



EUROPEAN UNION  
ELECTION OBSERVATION MISSION

# FINAL REPORT

## The GAMBIA



### National Assembly Elections 6 April 2017



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## TABLE OF CONTENTS

<b>LIST OF ACRONYMS</b> .....	<b>3</b>
<b>I. EXECUTIVE SUMMARY</b> .....	<b>4</b>
<b>II. INTRODUCTION</b> .....	<b>9</b>
<b>III. POLITICAL BACKGROUND</b> .....	<b>9</b>
<b>IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM</b> .....	<b>11</b>
A. Universal and Regional Principles and Commitments.....	11
B. Electoral Legislation .....	11
C. The Electoral System .....	13
<b>V. ELECTION ADMINISTRATION</b> .....	<b>14</b>
A. Structure and Composition.....	14
B. The Administration of Elections .....	14
<b>VI. DELIMITATION OF CONSTITUENCIES</b> .....	<b>15</b>
<b>VII. VOTER REGISTRATION</b> .....	<b>16</b>
<b>VIII. REGISTRATION OF POLITICAL PARTIES AND CANDIDATE NOMINATION</b> .....	<b>17</b>
A. Registration of Political Parties.....	17
B. Candidate Nomination .....	18
<b>IX. CIVIC AND VOTER EDUCATION</b> .....	<b>18</b>
<b>X. CAMPAIGN ENVIRONMENT</b> .....	<b>19</b>
<b>XI. CAMPAIGN FINANCE</b> .....	<b>21</b>
<b>XII. MEDIA AND ELECTIONS</b> .....	<b>22</b>
A. Media Environment.....	22
B. Legal Framework for Media.....	22
C. Legal Framework for Campaign Coverage.....	24
D. EU EOM Media Monitoring .....	24
<b>XIII. DOMESTIC AND INTERNATIONAL OBSERVERS</b> .....	<b>26</b>
<b>XIV. PARTICIPATION OF WOMEN</b> .....	<b>26</b>
<b>XV. PARTICIPATION OF PERSONS WITH DISABILITIES</b> .....	<b>27</b>
<b>XVI. ELECTORAL JUSTICE</b> .....	<b>28</b>
A. Electoral Offences.....	28
B. Complaints and Appeals .....	28
C. Election Petitions .....	29
<b>XVII. ELECTION DAY AND ANNOUNCEMENT OF THE RESULTS</b> .....	<b>29</b>
A. Opening and Voting .....	29
B. Counting and Tabulation .....	30
C. Announcement of Election Results.....	30
<b>XVIII. POST-ELECTION DAY DEVELOPMENTS</b> .....	<b>31</b>
<b>XIX. RECOMMENDATIONS</b> .....	<b>34</b>
<b>ANNEX I Table of Recommendations</b> .....	<b>38</b>
<b>ANNEX II Election Results</b> .....	<b>54</b>
<b>ANNEX III Media Monitoring Results</b> .....	<b>57</b>

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Report released:

September 2017  
Banjul, The Gambia

## LIST OF ACRONYMS

ACDEG	African Charter on Democracy, Elections and Governance
ACHPR	African Charter on Human and Peoples' Rights
APRC	Alliance for Patriotic Reorientation and Construction
AU	African Union
AU CPCC	African Union Convention on Preventing and Combating Corruption
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRPD	Convention on the Rights of Persons with Disabilities
DPFEA	Declaration of Principles for Freedom of Expression in Africa
ECOWAS	Economic Community of West African States
ECOMIG	ECOWAS Military Intervention in The Gambia
EU EOM	European Union Election Observation Mission
GDC	Gambia Democratic Congress
GMC	Gambia Moral Congress
GMD	Dalasi. (The Gambian monetary nomination)
GPDP	Gambia Party for Democracy and Progress
IEC	Independent Electoral Commission
ICCPR	International Covenant on Civil and Political Rights
ICCPR GC	International Covenant on Civil and Political Rights General Comments
MEP	Member of the European Parliament
MP	Member of Parliament
NA	National Assembly
NAM	National Assembly Member
NCP	National Convention Party
NRP	National Reconciliation Party
NTYTR	Not Too Young To Run
PDOIS	People's Democratic Organisation for Independence and Socialism
PPP	People's Progressive Party
TTB	Team Tahawal Banjul
UDP	United Democratic Party
UDHR	Universal Declaration of Human Rights
UN CAC	United Nations Convention against Corruption

## I. EXECUTIVE SUMMARY

On 6 April 2017, The Gambia held its first National Assembly elections since the end of 22 years of authoritarian rule under President Yahya Jammeh. Following an invitation from the Government of The Gambia and the Independent Electoral Commission (IEC), the European Union Election Observation Mission (EU EOM) was present in The Gambia from 13 March to 26 April 2017. The Mission was led by Chief Observer Miroslav Poche, a Member of the European Parliament (MEP). In total, the EU EOM deployed 56 observers from 27 EU Member States, as well as from Norway and Switzerland, across the country to assess the entire electoral process in accordance with the international and regional obligations and commitments to genuine and transparent elections and the laws of The Gambia.

The last National Assembly elections, held in 2012, were largely boycotted by the opposition. Prior to the 2016 presidential election, seven political parties and an independent candidate formed the *Coalition 2016*, backing Adama Barrow, a former deputy treasurer of the United Democratic Party (UDP), as an independent candidate. President Barrow won the single round presidential election with 43.3 per cent of the votes, against 39.6 for the then incumbent President Jammeh of the Alliance for Patriotic Reorientation and Construction (APRC). Mamma Kandeh, of the newly formed Gambia Democratic Congress (GDC), received 17 per cent of the votes. President Jammeh initially accepted but subsequently rejected the election results. Following domestic and international pressure, Jammeh went into exile on 21 January 2017, after several weeks of political stalemate under high tension. President Barrow was initially sworn in to office at the Gambian Embassy in Dakar, Senegal, on 19 January and was inaugurated a month later in Banjul. A government was then formed integrating representatives of the Coalition 2016.

The National Assembly is comprised of 58 members. 53 Members of the unicameral National Assembly are elected for a five-year mandate through the first-past-the-post (FPTP) system in single-member constituencies. A review of the constituency boundaries in 2015 increased the number of elected members in parliament from the then 48 to 53. Five additional members are appointed by the president.

The nomination of candidates took place between 9 and 12 March and resulted in a total of 239 candidates representing all nine registered political parties, as well as 42 independent candidates. No candidate nominations were rejected by the IEC. Only 20 among the nominated candidates were women (8.4 per cent). The political parties of the Coalition 2016 decided to present candidates under the banners of their individual political parties.

On 7 April, the IEC announced the overall results of the National Assembly elections. The UDP won 31 seats, falling just short of a two-thirds majority. This was followed by the former ruling party APRC with 5, the GDC with 5, the NRP with 5, PDOIS with 4, PPP with 2 and a single independent candidate.

The legal framework provides an adequate basis for the conduct of elections which are in line with the international obligations and commitments of The Gambia. The broader legal system within which the electoral framework operates has, however, been severely compromised in recent years. The rule of law has been significantly undermined, particularly through a progressive erosion of the independence of the judiciary. The Gambia is a State Party to most international legal instruments which relate to human rights and the conduct of elections, much of which were entirely ignored by the previous Gambian government.

The legal rules relating to the National Assembly elections are to be found across a plethora of legal instruments. Many areas of law are not well regulated, however, with a dearth of subsidiary legislation. There are practical problems with access to legal instruments and the dissemination of legal texts in The Gambia.

The IEC is a constitutional body led by a five-member commission. All its members, including the chairperson, are appointed by the president. Only one of the five IEC commissioners is a woman. The Constitution imposes vast responsibilities on the IEC including the registration of voters, the conduct of a continuous programme of voter education, oversight of the campaign, and ensuring that each candidate is given equal time on public radio and television. In addition, political parties must submit their audited annual accounts to the IEC. Such a plethora of tasks could overburden the IEC.

The IEC does not command its own budget and the current financial mechanisms do not guarantee the IEC's independence. The IEC has permanent offices in each of the seven regions. These regional offices lack safe storage facilities as well as electricity and effective means of communication. The IEC enjoyed broad public confidence among political parties and other stakeholders due to its legacy from the 2016 presidential election, where it defended the election results despite pressure from the authorities. The IEC did not, however, conduct meetings with political parties or candidates during the election campaign period. Despite the legal authority for the IEC to issue rules and procedures until six months ahead of elections, the IEC did not issue any additional written procedures on counting and collation for this election, beyond the handbook for polling officials. The IEC generally managed this electoral process successfully. However, a lack of transparency still characterised the workings of the IEC.

The Constitution provides for the right to vote of all citizens, of eighteen years of age, with a requirement of either birth or residence in the constituency of registration. The IEC used the same voter register as for the December 2016 presidential election. This decision disenfranchised otherwise eligible voters who had turned 18 years of age between 1 December 2016 and 6 April 2017. In 2016, the IEC conducted a voter registration update ahead of the 2016-2018 election cycle but no deletions of entries, or changing of entries of voters who had moved to different places of residence, were facilitated. The IEC recorded 89,649 new entries resulting in a total of 886,578 registered voters. A significant number of deceased persons remain on the voter register. While the voter register needs improvement, political parties accepted the validity of the voters' roll for these transitional elections.

The 2015 Elections (Amendment) Act substantially increased the legal requirements for the registration of political parties. These requirements seem excessive and unreasonably limit the freedom of association. There are no undue restrictions on being nominated as a candidate. The vast discrepancy in the number of voters per constituency falls far short of ensuring the equality of the vote. A total of 49 of the 53 constituencies deviated by more than 15 per cent from the national average of 16,728 voters per constituency, with the largest constituency having 23 times as many voters as the smallest one.

Given the contemporary history of The Gambia, there is much need for both civic and voter education. However, only limited funding and time were available. Voter education ahead of the elections started late, and lacked coordination with the public broadcaster The Gambia Radio and Television Services (GRTS). Voter education was also conducted by civil society organisations (CSOs), including a voter sensitisation campaign carried out through community and school outreach as well as radio messages. No voter information or editorial programmes or articles were aired or printed, in the media monitored by the EU EOM, aimed at advancing the political participation of persons with disabilities.

The freedoms of assembly and expression of candidates were well respected during the election campaign. Political parties, as well as citizens, expressed themselves freely on political matters without fear of persecution. The three-week campaign period started on 15 March and ended on 4 April. All applications to conduct rallies were granted by the IEC. The unprecedented number of candidates led the IEC to allow campaign events late into the night. The EU EOM observed 44 campaign events in all seven regions. The campaign environment was calm in all regions of the country, with only a few minor incidents reported in the Greater Banjul Area and one in Kombo East. In a historic first, candidates held debates both in public places and in the media. Many rallies included question and answer sessions offering attendees the opportunity to interact with the candidates.

Candidates focussed on national socio-economic development and on the improvement of living conditions within their constituencies. Most of the Coalition 2016 parties emphasised their affiliation with the Coalition. The GDC and the APRC expressed concerns over this use of the Coalition brand. The IEC instructed candidates to refrain from mentioning the Coalition 2016 in their campaigning or they would face the risk of revocation of candidature. The IEC request was largely ignored, but no further action was taken. On March 14, the Minister of Information issued a statement prohibiting any use of government resources for partisan politics. The misuse of administrative resources, that had characterised Gambian elections in the past, was not observed.

