PRELIMINARY STATEMENT

Improved political climate, inclusive participation rights and a peaceful vote, but un-level playing field, intimidation of voters and lack of trust in the process undermined the pre-election environment. We now hope for a transparent and traceable results process

Harare, 1 August 2018

This preliminary statement of the EU EOM is delivered before the completion of the entire electoral process. Critical stages remain, including collation of results and adjudication of petitions. The EU EOM is now only in a position to comment on observation undertaken to date, and will later publish a final report, including full analysis and recommendations for electoral reform. The EU EOM may also make additional statements on election-related matters as and when it considers it appropriate.

Summary

The 30 July 2018 Harmonised Elections in Zimbabwe were the first since the stepping down from power of the former president Robert Mugabe after 37 years in office. Many previous elections have been contentious and with reports of abuses, and so while the commitment to hold credible elections by the interim president was welcomed, a legacy of the past was a low level of trust in the democratic process and institutions, which permeated the electoral environment.

The elections were competitive, the campaign was largely peaceful and, overall, political freedoms during the campaign, including freedom of movement, assembly and speech, were respected. However, the misuse of state resources, instances of coercion and intimidation, partisan behaviour by traditional leaders and overt bias in state media, all in favour of the ruling party, meant that a truly level playing field was not achieved, which negatively impacted on the democratic character of the electoral environment.

The Zimbabwe Electoral Commission (ZEC) undertook a biometric registration of voters and put in place administrative arrangements for polling as scheduled. Stakeholder confidence in the institution, however, was lacking, due to a lack of transparency and inclusivity and poor communications. A series of decisions, including on the layout of the presidential ballot, raised concerns about its impartiality. The new voter roll was generally inclusive, though it was not adequately shared with stakeholders and has some errors and changes which need to be clarified. On Election Day, EU observers reported a large turnout and a generally well-managed and peaceful process. However, in some places there were reports of a high number of assisted voters and of voters not found on the voter roll. The count at the polling stations was fairly well organised, though with some inconsistent organisational practices. It was noted that while the result sheet was posted outside the polling stations in a majority of places, this was not the case everywhere.

- The legal framework provides for key rights and freedoms for the conduct of competitive elections. However, shortcomings in the Electoral Act and the absence of campaign finance regulations limit the integrity, transparency and accountability of the process. Furthermore, delays in adjudication, dismissal of court cases on merely technical grounds and a number of controversial judgments compromised the right to an effective legal remedy.

- The introduction of a number of legal and administrative changes was welcomed, including increasing the number of polling stations, limiting voters to voting only at their registered station, and limiting the number of excess ballots to be printed. ZEC put in place administrative arrangements for the holding of the 30 July polls as scheduled. However, the potentially positive

measures were undermined by ZEC's persistent lack of inclusivity and transparency. Further, the election management body became embroiled in a number of contentious issues, including the layout of the presidential ballot, modalities for printing and distributing ballots, poor procedures for confirming ballot security between printing and election day and the conduct of postal voting. ZEC also failed to make full or proper use of the Multi-Party Liaison Committees (MPLCs). These issues contributed to a deterioration in the relationship between the electoral commission and the opposition in the weeks before the election.

- The switch to biometric voter registration (BVR) so close to the time of the election was a major challenge for ZEC, which assumed responsibility for the roll for the first time. Data indicates a reasonable capture rate for eligible voters, though with lower levels of registration in urban areas in particular and a number of errors which remain to be resolved. The manner of sharing the voter roll with stakeholders proved contentious and, while acknowledging the effort ZEC made in undertaking the BVR, its lack of transparency and failure to provide clear and coherent information about voter registration overall added to a sense of mistrust by stakeholders.

- The campaign was largely peaceful, with freedoms of movement, assembly and expression respected, and both the main presidential candidates held numerous rallies across the country. However, while political rights were largely respected, there were concerns regarding the environment for the polls and the failure to achieve a level playing field. Observers widely reported on efforts to undermine the free expression of the will of electors, through inducements, pressure and coercion against prospective voters to try to ensure a vote in favour of the ruling party. Such practices also included direct threats of violence, pressure on people to attend rallies, partisan actions by traditional leaders, collection of voter registration slips and other measures to undermine confidence in the secrecy of the vote, manipulation of food aid and agricultural programmes and other misuses of state resources.

