mission commends the Independent Electoral Commission for the following best practices:

- (a) Online voter registration for citizens, including in the diaspora, which encouraged young and first-time voters to register;
- (b) With the support of the Department of International Relations and Co-operation, for facilitating voting by South African residents abroad;
- (c) Implementation of Special Voting, particularly to include voters who for reasons of infirmity or other challenges, would not have been able to cast their votes at the polling stations;
- (d) Swift responsiveness to false, misleading information, particularly online/social media; and
- (e) Openness to the public and close liaison with political parties and independent candidates.

6. RECOMMENDED IMPROVEMENTS IN THE ELECTORAL PROCESS

At this juncture, allow me to recall that the SEOM is continuing the process of electoral observation in the post-election phase. As such, the Mission will not be rendering comprehensive recommendations or qualifications of the election at this stage. However, the Mission has observed the following areas of the electoral process and system that relevant stakeholders may wish to consider improving:

(a) Electoral Law and Electoral System

- (i) Government and the National Assembly are urged to ensure that substantive electoral law reforms are debated and adopted early in the next electoral cycle in order to avoid the introduction of electoral reforms close to the election periods;

- (ii) The Electoral Commission is urged to facilitate a post-election review process soon after the elections in order to obtain stakeholder consensus on issues that presented challenges in the context of this current electoral cycle;
- (iii) As soon as possible, and in the context of the funding of political parties and independent candidates, the Independent Electoral Commission is urged to engage with all stakeholders in order to clarify the minimum amounts and disclosure thresholds for private donations; and
- (iv) Political parties that have not done so are urged to adopt the “Zebra list” system for party lists in order to ensure 50-50 gender parity for purposes of elections at all levels.

(b) Management of the Electoral Process

- (i) The Independent Electoral Commission (IEC) is urged to assess options on how best to ensure that the Voter Management Devices do not present challenges encountered on election-day. The IEC could consider a manual voter’s roll to be displayed at polling stations so that voters can verify where they are registered.
- (ii) Training of presiding officers on key aspects of the elections, such as Special Voting and Home Visits procedures needs to be enhanced.
- (iii) There is need to implement Special Voting procedures that guarantee the secrecy of the vote, particularly through discreet labelling of the envelopes for the special voting ballots.
- (iv) The Government is urged to consider amending section 108 of the Electoral Act to ensure that activities such as those taking place at temporary structures erected by political parties and candidates are not located within a certain distance from the boundaries of polling stations.

- (v) The Independent Electoral Commission is encouraged to review its civic and voter education programmes, learning from the challenges experienced in 2024, and design new programmes that comprehensively address the new electoral processes.
- (vi) The South African Police Service should consider recruiting adequate police officers to be permanently stationed all polling stations.
- (vii) Political parties should be discouraged from mounting campaign tents and political activities at polling stations, whose presence had elements of interference to the voters.
- (viii) The increased confidence of the public in the judiciary to resolve electoral matters is encouraged. The courts are encouraged to expedite judgements involving electoral matters.

7. CONCLUSION

In conclusion, the SEOM observed that the pre-election and voting phases of the 2024 National and Provincial Assembly Elections were professionally organised, and conducted in an orderly, peaceful and free atmosphere, which enabled the voters to express their democratic will and those who sought office to campaign freely.

The Mission commends the people of South Africa for the political maturity, spirit of tolerance and calm that generally prevailed during this electoral period. In the event of any electoral disputes, the Mission appeals to all contestants to channel their concerns through established legal procedures and processes.

In accordance with the SADC Principles and Guidelines Governing Democratic Elections (2021) our Final Report will be issued within 30 days of this Preliminary

Statement. In terms of these Guidelines, our long term observers will remain on the ground to continue with the post-election observation until 5th June 2024. The SEAC shall return at an appropriate time, to undertake a post-election review to determine the extent to which the recommendations of SEOM have been implemented and the nature of support, if any, that the Member State holding elections may require from the SADC region, to implement those proposals.

Thank you very much!

Muito Obrigado!

Merci Beaucoup!

Asante Sana!