From 23 March to 2 April, the President undertook a constitutionally mandated tour, officially intended to thank the population for his election and to solicit voters' continued support for the Coalition 2016. The President's nationwide tour had an impact on the campaign as it took prominence over other events and was disproportionately covered by the media. The timing of the tour was subject to much criticism but no formal complaints were dealt with. The president was accompanied by government ministers who alternated in the different stopovers. The Gambian security forces and ECOMIG troops were used to secure the presidential convoy of government vehicles. The EU EOM observed the president endorsing candidates of parties affiliated with the Coalition 2016 during his speeches in different regions.

A significant lacuna in the legal framework is the absence of any meaningful regulation of campaign and political party finance. Campaign finance is very lightly regulated, characterised by an absence of legal provisions to restrain the undue impact of money in the electoral process.

The Gambian media is undergoing a momentous liberalisation and media practitioners were able to exploit the newly acquired freedom of expression. However, the legal framework, as inherited from the previous regime, undermines freedom of expression and speech, although it is currently not applied. Citizens', including media practitioners', right to information is not protected. There is no independent regulatory body for media, as there are no legal safeguards for public broadcaster editorial and financial independence. Consequently, The Gambia's regional and international commitments remain unfulfilled.

All media outlets strove to provide a level playing field throughout the campaign period, applying a variety of genres, including debates among candidates. Online news sites and social media challenged traditional media's at times self-referential narrative and community radios were instrumental in introducing candidates to the electorate. However, poor financial standing, dilapidated equipment and lack of professionalism limited media's editorial output and curbed voters ability to make a fully informed choice.

The news segments on the public The Gambia Radio and Television Services (GRTS) were dominated by the presidential tour and government ministers' institutional activities. Commercial radio stations' news followed a similar pattern. Such allocation of time distorted the fairness of campaign coverage within the news that *per se* requires higher standards of neutrality, balance and separation between political actors' executive duties and campaigning. The overall tone within the news segments was neutral.

GRTS TV allotted 33 per cent of its news coverage to the president and 61 per cent to the government. GRTS radio allotted 81 per cent of news to the president and a further 13 per cent to the government. In the positive, GRTS news reports were neutral and brief, yet they relayed the president's promises of sustainable development. Such allocation of time distorted the fairness of campaign coverage within the state broadcasters' news segments that *per se* require high standards of neutrality, balance and separation between political actors' executive duties and campaigning. The overall tone across commercial media news was neutral. Community FM radio stations were instrumental in introducing candidates to the population and in conveying voter information.

There is an extensive catalogue of electoral offences set out in the law. Not a single prosecution of an electoral offence was undertaken. There were some arrests on criminal charges of assault, which were election related, although not specified as electoral offences in the charges. This undermines the



accountability of candidates and political parties for the actions of their supporters. Objections to candidate nominations were effectively impossible. An objection period was provided for on the day after the close of nominations, while the law requires even less, mandating just a period of a few hours for objections. Disputes which arose during the campaign were dealt with through informal system of mediation and reconciliation, reflecting the general approach to dispute resolution in The Gambia.

The political and legal realities of the last two decades have had the result that there is no recent culture of contesting election results, or indeed of any recourse to the law during the electoral process. Nonetheless, the legal jurisdiction for election petitions after the declaration of results exists, with responsibility attributed exclusively to the Supreme Court. This court had not sat for two years prior to the election campaign period, and, comprised of just a single member, was not functioning during the election period. Nonetheless, election petitions could, technically, have been filed for future adjudication, but none were submitted.

The IEC conducted polling and counting in a transparent and orderly manner. On election day, the EU EOM observed voting procedures at 222 polling stations, representing 16 per cent of all polling stations across all seven regions of the country. Voting procedures were simple, without advance, postal, mobile or out-of-country voting. Registered voters could vote only in the polling stations where they were registered. Polling was conducted from 8:00 to 17:00 hours, in all 1,422 polling stations. EU observers assessed the conduct of polling positively in 98 per cent of polling stations visited. Counting at the polling stations was conducted in a quick and accurate manner, in full view of candidates' agents and observers. However, collation at the seven regional collation centres lacked clear procedures, organisation and transparency.

The legal framework lacks details concerning the announcement of results. All elected members of the National Assembly were announced by 9:00 am the morning after the elections. The results provided by the IEC were initially only broken down to constituency level with no individual polling station results displayed on the IEC website nor made available to political parties or candidates. A total of 379,320 valid votes were cast, resulting in a voter turnout of 42.8 per cent. The December 2016 presidential election had a voter turnout of 59.3 per cent. Several civil society organisations actively engaged in election observation and election-related conflict monitoring and voiced no grave concerns.

On 11 April members of the National Assembly were sworn in after the Speaker and Deputy Speaker were elected. Following the provisions of the Constitution, both the speaker and the deputy speaker were elected from among the five National Assembly members nominated by the president.

While election day was marked by peace and calm, a few disorderly incidents occurred subsequently. On 7 April, clashes between UDP and GDC supporters took place in Sandu constituency following the proclamation of the victory of the UDP candidate with just 14 votes more than the GDC. On the same day, violence occurred between the UDP and the APRC supporters in Foni Bintang constituency. On 20 April, an incident occurred between members of the Gambian Army and the ECOMIG forces in the village of former president Jammeh in Foni Kansala constituency

Enhancement of several aspects of the electoral process is required for the full realisation of the fundamental rights of individuals and groups, as provided for in the applicable international and regional commitments to democratic elections of The Gambia. In this regard, the following priority recommendations are offered, for consideration and action, to the Government of The Gambia, the IEC, political parties, civil society and the international community. Discussion on implementation of all recommendations should be undertaken as expeditiously as possible in order to address the shortcomings identified in the 2017 electoral process in a timely manner. A detailed table of recommendations can be found in Annex I to this report, while the priority recommendations are listed below:

1. Revise the legal requirements for registration as a political party.
2. Strengthen the institutional independence of the IEC by: establishing an inclusive mechanism for the selection and appointment of the IEC Chairperson and Commissioners; by ensuring the security of the IEC Commissioners' tenure; and by providing the IEC with full sovereignty over its budget; as well as a legal requirement for the IEC Commission to make joint decisions, particularly on results.
3. Establish clear and coherent procedures for polling, counting, result transfer, and collation, in conjunction with the introduction of improved security measures of result and collation forms; as well as provide timely, participatory training of election staff and candidate agents on these procedures.
4. Establish the Boundaries Commission and enact legislation outlining the criteria for the demarcation of constituency boundaries, impartially and transparently, ensuring the equality of the vote, with legally binding permitted deviations from the national average number of voters per constituency.
5. Establish an accurate voter register and provide citizens with timely opportunities to register as voters, to update voter registration entries in case of error or change of place of residence, to remove deceased and other unqualified persons' entries, with adequate time for display and challenge.
6. Deliver extensive and continuous civic education which would ensure that all citizens are informed of their rights as citizens and voters. They would also be made aware of the role of elected institutions and of the main aspects of governance. Special programmes aimed at youth, women and persons with disabilities could also be developed and implemented. CSOs could play an active role in the promotion and implementation of these activities.
7. Confer the power to conduct effective campaign finance oversight on the IEC or on a yet-to-be-established anti-corruption body. The respective body should be granted sufficient powers to monitor and enforce rules on campaign finance. To enhance transparency, financial reports of all parties and candidates could be published before and after the campaign period.
8. Amend the legal framework for traditional and online media regarding content limitations and registration procedures; decriminalise defamation and lift online media's liability for third-party content, consequently bringing the overall legal framework into line with The Gambia's international commitments regarding freedom of expression.
9. Establish legal safeguards for the public service broadcaster's editorial independence and financial autonomy.
10. Introduce legal requirements, such as mandatory quotas, for political parties to apply affirmative action gender policies within their parties, in terms of integrating women into party structures and selecting women as party candidates. Such policies can be particularly effective when using the bottom-up approach. Enforcement measures could be linked to the ongoing registration of the political party. In any revision of the electoral system, introduction of quotas for female candidates could be considered.
11. The introduction of a detailed complaints procedure, with reasonable time limits for adjudication, should be considered. The procedure could regulate matters such as when, in what format and to which institution, complaints would be submitted and how they would be adjudicated upon.

## II. INTRODUCTION

Following an invitation from the Government of The Gambia and the Independent Electoral Commission, the European Union Election Observation Mission was present in The Gambia from 13 March to 26 April 2017. The Mission was led by Chief Observer Miroslav Poche, a Member of the European Parliament (MEP). In total, the EU EOM deployed 56 observers from 27 EU Member States, as well as from Norway and Switzerland, across the country to assess the entire electoral process in accordance with international and regional obligations and commitments to genuine and transparent elections and the laws of The Gambia. A delegation from the European Parliament, headed by Jean Lambert MEP, also joined the mission to observe election day.

The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation commemorated at the United Nations in October 2005. This report presents a detailed assessment of the findings of the EU EOM on the various stages of the electoral process, and, based on these findings, includes a series of recommendations for the improvement of the process in future elections.

The EU EOM expresses its appreciation to the Government of The Gambia, the IEC, political parties, civil society, media, as well as the people of The Gambia, for their cooperation and assistance in the course of the observation mission. The EU EOM is grateful to the Delegation of the European Union to The Gambia and the European Union Member States' diplomatic missions accredited to The Gambia for their support throughout.

## III. POLITICAL BACKGROUND

On 6 April 2017, The Gambia held its first National Assembly elections following 22 years of authoritarian rule by President Yahya Jammeh. The holding of the elections was a second fundamental element in the transition which started after the presidential election of December 2016.

Prior to the presidential election, seven political parties (UDP, PDOIS, NRP, PPP, GMC, GPD, NCP) and an independent candidate (Isatou Touray) formed the *Coalition 2016*, backing Adama Barrow, a former deputy treasurer of the United Democratic Party (UDP), as an independent candidate. President Barrow won the presidential election with 43.3 per cent of the votes, against 39.6 for the then incumbent President Jammeh. Mamma Kandeh, of the Gambia Democratic Congress (GDC), received 17 per cent of the votes.

The 2016 presidential election was followed by a political impasse. Jammeh initially accepted the results and agreed to transfer power to Barrow. However, he subsequently rejected the election results and refused to leave office shortly thereafter. Under domestic and international pressure, and notably the threat of military intervention by the Economic Community of West African States (ECOWAS), Jammeh left the country for exile in Equatorial Guinea on 21 January, after several weeks of political stalemate under high tension. Barrow was initially sworn in to the office of President at the Gambian Embassy in Dakar on 19 January and was inaugurated a month later in Banjul.

The subsequent formation of a government integrating representatives of the Coalition 2016 brought about confidence in the electoral process. Political space was opened up for competitive elections. In 2017, The Gambia held its fifth National Assembly Elections since 1997, when the National Assembly, under the new constitution of 1997, had replaced the previous Westminster parliamentary style system.