- Based on EU EOM monitoring, the state broadcaster, the Zimbabwe Broadcasting Corporation (ZBC), failed to abide by its legal obligation to ensure equitable and fair treatment to all political parties and candidates. State-owned TV, radio and newspapers, which dominate the media landscape, were heavily biased in favour of the ruling party and incumbent president in their election-related coverage. Media operated in a generally free environment during the campaign and freedom of expression was respected. The legal framework for media, while providing for fundamental rights, needs further improvement to bring it into line with the Constitution.

- In the direct election for the National Assembly, only 14.75% of candidates were women and women were nominated in just 126 of the 210 seats. But via the additional proportional list system for the Assembly, a large number of women will nevertheless be elected to parliament.

- On the day of the election EU observers reported positively on the conduct of voting. Zimbabwean citizens turned out in large numbers and despite some lengthy queues the voting process was managed well by polling officials who worked hard to process voters. Some problems with the voter roll, or lack of voter awareness of their polling location, were evident. Party agents were present in most places, but polling officials did not always check for indelible ink. Further, there appeared to be a high degree of assisted voting in some places. The vote count in polling stations was reasonably well organised, though procedures were not always followed, inconsistencies were noted and there was inadequate light in some places. The result was posted at the polling station in many instances, but not all. The collation of results is on-going and we continue to observe this. It is important that the final results are shared in a manner which provides for full transparency and accountability, including a breakdown by polling station.

The EU EOM has been present in Zimbabwe since 6 June, following an invitation from the Government. The Mission is led by Chief Observer, Elmar Brok, MEP (Germany). The EU EOM deployed 140 observers from all 28 EU Member States (and Canada, Norway and Switzerland) across the country to assess the electoral process against international obligations and commitments for democratic elections as well as the laws of Zimbabwe. A delegation of the European Parliament, headed by Norbert Neuser MEP (Germany), joined the mission and fully endorses this Statement. On election day, observers visited over 600 polling stations in 154 of the 210 constituencies in all ten provinces of Zimbabwe to observe voting and counting.

This preliminary statement is issued prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the process, in particular, the collation of results, and the handling of possible post-election day complaints and appeals. The EU EOM remains in country to observe post-election developments and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process.

The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.

Preliminary Findings

1 Background

The 30 July 2018 Harmonised Elections in Zimbabwe were the first since the events of November 2017, which resulted in the stepping down from power of the former president after 37 years in office. Zimbabwe has a history of contested elections, including abuse of political and human rights. The 2018 elections offered the country an opportunity to create a new electoral reality for itself. However, while the commitment to credible elections and economic reforms by the interim president was welcomed, the legacy of the past, including the pervasive link of the ruling party to state structures, created low levels of trust in the democratic process and in national institutions.

The 30 July polls were for the election of the president, parliament and local councils. Twenty-three candidates registered for the presidential election[1], 1,631 contested for the National Assembly and 6,576 for local councils. These represented 55 political parties or stood as independents. The elections were competitive and largely dominated by the contest between the ruling ZANU-PF and the opposition MDC-Alliance (MDC-A), which was formed in August 2017. The electoral system for the National Assembly is a hybrid one, with a proportional allocation of seats to parties based on votes won in the single-member constituencies. Such a system may provide an added advantage to the largest party.

2 Legal Framework (including Election Dispute Resolution)

Legal Framework provides for key rights and freedoms, but further reform of the Electoral Act is required and the right to an effective legal remedy needs to be ensured

Zimbabwe is a State Party to key universal and regional human rights instruments relevant to democratic participation and overall the legal framework provides adequate conditions for competitive elections, if implemented in good faith. The adoption of the 2013 Constitution strengthened the role of ZEC, making it solely responsible for the registration of voters. Fundamental freedoms of assembly, association, expression and movement, and equality and non-discrimination are provided for, as well as access to justice and to information.

The Electoral Act was last amended in May 2018, which is very close to the time of election and not in accordance with best practice. It contains some advances, mainly related to voter registration, the limitation of excess ballot papers printed for any election, and the set-up of the national MPLC at any time prior to six months before the end of the parliamentary term. Nevertheless, a number of substantive proposals

[1] One candidate withdrew on 24 July 2018.

were not adopted, resulting in some provisions of the Act not being fully aligned with the Constitution. These concern mostly the reinforcement of the independence of the ZEC in relation to the executive and the non-expansion of the right to postal voting to people in the diaspora, homebound voters and voters in hospitals and penitential institutions.

Other shortcomings in the Electoral Act undermine the effectiveness of the electoral process. These include, the inclusion of restrictive provisions on voter education conducted by persons other than ZEC, the absence of spending limits and of transparency and disclosure requirements on campaign contributions, the lack of provisions on the misuse of state resources, as well as the lack of enforcement mechanisms to sanction campaign and media violations. The Act equally does not include an obligation on ZEC to publish election results to polling station level, nor does it offer defined mechanisms for ZEC to examine and resolve complaints filed by citizens, as provided for by the Constitution.