The members of the unicameral National Assembly are elected for a five-year mandate through the first-past-the-post (FPTP) system in single-member constituencies. The National Assembly currently comprises 58 seats. A review of the constituency boundaries in 2015 increased the number of elected members in parliament from the then 48 to 53 members. Five additional members are appointed by the president.

The last National Assembly elections, held in 2012, were largely boycotted by the opposition. At the time, the then ruling Alliance for Patriotic Reorientation and Construction (APRC) party won 42 of the 48 elected constituency seats, 25 of which it gained unopposed. The six other members of the National Assembly comprised two from the National Reconciliation Party (NRP) and four independents. In 2017, for the first time, all the 53 single-member constituencies were contested, with 197 candidates from all nine registered political parties and 42 independent candidates running for office.

The seven political parties of the Coalition 2016 decided, after difficult negotiations, to present candidates under the banners of their individual political parties. The UDP approach was supported by the NRP and the Gambia Moral Congress (GMC). The People's Democratic Organisation for Independence and Socialism (PDOIS) and the People's Progressive Party (PPP), however, would have preferred the strategy of putting forward independent candidates under the Coalition 2016 banner, following the model of the presidential election. The UDP's 'Tactical Alliance' approach, agreed by the parties, entailed that only one political party from Coalition 2016 were to present a candidate per constituency. However, the parties disagreed on the number of constituencies to allocate to the different parties. Each party therefore presented candidates in their perceived strongholds, based also on their financial capacity. The UDP presented the largest number of candidates covering 44 constituencies, followed by the NRP with 24. The PDOIS presented candidates in 22 constituencies. The PPP presented 14 candidates and the GMC, the Gambia Party for Democracy and Progress (GPDP), and the National Convention Party (NCP) presented five, four and three candidates, respectively. Ultimately, candidates *de facto* supported by such a tactical alliance competed in just 15 of the 53 constituencies.

Political parties informed the EU EOM that their selection of candidates was conducted through primary elections in constituencies with more than one aspiring candidate. This exercise was conducted at constituency level and was presided over by the executive members, though voters came from village structures. Neither the PPP nor the NCP held primaries as their aspirant candidates were not challenged.

The APRC, the former ruling party, presented candidates in only 29 constituencies. In the weeks that preceded the elections, the party leadership repeatedly expressed concerns over the allegedly unfair treatment of party supporters by the security forces. They also expressed anxiety that the presence of ECOMIG and Gambian troops in their strongholds might negatively affect voter turnout. This did not materialise as the turnout figures in the five constituencies in the Foni area were among the highest in the country.

The GDC, the party of the presidential candidate Mamma Kandeh, was founded prior to the 2016 presidential election. Despite being relatively new, the GDC presented the largest number of candidates, contesting 52 out of 53 constituencies. During the National Assembly election campaign period, the GDC repeatedly denounced the alleged misuse of the Coalition 2016 brand and of President Barrow's image by the parties affiliated with the Coalition. They also criticised the alleged misuse of state resources by President Barrow on his country-wide tour.

On 7 April, the Independent Electoral Commission announced the results of the National Assembly elections. The UDP won 31 seats, falling just short of a two-thirds majority. This was followed by the APRC with 5, the GDC with 5, the NRP with 5, PDOIS with 4, PPP with 2 and a single independent candidate.

## IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

### A. Universal and Regional Principles and Commitments

The Gambia is a State Party to most international legal instruments which relate to human rights and the conduct of elections. The instruments which it has ratified include the International Covenant on Civil and Political Rights (State Party since 1979); the Convention on the Elimination of All Forms of Discrimination against Women (since 1993); the Convention on the Elimination of Racial Discrimination (since 1978); the International Covenant on Economic, Social and Cultural Rights (in 1978); the Convention on the Rights of the Child (in 1990); and the Convention on the Rights of Persons with Disabilities (in 2015). The Gambia acceded to the UN Convention against Corruption on 8 July 2015<sup>1</sup>.

The Gambia has also acceded to several relevant regional human rights treaties, including the African Charter on Human and People's Rights (ratified in 1983), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (ratified in 2005), and the African Union Convention on Preventing and Combating Corruption (ratified in 2009). The Gambia signed the African Charter on Democracy, Elections and Governance in 2008, but has yet to ratify it. The Gambia has also ratified the ECOWAS Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.

While these instruments are binding upon The Gambia under international law, the legal system in The Gambia requires that treaty provisions must be incorporated into domestic law before they become part of the laws of The Gambia. While extensive efforts have been made to incorporate the provisions of treaties such as the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against women into domestic law, many of these treaty obligations were entirely ignored by the last Gambian government. The planned creation of a national human rights institution may support greater human rights compliance in the legislative process. Several decisions of the ECOWAS Community Court of Justice, and of the African Commission on Human and People's Rights, which found that The Gambia was responsible for violating the African Charter on Human and People's Rights, were not complied with. There are also cases currently underway against The Gambia alleging further violations of the African Charter on Human and People's Rights.

### B. Electoral Legislation

The legal rules relating to the National Assembly elections are to be found across a plethora of legal instruments, including the Constitution of the Republic of The Gambia 1997, the Elections Act Cap. 3:01, as amended, and several pieces of delegated legislation in the form of regulations, rules, notices and orders. These include the Code of Election Campaign Ethics. Many areas of law are not well regulated, and there is very little subsidiary legislation to guide the interpretation of the existing law. The legal framework has been subjected to several amendments since the conduct of the last National Assembly elections in 2012. Two of the most significant changes in 2015 had the effect of obstructing political participation, by making it more difficult to register a political party, and more costly to run as a candidate for election.

The legal framework provides an adequate basis for the conduct of elections which are in line with the international obligations and commitments of The Gambia. The broader legal system within which the electoral framework operates has, however, been severely compromised in recent years. The rule of law has been significantly undermined, particularly through a progressive erosion of the independence of the judiciary. Beyond this, another critical aspect of the rule of law has been absent, which is the necessity that the law is clear and well-publicised, that it is just, that it is applied fairly, and that it protects fundamental rights. Where this is not the case, as in The Gambia of late, then the legal system, which might appear to be in compliance with international standards, fails entirely to provide the basic requirements for the

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<sup>1</sup> The Gambia is not a party to the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

protection of fundamental rights. The concept of the rule of law is central to the Universal Declaration of Human Rights<sup>2</sup> (applicable to The Gambia as a statement of *jus cogens*), as well as to General Assembly Resolution 67/1 of 2012<sup>3</sup>. The African Charter on Democracy, Elections and Governance, Article 4.1, the signing of which indicates an intention by The Gambia to be bound by it in the future, requires states to commit themselves to promotion of the rule of law.

There are practical problems in The Gambia with access to the law and the dissemination of legal texts. The EU EOM encountered some instances where stakeholders were mistaken as to the content of the law, mistakes arising principally from unfamiliarity with primary sources of the law. Almost all legal instruments, including the official *Gambia Gazette*, are available only on paper, and many are out of print. Some legal instruments, such as the Constitution and the Elections Act, have been the subject of repeated amendment, but consolidated versions of the texts are unavailable.

Elements of the Criminal Code, dealing with election-related issues such as freedom of expression and assembly, date from colonial times, and have an interpretive history which has been very restrictive and contrary to the protection of political rights. The same is also true of much public order law. Review of these legal instruments pertaining to political rights, with a view to ensuring compliance with international human rights obligations, as well as consolidation of the law, would promote clarity and certainty as to the content of the law. This, coupled with an enhanced dissemination of the law, particularly through online availability, free of charge, would represent a major contribution to restoration of the rule of law.

The Constitution provides that elections are to be genuine and periodic, conducted by secret ballot, on the basis of universal and equal suffrage. Political rights, including the right to vote and to stand for election to the National Assembly, are well protected in the legal framework. Independent candidates, as well as representatives of political parties, can seek election. The right to vote is circumscribed, however, in the case of prisoners who are serving a sentence, who are deprived of the right to vote by law. Prisoners on remand, who retain their lawful right to vote, are unable to vote either. The Lunatics Detention Act 1917 undermines the right to vote of persons with intellectual disabilities. Secrecy rights were undermined in the case of voters with visual impairments who were not afforded any Braille labelling of ballot drums which would have protected the secrecy of their vote.

An amendment to electoral law in 2017, which reduced excessive deposits to be paid upon nomination, was welcome, as it enabled a multiplicity of candidates to compete. Section 134 (3) of the Elections Act, however, provides that the IEC shall not make any significant change to the rules relating to elections within the six months before an election. The amendment was within two months of the election date. While this is not in explicit violation of the law, as the change was effected by the National Assembly rather than by the IEC, and it could also be argued that it did not amount to a “significant alteration”, it was certainly contrary to the spirit of the law. Article 2 of the ECOWAS Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, ratified by The Gambia, prohibits any substantial modification of electoral laws in the six months preceding an election, without the consent of a majority of political actors. Consent was forthcoming on this occasion so there was no conflict with the Protocol.

There are significant defects in the protection of the freedom of association, as the requirements to register a political party are extremely burdensome. Section 105 of the Elections Act provides that an application for registration must be accompanied by a declaration signed by at least ten thousand members, all registered voters, with at least one thousand members from each administrative area. The

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<sup>2</sup> Universal Declaration of Human Rights “... it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law...”

<sup>3</sup> GA Res A/67/1 Declaration of the high-level meeting of the General Assembly on the rule of law at national and international levels, adopted without a vote on 24 September 2012.

law had previously required a total of just five hundred members, without any specific geographical designation. A party must also have a secretariat in each administrative region, and must pay a registration fee of one million GMD (around €20,000). These registration requirements could serve to inhibit the freedom of association, as they may prove to be insurmountable obstacles to achieving registration. The African Charter on Human and Peoples' Rights provides, in Article 10 (1), that each individual shall have the right to free association, while the International Covenant on Civil and Political Rights Article 22.1 contains the same commitment.

The freedoms of assembly and expression of candidates were well respected during the election campaign, with all applications to conduct rallies being granted by the IEC. The IEC, however, restrained candidates from using the Coalition 2016 identity rather than that of their individual parties while campaigning. Candidates were required to make declarations of their assets to the IEC upon registration, with the sole purpose of review at the end of their term in office to see if assets are augmented during that period. A significant lacuna in the legal framework is the absence of any meaningful regulation of campaign and political party finance.

### **C. The Electoral System**

The Gambia is a constitutional republic, secular, with all sovereign power vested in the people. Three powers of government are set out in the Constitution, the executive power vested in the President, which is exercised directly, or through the Vice-President and the members of cabinet; the legislative power vested in the National Assembly; and the judicial power vested in the courts. These powers are stated to be separate from one another, and to have the role of serving as checks and balances upon one another. However, a large degree of overlap exists in the exercise of the various powers, with a historical dominance by the executive power over all other powers.

The legislative power is vested in the National Assembly. This is a single-chamber parliament, comprised of 58 members. Fifty-three members are directly elected, while five members are nominated by the President. This means that there is, effectively, no entirely directly elected parliament in The Gambia. This is contrary to international standards which provide that the will of the people should be the basis of governmental authority<sup>4</sup>. These standards can be interpreted as requiring that all representatives should be freely chosen by voters and should be accountable to them.

The Constitution provides that the National Assembly shall be comprised of at least 53 elected members. It states that they are to be elected from constituencies demarcated by the Boundaries Commission, but such commission has not been brought into existence. In the interim, until the creation of a Boundaries Commission, the Constitution provides that the pre-existing constituencies prescribed in the 1996 Elections Decrees should continue to be used. Additional constituencies may, and indeed have been, demarcated by the IEC as the number of members elected to the National Assembly increased from 48 to 53 by constitutional amendment in 2015. Beyond this, the Constitution is silent on the electoral system which should be used to conduct the election. The National Assembly elections were conducted in 53 single-member constituencies, with a first-past-the-post system employed.

There is also a decentralised system of local government in operation, created pursuant to the Local Government Act 2002. The Gambia is divided into seven administrative areas, with a total of six local government councils, one municipal council and one city council administering them.

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<sup>4</sup> Universal Declaration of Human Rights, Art. 21; African Charter on Human and People's Rights, Art. 13.

## V. ELECTION ADMINISTRATION

### A. Structure and Composition

The IEC is an independent constitutional body led by a five-member commission. All its members, including the chairperson, are appointed by the president in consultation with the Judicial Service Commission and the Public Service Commission.<sup>5</sup> Commissioners are appointed for a term of seven years and may hold office for a maximum of two terms. The IEC vice-chairperson is elected from among the members of the Commission but there is no legal provision to this effect. In April 2017, the IEC enjoyed broad public confidence among political parties and other stakeholders since the IEC declared the opposition candidate the winner of the 2016 presidential election, and stood by the declared result, despite tremendous pressure to do otherwise.

The president may remove commissioners for an inability to perform their functions or misconduct. Before removing a commissioner, the president must appoint a three-judge tribunal to enquire into the matter. The former president removed three chairpersons and three commissioners from office, allegedly without respecting due process. The current IEC chairperson was appointed in April 2016 replacing the previous IEC chairperson who had overstayed his mandate as he had been an IEC member since 1997. Only one of the five IEC commissioners is a woman. The current constitutional provisions lack an inclusive cross-party mechanism for the selection and appointment as well as security of tenure of IEC commissioners and fall short of international commitments guaranteeing an independent electoral authority.<sup>6</sup>

The IEC Commission has no regular meeting schedule. While three members of the Commission, including the IEC chairperson, form a quorum, decisions of the Commission require the concurrence of a majority of the members. The Commission has the legal entitlement to regulate its own procedures. Its meetings are closed and no minutes or decisions were published.

Apart from the national headquarters in Kanifing, the IEC has a permanent office in each of the seven regions headed by a Regional Electoral Officer (REO). For a three-week period during the elections REOs were assisted by 122 Assistant Returning Officers (AROs), of which more than 90 per cent were re-engaged from the 1 December 2016 presidential election. Only 11 AROs were women (9 per cent). On election day, some 4,500 temporary staff worked at 1,422 polling stations, as well as at the 53 constituency collation rooms of the seven regional collation centres.

### B. The Administration of Elections

The Constitution imposes vast responsibilities on the IEC including the registration of voters; the conduct of elections and referenda; the conduct of the election of the Speaker and Deputy-Speaker of the National Assembly; the registration of political parties; the nomination of candidates; and the announcement of election results. In addition, by amendment of the Elections Act in 2015, the IEC has to carry out a continuous programme of voter education. Furthermore, the IEC oversees the campaign and the adherence to the Code on Election Campaign Ethics. It has to ensure that each candidate is given equal time on public radio and television, while candidates also require prior IEC approval for their media campaign materials. In addition, political parties must submit their audited annual accounts to the IEC. Such a plethora of tasks could overburden the IEC especially during the election campaign period. Regional IEC offices in particular

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<sup>5</sup> The Judicial Service Commission comprises the Chief Justice as Chairperson, a Judge of a Superior Court, the Solicitor-General, a member nominated by the Attorney General in consultation with the Gambian Bar Association, one person appointed by the president and one member appointed by the NA (Constitution Section 145). The Public Service Commission comprises three to five members, including a Chairperson, all appointed by the President (Constitution Section 172).

<sup>6</sup> Article 25 of the International Covenant on Civil and Political Rights, United Nations Human Rights Commission, General Comment No. 25 (ICCPR GC25), paragraph 20: “[a]n independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant”.



lack sufficient and safe storage facilities as well as reliable communication and electricity infrastructure.

The IEC Strategic Plan (2015-2019) sets out the IEC's vision, mission, guiding principles, strategic priorities and risk management. While it provides guidance for further reforms, it needs revision and updating to accommodate changing circumstances, likely recommendations and availability of external funding.

The IEC does not command its own budget and the current financial provisions do not guarantee the IEC's independence. The Constitution provides for the IEC to submit its annual estimates of expenditure to the president. The estimates are subsequently to be placed before the National Assembly with comments but without amendments. In practice, the Ministry of Finance negotiates the annual budget with the IEC and disburses funds in tranches, often late. The 70 permanent IEC staff members are public servants. Temporary staff are paid by the IEC after receiving the funds from the national treasury. According to the IEC the estimated budget for the 2017 National Assembly elections was around € 1 million.

The IEC rarely communicated with the public during the election period. Its few press releases were not available on the IEC website which mainly contained information about the 2016 presidential election but with few updates added since. The IEC did not conduct any formal consultation meetings with political parties or candidates during the election campaign period and did not use any social media channels for interaction with candidates or voters. It communicated its decisions mainly through *The Gambia Gazette* which is not easily available. On 16 February, for example, the IEC announced in *The Gambia Gazette* the names of the seven Returning Officers (ROs) and the locality of the seven collation centres. On 17 March the IEC issued a press release informing candidates that they risked having their nomination revoked if they presented themselves to the electorate as coalition candidates. Both important pieces of information were never posted on the IEC website.

The IEC conducted a training of trainers for the 122 temporary AROs on 25 and 26 March to which party representatives, media and observers were also invited. The trained AROs in turn trained polling staff in their regions on 1 and 2 April. The training sessions were well attended and largely coherent in information dissemination but in most regions lacked mock exercises and attention to detail, especially for the reconciliation and filling in of results forms.

Despite the legal authority for the IEC to issue rules and procedures until six months ahead of elections, the IEC did not issue any additional written procedures on counting and collation, beyond its rather general handbook for polling officials. The simplicity of the electoral process served the purpose of thwarting suspicion of possible malpractices. However, the lack of security measures, especially for the official results forms, and the absence of written procedures for counting, results transfer and collation, could have easily led to arbitrary electoral conduct and to superfluous questions about the integrity of the electoral results process, or parts of it. The results and collation forms used were without any security features and many lacked sufficient signatures on the same page and would, therefore, have been unusable to stand as legal evidence.

## VI. DELIMITATION OF CONSTITUENCIES

The Constitution provides for the establishment of a Boundaries Commission and requires the enactment of legislation to outline the criteria for the demarcation of constituency boundaries.<sup>7</sup> However, a Boundaries Commission was never constituted and legislation outlining the specific criteria never passed. In addition, the Elections Act provides the IEC with the power to define the boundaries of each constituency, which requires legal clarification as also emphasised by the IEC strategic plan.

An increase in the number of elected seats in the National Assembly in 2015, from 48 to 53, affected only the four constituencies with the highest number of voters which were subdivided (three into two, one into

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As provided for in the Constitution Article 50, see also Elections Act Section 9.

three) into nine new constituencies. This measure did not delimit other constituency boundaries and the highly unequal representation of the electorate was not properly addressed.

A total of 49 of 53 constituencies deviated by more than 15 per cent from the national average of 16,728 voters per constituency, with the largest constituency having 23 times as many voters as the smallest one. Janjanbureh constituency, in Janjanbureh region, has the lowest number of registered voters with 1,980, while Serekunda West constituency, in Kanifing region, has the highest number of registered voters with 46,502. The electorates in the Kanifing and Brikama regions are particularly underrepresented, while the electorates in the Banjul, Mansakonko and Janjanbureh regions are overrepresented, based on the existing constituency boundary delimitation. The vast discrepancy in the number of voters per constituency is falling far short of ensuring the equality of the vote<sup>8</sup>.

## VII. VOTER REGISTRATION

The Constitution provides for the right to vote of all citizens, of eighteen years of age, with a requirement of either birth or residence in the constituency of registration. The Constitution is, however, restrictive as only those of sound mind are entitled to be registered as voters, violating international commitments.<sup>9</sup> The right to vote is further circumscribed in the case of those who have been convicted of certain types of electoral offence, or who have served prison sentences in excess of six months within the last five years. All prisoners serving a sentence are deprived of the right to vote by law. These restrictions on voting rights fail to respect the principle of universal and equal suffrage. Despite the mandatory provision in the Elections Act which requires the IEC to maintain a register of Gambians living abroad, this provision has not yet been acted upon.

The introduction of biometric voter registration in 2011, for which a picture of each registered voter and his/her two thumb prints were recorded, resulted in 796,929 registered voters. In 2016, the IEC conducted a voter registration update ahead of the 2016-2018 election cycle but no deletions of entries, or changing of entries of voters who had moved to different places of residence, were conducted, as the 2011 voter register is “frozen”. A strict interpretation of the 2015 amendment to the Elections Act determined that no entries could be changed or deleted. This resulted in a high number of erroneous entries, as persons’ names might have been misspelled and as names of deceased were still included.

To be included in the voter register during the 2016 update exercise, a person had to produce an identification document such as a birth certificate, passport, national identification card, or a document certified by the district *Seyfo* or village *Alkalo* (traditional authorities) stating that the applicant was born in that village. The IEC recorded 89,649 new entries resulting in a total of 886,578 registered voters, an increase of 11.2 per cent since 2011.

Based on the 2013 population census The Gambia had an estimated projection of total population of 2.100,000 persons in April 2017. An estimate projected 1.081,000 persons were 18 years and above of age in April 2017.<sup>10</sup> In comparison to the total number of registered voters of 886,578 an estimated total of 194,000 persons residing in The Gambia, or 18 per cent of the population, are not registered. However, non-Gambians and holders of double citizenship are not allowed to register as voters. As the voter register

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<sup>8</sup> Article 25 of the International Covenant on Civil and Political Rights, United Nations Human Rights Commission, General Comment No. 25, paragraph 21: “...within the framework of each State’s electoral system the vote of one elector should be equal to another. The drawing of electoral boundaries and method of allocating votes should not distort the distribution of voters or discriminate against any group.”

<sup>9</sup> Article 29 of the United Nations Convention on the Rights of Persons with Disabilities provides that “State Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others.”

<sup>10</sup> In 2013 the median age was 18.2 years, meaning almost half of the population were eligible voters.

contains all names of deceased voters since 2011 and possible multiple entries, the number of non-registered voters might be even higher.

The IEC decided not to update the voter register ahead of the National Assembly elections and to use the same voter register as during the December 2016 presidential election. This decision disenfranchised those eligible voters who had turned 18 years of age between 1 December 2016 and 6 April 2017, up to an estimated 8,000 eligible voters, or almost one per cent of the total number of registered voters.