Election Dispute Resolution

The right to a legal remedy is foreseen for in the Constitution, which also empowers ZEC to receive and resolve complaints filed by citizens and to take appropriate action. However, the Electoral Act does not contain administrative complaint mechanisms, except for those related to voter registration. Hence, election-related disputes are resolved only by the judiciary, resulting in protracted adversarial processes which, considering the absence of time limits for the delivery of judgements in pre-election court challenges, do not always ensure timely and effective legal remedies.[2]

Moreover, the limited constitutional independence and transparency in the appointments of the Chief Justice, the Deputy Chief Justice and the Judge President of the High Court, and the opaque system of allocation of election-related matters to judges by the Judge President of the High Court, has led to limited confidence in judicial impartiality on the part of stakeholders. This has been further compounded by a number of controversial judgments related to elections.

Some 50 applications have been filed with the courts, dating back several months before the proclamation of the elections and until two days before the polls. Despite claims that many of these were frivolous and politically-motivated, it is noteworthy that ZEC is vulnerable to legal challenges not only because some provisions of the Electoral Act are not fully in line with the Constitution, but also due to its interpretation and implementation of the law, as well as of its understanding of the rights and obligations bestowed on it by the Constitution.[3]

The only significant court cases to succeed related to the obligation of traditional leaders to be politically neutral, the voting rights of "alien" citizens, the deployment of teachers as polling staff on Election Day, and the provision of the final voter roll to an applicant. Regrettably, important matters, relating to the independence of ZEC, the diaspora vote, release of the provisional voter roll, transparency in electoral operations, the protection of school children from enforced participation in political activities, ZEC's

[2] There were even some urgent chamber applications filed to compel the High Court to hear applications that were already pending before it. In addition, a recent ruling of the High Court dismissed an application for a declaratory order compelling ZEC to comply with its constitutional obligation of transparency in the exercise of its operations, citing its lack of jurisdiction to intervene in ZEC's functions in the absence of illegality, which further limited the protection of the electoral rights of citizens.

[3] In one court application requesting ZEC, *inter alia*, to disclose its operating procedures, ZEC argued that it has the discretion formulate rules and procedures as to how it operates and that the request for transparency would interfere with its functions. In another application, to require ZEC to share a copy of the provisional voter roll, ZEC argued on appeal that the court, by ordering that it provide a copy of the provisional voter roll, sanctioned an undue infringement of its constitutionally guaranteed independence.

almost exclusive right to conduct voter education, the right of voters with visual impairments to a secret ballot, the handling of postal voting and allegations of interference with the political neutrality of traditional leaders by the President during his campaign activities,[4] were dismissed, mostly by the High Court but a couple also on appeal[5]. Notably, a high number of cases were dismissed on technical grounds, despite the constitutional requirement that the rules of court "must ensure that the court (…) is not unreasonably restricted by procedural technicalities." Despite some exceptions, there has been a serious delay by the courts in either setting down dates for a hearing or in delivering judgments in a timely manner. Furthermore, the 1995 *Electoral Act Applications, Appeals and Petitions Rules* are overly formalistic and onerous, with some provisions *de facto* restricting the right of access to justice. In addition, concerns remain over the amount of security costs to be paid in advance by a petitioner, which were extremely high in previous elections.[6]

3 Electoral Administration

Administrative arrangements for polling were in place, but ZEC lacked transparency and inclusivity; and further enhancement of the level of trust stakeholders, including voters, have in its independence and in the electoral process

The Constitution establishes ZEC as an independent body with a wide mandate to conduct elections, voter registration, delimitation of constituencies, voter education, to print ballot papers and to accredit observers. ZEC's independence is to some degree undermined, however, by the involvement of the Ministry of Justice, Legal and Parliamentary Affairs in the approval of regulations adopted by the Commission. Further, the complaint that large numbers of ZEC staff are former security force personnel, and had been employed during previous contentious elections, was never fully clarified by the institution, raising concerns regarding impartiality.

ZEC put in place the administrative arrangements to ensure that polling took place on schedule on 30 July, including the recruitment and training of some 130,000 staff. ZEC also included party agents in their staff training session.