For the National Assembly elections only those eligible voters were allowed to vote who presented a valid voter registration card issued by the IEC for the polling station for which they had been registered. During the 2016 presidential election polling staff and police on electoral duty were issued duty certificates allowing them to vote at their duty polling stations. No duty certificates were issued for the National Assembly elections, as the law does not allow it<sup>11</sup>. Up to 8,500 police and polling staff, representing one per cent of the total number of registered voters, might have been disenfranchised. In addition, the IEC did not replace any lost or destroyed voter registration cards after the last election. There were, further, no polling measures in place for remand prisoners, or for those hospitalised or homebound. All these decisions deprived a considerable number of eligible voters of the right to vote<sup>12</sup>.

The IEC has no plans to open the voter register for an update and register new voters ahead of the April 2018 local government elections. This will result in the same number of voters on the voter register, but will disenfranchise all those eligible voters who turn 18 years of age by the next election date, an approximate 24,000 citizens or almost three per cent of registered voters. This will result in an increased number of disenfranchised voters. Nevertheless, the IEC will replace lost voter registration cards. The IEC further advocates the reintroduction of vetting during the voter registration process, for the IEC staff to interview those who register, instead of automatically registering all those providing the necessary documentation.

## VIII. REGISTRATION OF POLITICAL PARTIES AND CANDIDATE NOMINATION

### A. Registration of Political Parties

Registration of political parties is governed by the Constitution, which provides for the freedom of association, including forming and joining political parties. Political parties are required to adhere to the principles set out in the Elections Act to guarantee that their internal organisation conforms to democratic principles and that the party has a national character and is not formed on any religious, ethnic or regional basis. Political party registration and de-registration is under the control of the IEC which also receives the annual audited accounts of the registered political parties.

The 2015 Elections (Amendment) Act has substantially increased the requirements for the registration of political parties including i) that all executive members of the political party are resident in The Gambia, ii) that the political party has a secretariat in each administrative region of the country, iii) the party holds a biennial congress, iv) a significant increase - from 500 to 10,000 members (the equivalent to one per cent of the voter population) - of the number of members of the political party that should be registered as voters, with at least one thousand members from each administrative area, v) a registration fee of GMD 1 million (approx. € 20,000) and, vi) the submission of the party's annual audited accounts to the IEC. In the context of The Gambia, these requirements seem excessive and unreasonably limit the freedom of association.

<sup>11</sup> Elections Act, Section 61 (5) states that duty certificates are valid only for Presidential elections.

<sup>12</sup> Article 25 of the International Covenant on Civil and Political Rights, United Nations Human Rights Commission, General Comment No. 25, paragraph 11: "States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed."

## B. Candidate Nomination

There are no undue restrictions on being nominated as a candidate. Independent candidates are also allowed for. Citizens of The Gambia holding dual nationality are, however, excluded. In a move to reduce the entry barrier for competing in the National Assembly elections, the nomination fee for candidates was reduced from GMD 50,000 (€1,000) back to the previous amount of GMD 5,000 (€ 100) by the Elections (Amendment) Act 2017. The nomination of candidates took place at the seven regional IEC offices between 9 and 12 March and resulted in a total of 239 candidates. No candidates were rejected by the IEC. Among the nominated candidates only 20 were women (8.4 per cent), a level of female participation even lower than past level of female representation (9.4 per cent) in the National Assembly.

The Gambia Democratic Congress (GDC) proposed the largest number of candidates at 52, followed by the UDP with 44 candidates. The former ruling party, the APRC, fielded 29 candidates. The NRP, which was the only opposition party represented in the out-going National Assembly with two seats, presented candidates in 24 constituencies. The PDOIS contested 22 seats. The PPP presented 14 candidates and the GMC, the Gambia Party for Democracy and Progress (GPDP), and the National Convention Party (NCP) presented five, four and three candidates, respectively. One independent candidate withdrew within the stipulated period.

## IX. CIVIC AND VOTER EDUCATION

Voter education ahead of the elections started late, lacked coordination and good cooperation with the public he Gambia Radio and Television Services (GRTS), as well as needing better funding and greater depth in educating the electorate about the role of members of the National Assembly. The National Council of Civic Education (NCCE) has the constitutional mandate of raising the citizens' awareness of their civic and fundamental rights, duties and responsibilities. The NCCE, which does not have any regional offices, was active ahead of the presidential election. It had planned an intensive voter education programme in conjunction with the IEC through the media in the week prior to the National Assembly elections, including TV spots and twice weekly talk shows with IEC and NCCE chairpersons. However, voter education through the media by the NCCE started very late, partly due to a disagreement between NCCE and GRTS about the prices charged for broadcasts<sup>13</sup>. Thirteen radio stations aired different two-minute long voter education spots in the final days ahead of the elections in the English, Wolof and Mandinka languages. In addition, several commercial and community radio stations produced and broadcasted civic education messages on their own initiative.

With the 2015 amendment to the Elections Act, the IEC has the task of implementing continuous voter education. Following the nomination of candidates, the IEC conducted voter education meetings at community level where it emphasised that members of the Coalition 2016 were standing as candidates of their parties or as independent candidates. IEC pick-up trucks toured the regions broadcasting voter education messages via loudspeakers. The rather simple voter education campaign spot broadcasted on TV portrayed ballot drums in a specific colour which could have been misunderstood as a colour reserved for a particular political party.

Voter education was also conducted by CSOs. *Activista*, with 6000 to 7000 members nationwide, focussed on empowering young people and women to participate in politics and conducted a voter sensitisation campaign called "Not too Young to Run" with other organisations. The National Youth Council has a branch in each region and aimed at encouraging the youth to vote through radio messages, community programmes, youth events and social media. The National Youth Parliament conducted a "go and vote"

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<sup>13</sup> The planned live broadcast talk show between the IEC and the NCCE Chairpersons on the evening ahead of election day was constrained by a controversial price hike by GRTS. The new GRTS director increased the fee from 20,000 Dalasi (about 400 Euros) as paid by IEC/NCCE ahead of the presidential election to 65,000 Dalasi (about 1,300 Euros)

campaign through community and school outreach as well as radio messages. The CSO Hopes of Tomorrow disseminated radio messages and distributed T-shirts.

## **X. CAMPAIGN ENVIRONMENT**

The Code on Election Campaign Ethics prescribes a broad catalogue of rules for candidates, political parties and supporters to follow during campaign activities. In the case of a breach of the Code, the Independent Election Commission has a range of powers, including revocation of candidature. There is also an Inter-Party Committee which comprises all nine registered political parties. On 8 March, the nine registered political parties agreed on a Memorandum of Understanding (MoU) on the conduct of the campaign, reflecting the terms of the Code on Election Campaign Ethics. No Inter-Party Committee meeting took place during the campaign.

The three-week campaign period started on 15 March and ended on 4 April. Overall, the freedoms of assembly and association were respected and candidates could convey their messages to the electorate without hindrance. All applications in respect of rallies and processions during the campaign were determined and scheduled exclusively by the IEC with the aim of avoiding overlap between rival groups. The unprecedented number of candidates led the IEC to allow campaign events late into the night.

The EU EOM observed 44 campaign events in all seven regions, of which 11 were held by UDP, 8 were held by GDC, 5 were held by APRC, 3 were held by NRP, 3 were held by PPP and 1 by GPDP. Additionally, the EU EOM observed two debates held in Banjul between various candidates of GDC, PDOIS, UDP, PPP, as well as independent candidates. The EU EOM observed President Barrow's nationwide tour in 11 constituencies.

The campaign environment was calm in all regions of the country, with only a few minor incidents reported in the Greater Banjul Area and one in Kombo East, which had little impact on the overall electoral environment. A few instances of verbal abuse also occurred, arising principally from altercations between UDP and APRC supporters.

For the first time, political parties as well as ordinary citizens, expressed themselves freely on political matters without fearing persecution. In a historic first, candidates held debates both in public places and in the media. Many rallies also included question and answer sessions offering voters the opportunity to interact with the candidates.

Campaigns initially employed a door-to-door strategy, mobilising teams at the community level to rally support. Visible evidence of political activity appeared low, even in urban areas such as Banjul and Kanifing. There was a noticeable absence of posters, billboards and other visual advertisements in public spaces. Campaign materials were more noticeable in the West Coast and North Bank region, with a predominance of the UDP in the latter. The APRC was quite visible in the West Coast and Upper River regions.

Political parties stepped up their efforts during the second half of the campaign, with the national leadership of all the nine parties touring to support their candidates. Party leaders tried to consolidate grass-roots support and leverage their influence on larger audiences. Campaign tours were concentrated in the constituencies where they had a candidate running, with the UDP and the GDC covering all seven regions. Advertising using posters and billboards slightly increased prior to election day.

Many candidates expressed their dissatisfaction with the short length of the campaign period, which curbed their outreach to the rural population. Candidates' limited access to financial and technical resources further limited the scope of campaigning.

No substantive ideological difference between candidates emerged during the campaign. Candidates focussed on national socio-economic development and on the improvement of living conditions within their constituencies. Most of the Coalition 2016 parties emphasised their affiliation with the Coalition.

President Barrow also did the same during his nationwide tour, calling on the electorate to vote for Coalition candidates. The GDC and the APRC expressed concerns over this use of the Coalition brand. The IEC instructed candidates to refrain from mentioning the Coalition 2016 in their campaigning or they would face the risk of revocation of candidature. The IEC request was largely ignored, but no further action was taken.

The misuse of administrative resources, that characterised Gambian elections in the past, was not observed.

On March 14, the Minister of Information issued a statement prohibiting any use of government resources for partisan politics. This followed a request by the Vehicles Control Unit of Office of the President for government agencies to provide vehicles for Coalition 2016 executive members' nationwide tour to identify candidates for the elections. The minister's statement made a reference to the previous regime and affirmed that State matters and partisan politics should be treated as separate entities.

From 23 March to 2 April, the President undertook a constitutionally mandated tour, officially intended to thank the population for his election and to solicit voters' continued support for the Coalition 2016. The President's nationwide tour had an impact on the campaign. Not only was it disproportionately covered by the media, but parties took advantage of the tour by decorating the venues with their own flags as well as organising their own rallies just before or after the presidential stopover so that they could benefit from the public gatherings. The president was accompanied by government ministers who alternated in the different stopovers. The Gambian security forces and ECOMIG troops were used to secure the presidential convoy of government vehicles. The EU EOM observed the president endorsing candidates of parties affiliated to the Coalition 2016 during his speeches in different regions. Article 166 of the Gambian Constitution states that the president, vice-president and ministers are not public servants and therefore not barred from participating in campaign activities.

The national campaign of the GDC leadership also served the purpose of thanking voters for their support during the presidential election. The GDC distributed hand-outs such as cement and milling machines. The GDC party leader also financed boreholes and donated money to mosques, hospitals and individuals in need. This appears to be in breach of the Elections Act. On 29 March, the EU EOM observed an *Alkalo* (village chief) thanking the GDC leader for a donation and promising the votes of the village to the GDC in the Jimara constituency.

By contrast, the APRC campaign had a low profile, focussing their efforts on re-branding their public image. The party explained to the EU EOM that they suffered from financial constraints. They reported that the re-possession of state vehicles and the eviction from their party headquarters on short notice had a negative impact on their ability to campaign.