A number of legal and administrative changes made a positive contribution to the process. The change to a system of polling station-based voting as opposed to ward-based voting was positive as it enhanced integrity measures. Increasing the number of polling stations, by splitting those of busy urban areas in particular, was welcomed in order to try to alleviate overcrowding in those places. Legal amendments to limit the printing of excess ballots to no more than 10% and the 2014 decision to provide for MPLCs were also welcomed as good practices which could enhance confidence and communication respectively.

However, both of these potentially positive measures were somewhat undermined by the conduct of ZEC's management, which often lacked inclusivity, transparency or effective communications. Given the low base of trust in the electoral process among many stakeholders, a more inclusive and transparent approach by the election management body should have been a priority and ZEC could have used discretionary powers to provide for transparency. The printing of ballot papers became a highly

[4] While in office, the President is not liable to civil or criminal proceedings for actions done in his personal capacity.
[5] It is noteworthy that the Supreme Court, in upholding two appeals filed by ZEC and ZANU PF regarding the provisional voters roll and the participation of school children in political rallies respectively, based its decisions on a technical ground that was not even raised by the applicants.
[6] The *Electoral Regulations 2005 as updated to 1st June 2018* and the *Electoral (Amendment) Regulations 2013* stipulate that the security costs should be not less than 500 US$. The exact amount is fixed by the Registrar after consultation between the ZEC and the Chief Justice. All EU EOM interlocutors criticised the 10,000 US$ security costs which were set prior to the 2013 elections.

contentious issue, with claims by the opposition that the printing, distribution and storage of ballots lacked transparency, notably as the event ZEC organised for parties and observers to witness the printing did not provide effective transparency as it was a one-off event and did not provide the possibility of effective scrutiny of what was being printed. Further, procedures for the securing of ballots during storage and distribution appeared lax and raised concerns.

The formation of MPLCs at all levels was welcomed. Such bodies may, if used effectively, enhance inclusivity and transparency. However, this was a missed opportunity for these elections, as the national-level MPLC did not meet as regularly as it should have, with two meetings cancelled in the month leading up to the polls, and was not used enough by either ZEC or the political parties as a real forum to resolve disputes or discuss and agree on contentious areas. However, EU EOM observers reported that MPLCs at lower levels were more effective and relations were better between parties and ZEC.

ZEC has the legal responsibility to design the ballot papers. However, its decision to arrange the presidential ballot in two columns, and notably in a way which placed the incumbent president at the top of the second column, was contentious. The decision was taken without any consultation with parties or a reasonable explanation and led to accusations that ZEC's position on the matter was biased, as it appeared to give the incumbent president an undue advantage. Likewise, ZEC's unilateral decision, some two weeks prior to polling, to reorient the position of voting booths, whereby the back of a voter would be visible to polling staff and agents, resulted in criticism that this could violate the secrecy of the vote. In the event, ZEC reversed this decision.

ZEC took some positive steps in publishing a simplified electoral calendar, the full list of polling stations, the list of nominated candidates, election officers manual and the list of constituency elections officers. Overall, though, ZEC's communications were poor. While the ZEC website was relaunched during the campaign, and was improved, it lacked some key information, including resolutions which complement the Electoral Act and are crucial to stakeholder understanding of the process.

ZEC's voter education campaign ran for two weeks prior to the election with both national radio and television broadcasting ZEC-produced materials, and with adverts published in print media and billboards erected in main urban areas. Voter education materials were translated into 13 local languages and included specific messages for diverse voter target groups. EU observers reported an intense programme with direct door-to-door voter education activities in both rural and urban areas. However, the relatively short voter education timetable did not address concerns highlighted by civil society organisations and political parties that voters, especially in rural areas, required more comprehensive information, for instance regarding voting procedures and the secrecy of the vote.

Postal voting was made available to police, diplomats and others on official duty. The bulk of approved applications were from the police with some 4,600 approved requests. While the police facilitated the process at various police locations, the practices were not always as foreseen in the law. Also, ZEC's failure to fully inform stakeholders and parties about the process caused some apprehension and criticism.

4 Voter Registration and Constituency Delimitation

The voter roll is generally inclusive but could be further improved. Enhanced ZEC transparency on data for voter registration is vital in order to help address anomalies and to boost confidence

The Constitution guarantees every citizen, who is 18 years and above, the right to register as a voter. There are no unreasonable restrictions on the right to vote. Voter registration takes place on a continuous basis, requiring citizens to actively register as a voter.

The switch to BVR commenced on 18 September 2017 and was completed only on 1 June 2018. This was a major effort for ZEC, which had sole responsibility for the first time. This relatively short time for registration, inspection and examination of the voter roll, particularly for a new and technically complex process, posed a challenge for ZEC. The final voter roll announced by the ZEC Chair on 9 July comprised 5,695,706 names. This represented a capture rate of some 78.8% compared to the mathematical voting-age population projection used by ZEC, though this may have been one of the more conservative projections available.

Registration data shows marked differences between some areas, with the main urban areas of Harare and Bulawayo, in particular, achieving lower capture rates. Under-registration was indicated also in some of the rural districts of Matabelaland North and South. The shared voter roll of mid-June was examined and audited by the Zimbabwe Electoral Support Network. These audits identified a number of problems and mistakes, with many inaccuracies in voter addresses, but concluded that it represented an improvement compared to the one used in 2013.

The law states that ZEC should make the voter roll available to political parties, nominated candidates and voters in an "analysable and searchable" form. ZEC provided an almost final version of the roll to stakeholders in mid-June, but the final roll used on Election Day was shared only partly, without a clear announcement by ZEC. While acknowledging the major effort ZEC made in undertaking the BVR, the lack of transparency and failure to provide clear and coherent information and data about voter registration overall added to a sense of mistrust among stakeholders of ZEC before the elections and clarifications on some of the anomalies remain outstanding, including the extent to which the deduplication process was undertaken.

Constituency Delimitation

The delimitation of constituencies for the National Assembly elections dates back to 2008, and does not reflect more recent census information. There are significant variations in the size of constituencies for the National Assembly elections. The largest constituency of Harare South, with 76,425 voters is over five times larger than the smallest of Gutu North, with 14,198 voters. Half of the constituencies differ from the average by more than 20%. As such, equal suffrage is not provided for.

5 Campaign Environment

Political freedoms were respected during a generally peaceful campaign, but misuse of state resources and reports of intimidation of voters undermine belief in the right to vote freely

There is a broad consensus among stakeholders that the 2018 election campaign was conducted with an unprecedented level of freedom, with voters actively participating in campaign events and civil society free to engage. The potentially restrictive legal framework, which was formerly used to control political activities, has not been globally enforced for these polls, and basic campaign freedoms of movement, assembly and expression have been respected. The campaign was largely peaceful, with some isolated cases of election-related violence, notably with intra-party conflicts resulting from the primaries. Peace pledges were signed at the national and lower levels, with candidates affirming their intention to abide by the *2018 Electoral Code of Conduct for Political Parties, Candidates, and other Stakeholders.*

The presidential campaign was very competitive, with both main candidates, President Emmerson Mnangagwa of the ruling ZANU-PF and Nelson Chamisa of the opposition MDC-A, conducting large-scale rallies in all ten provinces. This marked an improvement over previous elections, when opposition rallies were restricted in several areas. In contrast to the generally peaceful campaign environment, a bomb attack on President Mnangagwa's rally in Bulawayo on 23 June resulted in two members of the

presidential guard being killed and 47 other people injured. The immediate reaction of President Mnangagwa, stating that he would not allow "*this cowardly act*" to impact on the conduct of elections, diminished the chance of any possible negative implications for the campaign.

There was a deep mistrust of ZEC expressed by opposition parties and civil society and the MDC-A held protests demanding electoral reforms. The party presented a petition to ZEC with "*urgent electoral demands*" and declared that it would escalate protests if its demands were not responded to. The protests passed peacefully but were marked by abusive language by some protestors against the Chair of ZEC and threats by opposition leaders that elections would not take place, which contributed to an increase in pre-election tension. Assertions by MDC-A leaders that any result in favour of their opponent must be a rigged result also caused tensions.

While the 2013 Constitution sets out a wide-ranging catalogue of fundamental freedoms, legislation has not been brought into line with it. Political freedoms of assembly and expression have, in the past, been subject to arbitrary restriction.[7] This history has been used as an intimidatory tool in the campaign by some candidates, politicians and supporters, stirring fears among the population about state sponsored post-election violence, for example by referring to the murder and mayhem surrounding the second round of the 2008 presidential elections.[8] EU observers around the country reported an increase in tension closer to the elections and also reported on threats of violent consequences after the election should voters not vote in favour of ZANU-PF.