During the final days of the campaign, political speeches began to carry a more adversarial tone. Disagreements between the Coalition 2016 political parties also took on a more public dynamic during this period. APRC and GDC both became more critical of the president, questioning his close relations with Senegal and France, and the presence of ECOMIG troops in The Gambia. Both President Barrow and the UDP leadership accused ex-President Jammeh and the APRC of being responsible for human rights abuses as well as the lack of development. A UDP rally, held on 2 April in Latrikunda Sabiji constituency, was marked by inflammatory speeches targeting the APRC, as well as the PPP.

During the final days of the campaign, allegations of "vote buying" spread throughout the seven regions, particularly in the North Bank. Also, the subject of political tribalism became more prominent in the campaign narrative. The EU EOM observed rallies where ethnicity was exploited to mobilise political support. These included UDP appeals for the support of the Mandinka and the Manjago communities in Kanifing, in West Coast Region and in Lower River Region. The EU EOM also observed efforts by the GDC to call for the votes of the Fula community in the Lower River Region.

This election also saw a new type of grass-roots canvassing. A non-partisan citizen movement, Team Tahawal Banjul (TTB), held initial consultations, where candidates from different parties were invited to take part. At the second stage, the TTB invited all candidates running for the three seats in Banjul to run in primary elections; six candidates participated. Among the candidates running under a party ticket, only the two PPP candidates in the Banjul Central and South constituencies, and the candidate from PDOIS in Banjul North constituency, participated. The other parties did not recognise the legitimacy of the movement. The outcome of the primaries was that two PPP candidates were selected alongside the candidate from PDOIS. The TTB covered campaign expenses for the three candidates including for large final rallies on the last day of the campaign. The candidates sponsored by TTB won the three constituencies in Banjul.

Youth movements also, for the first time, played an active role in the election process. Among them “Not Too Young to Run” actively promoted 25 youth candidates from different political parties to run for public office. They were supported by various national civil society organisations and the National Youth Council. They helped candidates with training and through promotion of their campaign activities. Candidates affiliated to the movement had to be younger than 35 years of age. Five youth candidates were elected: three from UDP, one from GDC and one from PPP.

## **XI. CAMPAIGN FINANCE**

Campaign finance is very lightly regulated, characterised by an absence of legal provisions to restrain the undue impact of money in the electoral process. Individual Gambian citizens, civil society organisations and private entities may all make campaign contributions. Donations from corporations and unincorporated bodies, and from all foreign entities, are prohibited. There are no ceilings on donations or expenditure, while there are also no monitoring and enforcement mechanisms in place. A State Party to the UN Convention against Corruption since 2015, legal reform is required to ensure compliance with the obligations to ensure transparency and fairness.

Overall, parties and candidates lacked the financial means to engage in diverse and intensive campaigning. Remaining resources from the Coalition 2016 presidential campaign were used to support National Assembly candidates. Both vehicles and funds were distributed to Coalition 2016 member-parties proportionate to the number of their candidates. UDP had 25 of their 44 candidates funded, NRP, PDOIS and PPP each had six candidates funded, while the other parties, GMC, NCP and GPDP, had three funded. Independent candidates, supporting the Coalition 2016, also received some resources. The Coalition 2016 representatives did not disclose the amount of funds at its disposal to the EU EOM. Wealthy party members paid for the APRC and GDC campaigns. Again, the resources were not disclosed to the EU EOM.

Through its fundraising efforts, TTB collected over one million Dalasi (€ 20,000) that was used to sponsor the campaign of the three candidates TTB decided to support following primaries. TTB sponsored the candidates with a total of GMD 200,000 (approximately € 4,000) each receiving GMD 137, 000 worth of campaign materials and GMD 63,000 cash for their transport needs during their campaigns. The rest of the funds were used to finance a large final rally on the last day of the campaign. The TTB announced that they will publish their full campaign expenditures. “Not Too Young to Run” also sponsored the campaign materials of selected youth candidates – 100 posters for each of them for a total of GMD 25, 000 for all candidates - as well as one-day training.

## XII. MEDIA AND ELECTIONS

### A. Media Environment

The Gambian media is undergoing a momentous liberalisation. Over the last decade, the media sector was carefully tailored to serve the ruling party and independent voices were meticulously silenced by state actors. Consequently, media practitioners are just starting to exploit both the newly acquired freedoms and the ensuing responsibility to provide the audience with comprehensive and accurate information that facilitates an informed choice on election day. These National Assembly elections were the first ones in The Gambia's political history when the media strove to offer to the electorate a variety of standpoints free of formal censorship.

Word of mouth, as well as traditional and religious authorities, is still the key source of information in large parts of the country, while the radio is the country's principal news medium. There is only one television station and one radio station covering the entire country, both are state-owned and are operated by The Gambian Radio and Television Services (GRTS). Until the 2016 presidential elections the few commercial FM radio stations which had acquired broadcasting licenses aired hardly anything other than entertainment programmes, while the only critical talk radio *Taranga FM* faced frequent government's retaliations. After the change of the regime in February 2017, some radio stations started to offer brief news and *live* political discussions. There is only one commercial radio station – *Paradise FM* – that has a network of regional offices and close to country-wide coverage. The ownership structures of commercial radio stations are not transparent. At the regional level, ten community radio stations air in local languages. All broadcasters, including the state-run, suffer from a significant lack of financial, technical and human resources.

The print media's readership is limited and distribution is confined to urban centres. However, radio stations' news content primarily originates from newspapers articles, thus print media still has a notable role in setting the country's political agenda. Hence, owning a newspaper confers certain leverage over voters' political decision making. All print media are private and their political preferences are evident in editorial outputs. There are four newspapers that are deemed to achieve a nation-wide distribution.

With the growing 3G network penetration and ease of access to Internet-enabled mobile phones, web-based media are emerging as a noteworthy source of information. During the pre-election period Facebook offered a platform for fierce and open political discussions, while WhatsApp conversation groups proved to be an additional low-cost campaign tool. Online news sites, operating from abroad and run by Gambian journalists and freedom of expression advocates living in exile, challenged the at-times self-referential national media narrative.

Overall, the media was able to exercise freedom of expression without any undue interference from state or non-state actors<sup>14</sup>. During the campaign period only one incident of harassment of a journalist occurred, and this was promptly addressed by the police.

### B. Legal Framework for Media

Freedom of expression is provided for by the Constitution, yet it is not protected through specific legislation. As designed by the previous regime, the existing legal framework for offline and online media induces an environment of self-censorship and equips state actors, most notably the president, with a range of tools to hold a tight grip on traditional and online media outlets as well as netizens. The Criminal Code equates criticism with defamation, libel and sedition, punishable with two-year imprisonment. The 2013 amendments to the Information and Communication Act introduced 15-year prison term for spreading false news online. Such provisions undermine the international standards for the freedom of expression, most notably, the Declaration of Principles on Freedom of Expression in Africa (DPFEA) Article 9

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<sup>14</sup> For legal, technical and financial constraints the state-run media inherited from the previous regime and that affected the election coverage see section *Legal Framework for Media*.



and the International Covenant on Civil and Political Rights (ICCPR) Article 19 and the subsequent 2011 United Nation Human Rights Committee General Comment No. 34 (ICCPR GC 34)<sup>15</sup>.

The state monopoly on television services and on providing digital connection limits media diversity. Moreover, the Newspaper Act 2004 contains costly and cumbersome registration procedures for print media, while public Internet access places, such as Internet cafes, are required to renew a special registration with a Public Utilities Regulatory Authority (PURA) on a yearly basis. In addition, the legal framework poorly defines registration denial criteria, thus leaving space for an arbitrary application of the law. Such a legal environment challenges the regional commitments of The Gambia<sup>16</sup>.

In the absence of an independent regulatory body, key executive and regulatory powers are vested in the president and in the minister of information. The board of the PURA, the telecommunication sector's regulatory body, is directly appointed by the president. Its independence is, thus, questionable. The previous regime attempted to form a National Media Commission with full oversight of the media, and ensuring *de facto* subservience of the media to the president. Such regulatory system undermines the Article 9 of the ACHPR and the Section VII *Regulatory Bodies for Broadcast and Telecommunication* of the DPFEA<sup>17</sup>.

The legal framework governing the state-run broadcaster does not provide for adequate and sustainable editorial and financial independence. The president appoints the GRTS director general. The broadcaster's annual budget depends on political decisions and the GRTS's employees are public servants. Furthermore, there are broad and vaguely defined, yet legally binding, content obligations that hinder the GRTS ability to offer independent programming. Such a legal standing does not provide for a genuine public broadcaster as outlined in Paragraph 16 of the ICCPR GC 34 and in Section IV *Public Broadcasting* of the DPFEA.

Commendably, during the campaign period, the president and the minister of information expressed public commitments to bring the existing legislation governing the media sector into line with regional and international standards and best practices for the freedom of expression.

The Gambia does not have a Freedom of Information Act, an umbrella law that would consolidate state responsibilities regarding the right of access to information and would provide for the transparency and accountability of national and local government bodies. Such Act would also enable citizens, including media practitioners, to exercise their scrutinizing rights. Regional and international standards for the right to information prescribe a set of measures states must undertake to secure citizens' rights to seek and receive information in person, offline and online<sup>18</sup>.

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<sup>15</sup> Paragraph 13 of the ICCPR GC 34 states that "a free, uncensored and unhindered ... media is essential in any society to ensure freedom of opinion and expression and enjoyment of other Covenant rights". See also paragraph 43: "Any restrictions on the operation of websites, blogs or any other internet-based information dissemination system ... are only permissible to the extent that they are compatible with paragraph 3".

<sup>16</sup> The Article 9 of the ACHPR and subsequent Section III *Diversity*, of the DPFEA, that reads: "Freedom of expression imposes an obligation on the authorities to take positive measures to promote diversity".

<sup>17</sup> Section VII of the DPFEA states that "1) Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature. 2) The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party".

<sup>18</sup> Paragraph 19 of the ICCPR GC 34 states that "to give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information. States parties should also enact the necessary procedures, whereby one may gain access to information, such as by means of freedom of information legislation".

### C. Legal Framework for Campaign Coverage

The legislation governing the media's conduct during elections lacks clarity on key aspects of campaign coverage. Nevertheless, the IEC's media rules, coupled with the collaborative engagement of the IEC, the GRTS, the Ministry of Information and The Gambia Press Union, to some extent substituted for the lack of provisions. The IEC media rules fostered balanced and issue-oriented reporting and called for the candidates to refrain from using language that contradicts the legally binding Code on Campaign Ethics.

The IEC media rules foresee the use of political advertisements by the candidates and parties. However, prior to publishing or broadcasting paid-for materials, media was obliged to receive the IEC's authorisation. The authorisation procedure is, however, non-existent. Nevertheless, for these elections all outlets that expressed an interest in offering advertisement space and time to the candidates were granted the permission. In total only some 10 per cent of candidates utilised the opportunity, primarily on community radio stations<sup>19</sup>. The price for a paid-for political broadcast was the same as for a commercial advertisement and varied from GMD 1,500 to GMD 2,500 (€ 30 - 50) for one and a half hours on community and commercial FM radio stations, as reported to the EU EOM. The advertisement price was not perceived as unreasonable or precluding candidates from exploring the effectiveness of paid-for political publicity broadcasts.