There were various cases of inducement, coercion, and so-called "*smart intimidation*" reported to and observed by EU observers, mainly in rural areas. The lack of legal measures to ensure a level playing field impacted on the fairness of the campaign. EU observers reported an extensive use of state resources and advantage of incumbency across the country. State developments projects, such as Command Livestock and Command Agriculture, were announced at ZANU-PF campaign rallies and were widely publicised in the media.[9] The distribution of the Presidential Input Scheme (fertilisers and seed) commenced in June, several months earlier than usual, which was cited by different stakeholders as an example of inducement. Domestic observer organisations identified food aid or equipment given out at rallies as the most widespread form of misuse of state resources in the campaign, followed by the use of government vehicles, buildings and officials.[10] EU observers reported that voters in resettlement areas

[7] The Public Order and Security Act, and the Access to Information and Protection of Privacy Act, were used to restrict political gatherings, peaceful protests and freedom of expression, through restraining public events and offering a foundation for the arrest of those attempting to express political views in public.

[8] EU observers reported an increase in references to the 2008 election violence at campaign rallies and social events. For example on 16 July, at a ZANU-PF rally in Shale, Umzingwane district, Matabeleland South, the National Assembly candidate stated "*Vote wisely, vote right. There is no room for mistakes like in 2008. Let there be no repeat of that.*" On 3 July in Guruve South, Mashonaland Central, ZANU-PF supporters were singing "*Tell them to vote for ZANU-PF unless they want war. If they are not going to vote for ZANU-PF, we are going to start war*", a song used in the 2008 elections. The use of similar intimidatory language and songs was observed by EU observers in Manicaland and Masvingo.

[9] On 22 June, President Mnangagwa launched Command Livestock in Gwanda, Matabeleland South, handing over 660 heifers, just before he addressed a rally. *The Herald* on 14 July reported that the President has given 1,440 cattle to the farmers in the Matabeleland North at a rally the day before. "*Government has given 18,000 tons of maize to Mashonaland Central*", the *Herald,* 13 July 2018. *The Herald* of 15 June, reported that the Presidential Inputs Scheme targeting 1.8 million smallholder farmers "*has this year been launched earlier (on 13 June) than in previous years to allow smallholder farmers ample time to prepare for the 2018/2019 season*".

[10] Report of the Zimbabwe Electoral Support Network on *Pre-Election Political Environment and Observation of Key Electoral Processes,* July 2018. EU observers reported that ZANU-PF structures and members played a key role in the distribution of food. Voters were reportedly threatened with exclusion from the input schemes if they did not vote for the ruling party.

appeared to be particularly vulnerable to coercive practices attributed to traditional leaders and local administration related to their lack of land ownership and dependency on state structures.

There was concern regarding the role of traditional leaders in the campaign, with numerous reports of chiefs publicly supporting ZANU-PF, attending their rallies and in some cases obstructing opposition rallies in their communities.[11] Incentives had been given to chiefs and some church leaders, who officially endorsed the ZANU-PF campaign. Different sects of the apostolic church, for example, which have numerous followers all over the country, prophesised victory for President Mnangagwa. The ruling party gave them donations and used their mass ceremonies for campaign purposes. There is also evidence that people, including children and their teachers, were forced to participate in political rallies[12] and school premises and properties were used for campaign purposes. Serious concerns regarding perceived or actual violations of the secrecy of the vote were also raised. EU observers reported on people (especially the elderly) being approached by individuals asking for voter registration slips and pretending that they would be able to follow their vote through the new BVR system. Such reports are consistent with findings of the Zimbabwe Human Rights Commission and civil society organisations.

Overall, these reported cases of intimidation and coercion violated the purpose and main principles of the *Code of Conduct*.[13] The MPLCs were established too late to effectively deal with violations of the campaign regulations and mechanisms for monitoring and sanctioning non-compliance with the Code were *de facto* non-existent. The main infraction prosecuted has been the destruction of posters.

There was a huge disparity in campaign financing. ZANU-PF dominated all forms of campaigning across the country, including through billboards, posters, distribution of regalia, rallies and road shows. The Political Parties (Finance) Act does not include any provisions on campaign expenditure. Although foreign funding is prohibited there is no ceiling on campaign contributions or disclosure requirements for donations. Further, there is a complete absence of reporting requirements and transparency mechanisms, resulting in a lack of accountability for campaign finance.

6 Media

Media operated in a generally free environment, but overwhelming bias in state media meant legal provisions for fair and balanced reporting were not respected

The media landscape in Zimbabwe is largely dominated by state-owned or controlled media, with very little presence of the private sector. Allocation of broadcasting licenses has so far benefitted only radio stations directly or indirectly linked to the government and community radio stations are still to be licensed. The legal framework for media, while providing for fundamental rights, needs improvement. Laws such as the Access to Information and Protection of Privacy Act, the Broadcasting Services Act and the Public Order and Security Act contain provisions which are not in line with fundamental freedoms

[11] Section 281(2) of the 2013 Constitution provides that traditional leaders must act in a politically neutral way. Similar rules apply for District Administrators, Section 200(3). The High Court found that the President of the National Council of Chiefs, Fortune Charumbira, acted unconstitutionally in urging traditional leaders to support ZANU-PF.

[12] Video evidence circulated on social media showing police and the authorities preventing people from leaving a presidential rally in Bindura (Mashonaland Central), which was also observed by EU observers. EU observers reported similar cases in Chimanimani West (Manicaland) and Chinhoyi (Mashonaland West).

[13] The Code's purpose is to create "*a climate of tolerance in which electioneering activity may take place without fear of coercion, intimidation and reprisals*". The Code includes stipulations that there should be: no violence; no intimidation, fear and bribery; balanced media coverage; freedom of movement; and no incitement to violence or hate speech. All political parties are required to inform their members about the Code, to supervise their compliance with it and to initiate disciplinary measures in case of non-compliance.

included in the Constitution such as freedom of expression, freedom of the media and access to information.

Media operated in a generally free environment and only a very limited number of cases of journalists injured or harassed were registered by the EU EOM during the observation period. The environment in the traditional media remained polarised, and in social media some instances of abusive language and personal attacks were observed, especially in the lead-up to the elections.

Overall, election coverage in the media was not pluralistic. While print and electronic media at national and provincial levels made efforts to provide some coverage to minor parties, ZANU-PF and the MDC-Alliance largely dominated the election-related information presented to voters. In accordance with the Electoral Act, the state broadcaster Zimbabwe Broadcasting Corporation (ZBC) afforded free access to political contestants through various programmes ("The Manifesto", "The Candidate" and "The Debate") aired on state-owned TV and radio stations. Nevertheless, ZBC failed to abide by its legal obligation to ensure equitable and fair treatment of all political parties and candidates in its news and current affairs programmes.

EU EOM media monitoring[14] shows biased coverage by the state-owned media in favour of the ruling party, which received a total of 84.9%, 81.8% and 76.5% of election-related coverage (airtime) on ZTV, Radio Zimbabwe and Classic 263, respectively. Qualitatively, 44.5%, 14.4% and 10.2% of that coverage were reports portraying ZANU-PF in a positive tone, while 47%, 20% and 26.5% of the coverage was received by MDC-Alliance in the aforementioned media was reports in a negative tone. Furthermore, ZANU-PF and its presidential candidate benefited from extensive additional coverage on ZBC through news on government achievements and live broadcasting of activities conducted by Emmerson Mnangagwa as Head of State.

Government-controlled newspapers *The Herald* and *The Chronicle* also heavily favoured ZANU-PF, by allocating 62.8% and 64.8%, respectively, of their electoral coverage to the ruling party. While 43.5% of the reports about ZANU-PF in both newspapers were presented in a positive tone, 59.3% of the coverage received by MDC-Alliance in *The Herald* and *The Chronicle* portrayed the opposition party in a negative tone. Such unbalanced reporting also characterised the coverage by private newspapers in favour of MDC-Alliance. Some news and opinion articles published by *The Herald*, *The Standard* and *Newsday* on 29 and 30 July violated the campaign silence period. Both ZANU-PF and MDC-A presidential candidates violated campaign silence period by sending out campaign messages on 29 July, through Facebook and in the course of a press conference, respectively.

ZEC, supported by the Broadcasting Authority of Zimbabwe and the Zimbabwe Media Commission, fulfilled its mandate to monitor media, but was ineffective in ensuring fairness and equitable coverage by broadcasters and publishers. The legal provisions in this regard lack a realistic mechanism for enforcement, as the Electoral Act confers limited power on ZEC to actually deal with media violations.

7 Participation of Women

Affirmative measures for the representation of women mean women are present in parliament, but the number of women put forward as candidates by political parties remains very low

[14] From 25 June to 30 July the EU EOM monitored all election-related news/programmes published/broadcast by ZTV, Radio Zimbabwe, Classic 263, Star FM, ZiFM, *The Herald*, *The Chronicle*, *The Sunday Mail*, *NewsDay*, *Dailynews*, *The Standard* and *The Zimbabwe Independent.* TV/radio broadcasts monitored from 06:00h to 23:30h.

A large number of women have been elected to parliament. This is due to two measures of affirmative action included in the 2013 Constitution. Sixty of the 270 seats in the National Assembly are reserved for women, while party lists for the 60 [15]seats in the Senate are headed by women and list women and men alternately. One of the two senators to represent persons with disabilities also must be a woman.