The GRTS is legally obliged to provide all candidates with five minutes of free airtime each, to present his or her manifesto in the language of his or her choice. Due to time constraints, the GRTS pre-recorded the candidates' statements at the IEC regional offices within a few days well into the campaign period. Furthermore, only two days' notice was given to candidates to prepare their campaign spots. In some constituencies, not all aspirants could reach the regional capital, therefore their proxies delivered the message, as observed by the EU EOM. From 24 March onwards, the spots were aired simultaneously on the TV and radio in one hour-long block, hindering voters' ability to distinguish between different contestants and their constituencies. Furthermore, the broadcast schedule was neither advertised nor published on the GRTS's website; the recordings were not placed either on the GRTS's website or on its social media accounts. Best practices recommend aiming at enabling voters to familiarise themselves with the candidates in a preferred time. Consequently, the GRTS's fulfilled its legal obligation and introduced the candidates to voters, yet such programming did not effectively facilitate an informed choice.

The IEC is legally mandated to oversee media conduct during the campaign period. It would considerably burden the election management body, if thoroughly implemented. Furthermore, the IEC does not have either the technical equipment or professional knowledge on how to conduct comprehensive, nation-wide media monitoring. Best practices recommend that media oversight duties be vested in an independent regulatory body.

### D. EU EOM Media Monitoring

The EU EOM media monitoring comprised a sample of The Gambia's media outlets, complemented by an assessment of social media and assessment of a representative sample of community radio stations' election coverage<sup>20</sup>. The monitoring revealed how media's poor financial standing, dilapidated equipment

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<sup>19</sup> The EU EOM visited all regional community radio stations and regional branches of *Paradise FM* and received information about 26 candidates across the political spectrum and independents that bought additional airtime on local radio.

<sup>20</sup> From 15 March EU EOM The Gambia 2017 conducted a comprehensive media monitoring using international methodological standards for quantitative and qualitative analysis. The sample of media monitored included state-owned GRTS's radio station and television channel, two commercial radio stations *Paradise FM* and *Star FM*, and four newspapers *Foroyaa*, *The Point*, *The Daily Observer* and *The Standard*. Broadcast media was monitored daily during prime-time hours, the newspapers from Monday to Friday. The quantitative monitoring consists of analyses of the time and space allocated to the political actors, while the qualitative analyses assesses the manner in which relevant actors are portrayed. The EU EOM long-term observers visited all ten community radio stations and filled in a comprehensive assessment form.

and lack of professionalism hindered the opportunity for candidates to promote diverse standpoints and impacted voters' ability to make a fully informed choice. However, the shortcomings equally affected all parties and were primarily to be seen as a heritage of the previous regime.

The GRTS's editorial coverage of elections was scant. The free airtime slots constituted 84 per cent of GRTS television and 97 per cent of GRTS FM radio prime-time election related programming. These statements were never subjected to a critical editorial assessment and candidates largely refrained from challenging each other in public. Moreover, despite best practices, a debate between parties contesting elections nation-wide was never conducted by the GRTS. The GRTS's management stressed that, as seven out of ten GRTS's TV cameras were deployed to record the free airtime messages, there was no equipment left to produce quality campaign coverage. Consequently, a genuine, issue-oriented political debate was absent from the state-run broadcasters' programming.

The news segments on GRTS were dominated by the presidential tour and government ministers' institutional activities. The GRTS TV allotted 33 per cent of its news coverage to the president and 61 per cent to the government. The GRTS radio allotted 81 per cent of news to the president and a further 13 per cent to the government. On the positive side, GRTS news reports were neutral and brief, yet they relayed mainly president's promises of sustainable development. Such allocation of time distorted the fairness of the campaign coverage within the state broadcasters' news segments that *per se* require higher standards of neutrality, balance and separation between political actors' executive duties and campaigning.

Commercial radio stations facilitated live political face-offs. *Paradise FM* devoted 90 per cent and *Star FM* 85 per cent of their prime-time election related programming to the debates. The distribution of time among individual parties and candidates was equitable and reflected candidates' interest and readiness to discuss their policies. Within the news, commercial radio stations applied a pattern similar to the one of the GRTS. On *Star FM* the president was granted 47 per cent, while 53 per cent were allotted to the government. *Paradise FM* allotted 59 per cent to the president.

The overall tone across commercial media news was neutral. As commercial and community radio stations' news content largely originates from newspaper articles, the distribution of space among political actors within the print media should be seen as a nation-wide reference to assess the overall balance of campaign coverage. In all print outlets, prominent party leaders, such as Mama Kandeh (GDC), Mai Ahmad Fatty (GMC), Halifa Sallah (PDOIS) and Ousainu Darboe (UDP) were featured in between 6 and 12 headline articles each. Omar Amadou Jallow (PPP), while blending his institutional activities with political statements that impacted on the campaign, was featured in 20 signal articles across the monitored media. In total, print media devoted equitable space to all political parties, including the APRC. However, the coverage was beneficial to prominent politicians. In addition, some independent candidates were granted a fair share within the newspapers' coverage of the campaign. Print media allotted from 10 to 19 per cent of its articles devoted to the political communication to independent candidates, including in photographs of electoral events.

Community FM radios were instrumental in introducing candidates to the population and in conveying voter information. All ten community radio stations offered free airtime to candidates contesting the respective constituency, espoused sensitisation messages in local languages and invited opinion leaders to participate in live programmes. None of them received additional funds to boost their broadcasting capacity, thus limiting to certain degree their services to the electorate.

The political narrative of online media was animated and touched upon issues neglected by the traditional media, such as allegedly politically motivated fracas. Online news sites operating from abroad were the most vocal critics of the president's nation-wide tour. Eight out of nine parties or their leaders have dedicated Facebook page, with the GDC and the UDP having over 80,000 and 50,000 active followers, respectively. The GDC and the UDP further expanded their online reach and diversified the messaging by creating interconnected profiles on different platforms. WhatsApp groups were used for circulating pre-

recorded candidates' statements that were later re-played to voters at community centres in rural areas with a limited access to traditional media.

Commendable efforts were made by all monitored media outlets to promote the participation of women in political life by granting, the however few, female candidates prominent exposure within the election-related prime-time broadcasts and within the newspapers. GRTS allotted 42 (radio) and 57 (television) per cent of its election-related original programming to female political actors<sup>21</sup>. Commercial radio stations allotted from 12 to 13 per cent to women politicians, while the newspapers devoted from 5 per cent in *The Point*, to 23 per cent in *The Standard*. Online news sites, in their editorial sections, published several endorsements of female candidates. In addition, *Paradise FM* produced special civic education mini dramas to promote women's participation as voters.

### **XIII. DOMESTIC AND INTERNATIONAL OBSERVERS**

Similar to the recent presidential election, several civil society organisations actively engaged in election observation and election related conflict monitoring. An IEC Code of Conduct regulated the activities of citizen and international observers and the IEC invited citizen and international observers to attend a special briefing.

The biggest group of citizen observers was accredited under the CSO Coalition on Elections led by the West African Network for Peace-building (WANEP) with 200 observers. In addition, the IEC issued accreditations for 54 Peace Ambassadors, 35 observers from the National Youth Parliament, and 20 observers from *Pro Gambia*. All citizen observers focused primarily on the observation of election day. The CSO Coalition on Elections concluded that, in many instances, police officers were present inside the polling stations. The CSO coalition recommended the empowerment of the NCCE to efficiently and effectively conduct civic education nationwide on a continuous basis.

The African Union deployed a short-term observation mission with 30 observers which, in its preliminary declaration, reported generally calm and well administered elections and called on the government to focus on national reconciliation in view of the then recent political events. The AU EOM also expressed its concern that citizens who had turned 18 years of age since the last registration exercise did not get an opportunity to exercise their franchise. The AU EOM further noted that the electoral legal framework does not adequately address the issue of public party and campaign funding and that the system could be more inclusive through the introduction of affirmative action for vulnerable groups such as women and persons with disabilities.

The Economic Community of West African States Commission deployed 17 accredited observers and recommended that the IEC and political parties should make more effort to educate and sensitise citizens on the importance of active participation in all national elections.

### **XIV. PARTICIPATION OF WOMEN**

There were just 20 women among the 239 nominated candidates for the National Assembly elections, while three amongst them were elected to the 53 elected seats. This represents less than 6 per cent of elected members. Three of the five presidential nominees were female, bringing the total to six women among the total membership of 58 of the National Assembly, which is less than 11 per cent of the total. While this represents a slight increase from the total of five women in the last parliament (two elected and three appointed, representing 9.4 per cent of the total), the impact of the electoral system has been to deliver no significant representation for women amongst the membership of the National Assembly.

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<sup>21</sup> The time and space allotted to the president is excluded from the total time and space measured to assess the gender balance across the monitored media.

Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women obliges states to take all appropriate measures to eliminate discrimination against women in the political and public life of the country. The Beijing Platform for Action set a target of 30 per cent of elected representatives to be female, as an indicator of substantive equality. The use of temporary special measures, under Article 4 of the Convention, is open to The Gambia to promote and fulfil women's rights to *de jure* as well as *de facto* equality. In addition, Article 9 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, acceded to by The Gambia in 2005, requires states to take positive action, through legislation and other measures, to ensure that women are represented equally at all levels with men in all electoral processes.

The Women's Act 2010 provides, in Section 15(1), for the adoption of temporary special measures in favour of women, in order to accelerate the achievement of *de facto* equality between men and women. This has not, however, been used in a systematic way. While it is difficult, on technical grounds, to introduce reserved seats for women within the present single member, first-past-the-post, electoral system, political parties could ameliorate the situation through the adoption of affirmative action policies. Such policies could include the promotion of female participation within party structures, and the nomination of an increased number of female candidates for election. While there is advocacy of reserved seats for women through quotas within a proportionally representative system, this would be possible only in the context of a revision of the current electoral system.

## **XV. PARTICIPATION OF PERSONS WITH DISABILITIES**

The Constitution provides, in Article 31, for the rights of persons with disabilities. These rights are to include the right to respect and to human dignity, as well as to protection against exploitation and discrimination, particularly with regard to access to health services, education and employment. There is, however, no specific protection for the political rights of persons with disabilities, beyond the standard rights which apply to all citizens. A guarantee of equality, which would prohibit discrimination on the grounds of disability status, is also absent.

In 2015 The Gambia acceded to the UN Convention on the Rights of Persons with Disabilities but no effect has been given to the Convention in domestic law. The Lunatics Detention Act of 1917, last reviewed in 1964, is the only legislation dealing with intellectual disability, legislation which does not have a rights-based perspective. The African Commission on Human and People's Rights, in the case of Purohit and Moore v The Gambia<sup>22</sup>, decided that this legislation is contrary to the African Charter on Human and People's Rights, as, among other consequences, it deprives persons detained in a psychiatric hospital of their right to vote. The Gambia was urged to repeal the Lunatics Detention Act, but has yet to do so.

The Elections Act stipulates that assistance may be provided to facilitate voting by persons with special needs. While secrecy of the ballot is guaranteed, this was undermined in the case of voters requiring assistance. Braille labels on ballot drums could have ameliorated this situation, and would have been welcomed by voters.