Political parties did not, however, nominate women in significant numbers as candidates. In the direct election for 210 seats in the National Assembly, only 14.75% of the candidates were women. Women were nominated in just 126 of the 210 constituencies. Not a single member elected to the National Council of Chiefs is female and it is anticipated that none of the 18 senators elected to represent them will be female either. There are no special measures applicable to women in local authority elections, and women comprised just 17% of the candidates in those elections. Yet women comprise 52% of the population and 54% of the registered voters nationwide.

Some aspects of this election have represented progress towards the advancement of the participation of women. Amendments to the Electoral Act required that a gender perspective be mainstreamed in the work of ZEC and of election observers. Four of the 23 presidential candidates were women, the first time there had ever been a female candidate for this office. During the campaign, however, gender stereotypes were visible, focusing on the social role of women rather than on their leadership capacity. There was much denigration of the personal morality of women, with a political environment which could be characterised as inherently hostile towards women.

8 Participation of Persons with Disabilities

Persons with disability have reserved representation, but further administrative reform could help improve their access to a secret ballot

Zimbabwe acceded to the Convention on the Rights of Persons with Disabilities in 2013, but has yet to give effect to the Convention in domestic law. While the Constitution prohibits unfair discrimination on disability grounds, the provision is heavily circumscribed, and there is no explicit guarantee of the political rights of persons with disabilities. Prevailing legislation, the Disabled Persons Act, 1992, reflects a welfare, rather than a rights-based, perspective. There is, however, a measure of special representation for persons with disabilities in the Senate, with a woman and a man from this community chosen by an electoral college to represent the sector.

Difficulties in gaining access to polling stations were observed in 10% of polling stations visited by the EU EOM on Election Day. Representing a progressive innovation, polling booths with low ledges were provided in a large portion of polling stations observed by the EU EOM, in a measure to facilitate the participation of wheel-chair users.

Secrecy was not accorded to persons with visual impairments, as companion intervention had to be relied upon to vote, rather than the use of Braille or assistive technology. The High Court ruled, in advance of the election, that Braille was impractical as levels of Braille literacy are low amongst those with visual impairments. Persons with disabilities themselves advocate an absolute vindication of their right to a secret ballot.

[15] The Senate comprises 60 members elected on party lists, plus 18 senators representing the Council of Chiefs and two representing persons with disability.

9 Polling and Counting

Reasonably well-managed and peaceful voting and counting process in polling stations, some queue mismanagement and results not posted in some instances

On Election Day, EU observers reported from some 600 polling stations in 154 constituencies. The overall assessment of polling was positive with only nine polling stations assessed performing poorly/badly, while the rest was evaluated as good or very good. Polling stations mostly opened on time and voting was conducted in a peaceful atmosphere around the country, with long queues in many places, causing some organisational challenges. Observers reported that voting procedures were largely followed, with the secrecy of the ballot ensured in almost all of the visited polling stations. EU observers reported the presence of party agents in all of visited polling stations and domestic observers in 71% of visited places. EU observers also reported that in most places ZEC staff in polling stations worked extremely hard and diligently to process voters and that voters had a reasonable understanding of the voting process. Some intimidatory practices were also observed outside and around some polling stations.

EU observers reported a high degree of assisted voting in some places and also of voters not finding their name on voter lists in some 22% of polling stations visited, indicating problems with the voter roll and/or voter awareness. In 28% of the polling stations visited voters were not always checked for ink and in 6 % voters were not always marked with indelible ink. The quality of the ink was also somewhat lacking. Observers also reported some challenges for election staff with poor lighting, particularly in polling stations using tents.

Counting was observed in a total of 52 polling stations. EU observers reported that they were able to follow the counting of ballots without undue restriction in the presence of party agents and citizens observers. Counting was observed to be overall well organised, although very slow. Some problems in ballot reconciliation, in determining valid and invalid ballots, in completing the numerous originals of return forms and in packing election materials for the three elections were noted. EU observers reported that the results were not posted at the polling station in 10 out of the 52 polling stations observed.

10 Preliminary Conclusion

The elections were competitive, the campaign was largely peaceful and, overall, political freedoms during the campaign, including freedom of movement, assembly and speech, were respected. However, the misuse of state resources, instances of coercion and intimidation, partisan behaviour by traditional leaders and overt bias in state media, all in favour of the ruling party, meant that a truly level playing field was not yet achieved, which negatively impacted on the democratic character of the electoral environment. More specifically, we will come back to these issues in our final report.