No voter information or editorial programmes or articles aimed to advance the political participation of persons with disabilities were published in media monitored by the EU EOM. None of the political parties specifically addressed the needs of people with disabilities in their campaign platforms or employed campaign methods that would effectively reach out to the community.

Engagement with the community of persons with disabilities in making electoral preparations will be important in the future to better vindicate their right to vote.

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<sup>22</sup> Purohit and Moore v The Gambia (Afr. Com. No. 241/01 (2003))

A draft Disabilities Bill was published in 2007 by the Gambia Federation for Persons with Disabilities. Provisions in the Bill include the introduction of a quota of at least two reserved seats in the National Assembly for persons with disabilities. The Bill has not yet been considered by the parliament.

## XVI. ELECTORAL JUSTICE

### A. Electoral Offences

There is an extensive catalogue of electoral offences set out in the law. Not a single prosecution was undertaken of an electoral offence during these elections. There were a few arrests on criminal charges of assault, which were election related, although not specified as electoral offences in the charges. This undermines the accountability of candidates and political parties for the actions of their supporters. There were reports in the media of distribution of goods to the electorate by some candidates, actions which appear to violate the prohibition on treating voters during the election campaign. No prosecutions were initiated by the authorities.

An APRC supporter was arrested and a prosecution was initiated on a charge of insulting the President, arising out of a verbal altercation between APRC and UDP supporters. There is no specific offence in the Criminal Code of The Gambia of insult to the President. Instead the actual charge was that of behaviour likely to provoke a breach of the peace, which would amount to a violation of the Public Order Act. To sanction an expression of a political opinion in this manner is, on the face of it, contrary to the protection of the freedom of speech and in violation of international law<sup>23</sup>. On the second occasion at which the case came before a court, the State entered a *nolle prosequi*, indicating that the case would not be proceeded with.

### B. Complaints and Appeals

The existence of an efficient and effective system of electoral justice is fundamental to securing a credible election process. The IEC has extensive jurisdiction to deal with complaints which arise at all stages of voter registration, candidate nomination, campaigning, and the actual technical conduct of the elections. There is, however, a dearth of legal rules indicating the procedures which are to be followed in the submission or adjudication of complaints during the campaign period. There is an absence of rules, of timeframes, and of forms with which to deal with these matters. Disputes which arose during the campaign were dealt with through informal systems of mediation and reconciliation, reflective of a general approach to dispute resolution in The Gambia. This renders it difficult for any aggrieved party to pursue legal action, as documentation does not exist, and there are no legal avenues prescribed for adjudication.

The Code of Election Campaign Ethics Order was issued in 1996, and both individual candidates and political parties must commit themselves to it upon their nomination. The Code does not contain a single provision as to how a complaint of non-compliance is to be made, nor is there any procedure as to how complaints are to be adjudicated upon. The Code confers significant powers of sanction upon the IEC, up to cancellation of the registration of a political party or cancellation of the nomination of a candidate. International standards mandate access to effective remedies, and the right to a fair hearing, which are not respected within the framework of the Code of Election Campaign Ethics<sup>24</sup>. It is important that procedures, including a possibility to appeal against far-reaching decisions, exist to allow for complaints to be made and fair hearings to take place.

Objections to candidate nominations were effectively impossible. An objection period was provided for on the day after the close of nominations, while the law requires even less, mandating just a period of a few

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<sup>23</sup> International Covenant on Civil and Political Rights Art. 19; African Charter on Human and People's Rights Art. 9 (2)

<sup>24</sup> International Covenant on Civil and Political Rights, Art.2.3; African Charter on Democracy, Elections and Governance Art. 17 (4); AU Declaration on the Principles Governing Democratic Elections in Africa IV.6

hours for objections. The IEC, however, was obliged only to publish the identity of candidates at least seven days before polling day. The identity of nominated candidates was therefore not known to the electorate before the putative objection period had ended, depriving the objection period of any meaningfulness. No objections were received by the IEC. The law restricts court challenges to allegedly unlawful nominations to post-election petitions only.

### C. Election Petitions

The political and legal realities of the last two decades have had the result that there is no recent culture of contesting election results, or indeed of any recourse to the law during the electoral process. The last election petitions which went to trial were heard in 1992. Nonetheless, the legal jurisdiction for election petitions exists, with responsibility attributed exclusively to the Supreme Court. This court had not sat for two years, and, being comprised of a single member at the time, was not functional during the period of the election campaign. There was a large backlog of cases then awaiting adjudication, among which were two election petitions challenging the results of the 2016 presidential election. The law states that the Supreme Court has a period of 30 days to adjudicate upon election petitions, but that delay will not cause invalidity of any decisions. This means that there is effectively no time limit for election petitions, contrary to international standards which recognise the right to a timely and effective remedy<sup>25</sup>. Despite the absence of a complete Supreme Court bench, it was technically possible to submit election petitions challenging the results of the National Assembly elections, to await adjudication until the restoration of the functionality of the Court. No election petitions were filed.

There are several procedural and technical requirements which must be complied with in the submission of an election petition. Security for costs must be lodged within three days of the filing of a petition. The amount of money to be lodged could be substantial, including both court and witness costs. This requirement could, potentially, present an insurmountable obstacle to the submission of election petitions. It could have the result that only affluent aggrieved parties would be able to bring cases, barring those without means who might have meritorious cases to bring. This could deny access to the courts, undermining protection of the right to an effective remedy.

## XVII. ELECTION DAY AND ANNOUNCEMENT OF THE RESULTS

### A. Opening and Voting

On election day, the EU EOM observed voting procedures at 222 polling stations, reflecting 16 per cent of all polling stations across all seven regions of the country. Voting procedures were simple, without advance, postal, mobile or out-of-country voting. Registered voters could vote only in the polling stations where they were registered. Polling was conducted from 08:00 to 17:00 hours, in all 1,422 polling stations, which were partly grouped in polling centres.

The IEC conducted polling and counting in a transparent and orderly manner. No serious delays in opening of polling stations were reported. All polling stations visited had received all required materials but the staff counted the ballot tokens received before opening in only 65 per cent of observed polling stations. The opening procedures were largely followed and the overall conduct of the opening was assessed positively.

The law provides basic directions for polling, counting and collation, but the IEC did not issue any detailed written procedures, beyond the handbook for polling officials. Polling was conducted in a peaceful atmosphere and polling procedures were mostly followed. In 84 per cent of polling stations visited during voting the presiding officer was male, while in all other polling staff categories women were a majority. In the polling stations observed, two or more agents of different candidates were present during voting. Procedures for the provision of assistance to voters with special needs were not observed to be widely

<sup>25</sup> International Covenant on Civil and Political Rights, Art. 2.3; African Charter on Democracy, Elections and Governance Art. 17 (4); AU Declaration on the Principles Governing Democratic Elections in Africa IV.6

complied with, while polling stations visited were often inaccessible to voters with reduced mobility. No Braille labels on ballot drums were provided for persons with visual impairment.

The EU observers assessed the conduct of polling positively in 98 per cent of polling stations. Only a few irregularities were observed. These included the polling station layout insufficiently protecting the secrecy of the ballot in seven per cent of instances, and no checking for traces of ink in some 10 per cent of the polling stations observed. EU observers reported that ballot tokens were not always counted and matched to the number stated on the token bag. Also, the quantity of seals used on the drums differed at times. A problem occurred in Old Yundum constituency where in some four polling stations pictures of the three independent candidates were misplaced on wrongly coloured ballot drums. The Returning Officer, however, decided that, given the clear victory of the UDP candidate and the low faring of the three independent candidates, this error had no fundamental effect on the result of the election and no repeat election in the polling stations concerned was necessary.

### **B. Counting and Tabulation**

Counting took place at the polling station, a commendable electoral reform introduced in 2015, which was first successfully implemented during the 2016 presidential election. The IEC provided mostly verbal procedural directions for counting and omitted the *Counting Form*, a form specified for this purpose in the *IEC Handbook for Polling Officials*. Presiding officers used the *Polling Station Result Form*, a simple photocopy.

Counting at the polling stations was conducted in a quick and accurate manner and in the full view of candidate agents and observers. While EU observers assessed the overall conduct of the process positively in 96 per cent of polling stations visited, procedures were frequently not followed, including the prior sealing of the ballot drum holes, and those for reconciliation. At 87 per cent of the observed polling stations, results forms were displayed for the public and almost all candidate agents received certified copies of the results forms. However, in many cases reported, result forms did not include signatures of all agents.

Collation at the seven regional collation centres lacked clear procedures, organisation and transparency. In the separate constituency collation rooms, polling station results were only announced for candidate agents to compare with their notes of the results. No reports of objections were voiced during the collation process. The polling station results were recorded in handwriting on basic collation result forms, with the signatures of candidate agents on a separate page, thus lacking any basic security features. In most collation centres observed, candidate agents received handwritten copies of collation result forms afterwards. However, the IEC did not use carbon copies for result forms, did not introduce any tamper-evident envelopes, or recorded on blackboards or displayed by projector the results at the collation rooms.

### **C. Announcement of Election Results**

The legal framework lacks details concerning the announcement of results, as the IEC chairperson appeared to take on a predominant role in announcing official results without other commission members present. The other four IEC commissioners each acted as Returning Officer (RO) in one of the administrative regions, a *modus operandi* which is not legally required and which could prevent the IEC Commission from meeting in case of emergency or other electoral challenge and to a degree duplicating the role of the Regional Electoral Officers.

The constituency results were first verified by the seven Regional Electoral Officers (REO) at their offices differently located from the constituency collation centres. No candidate agents or observers were present and the process lacked transparency and oversight. Once cleared by the REO and upon approval of the Returning Officers (four of them IEC Commissioners, three of them IEC senior staff members), the results were transmitted by fax to the IEC HQ. The IEC Chairperson started announcing the official final results of the elections per constituency from 23:00 hours via live telecast on national GRTS television and on GRTS



FM radio. Only in two out of seven regions the Returning Officer and not the IEC chairperson announced the official constituency results first.

All elected members of the National Assembly were announced by 9:00 am the morning after the elections: UDP won 31 seats, APRC won 5 seats, NRP won 5 seats, GDC won 5 seats, PDOIS won 4 seats, PPP won 2 seats, and an independent candidate won one seat. The results provided by the IEC at this stage were only broken down to constituency level with no individual polling station results displayed on the IEC website. Data was missing about the number of voters who voted and the number of invalid votes counted.

A total of 379,320 valid votes were cast resulting in a voter turnout of 42.8 per cent. In comparison with the December 2016 election, which had a voter turnout of 59.3 per cent (525,867 votes), a total of 146,547 fewer voters went to the polls, which is a drop of 27.9 per cent.

The first-past-the-post (FPTP) electoral system used resulted in a strong advantage for the biggest party: UDP won 37.5 per cent of the popular vote but 58.5 per cent of the seats (31). GDC, as the second biggest party in the popular vote with 17.4 per cent, was particularly disadvantaged by the FPTP system as it only won 9.4 per cent of seats (5). APRC won 15.9 per cent and NRP won 6.3 per cent of the popular vote but both won 9.4 per cent of seats (5). PDOIS achieved 8.9 per cent of popular vote and 7.5 per cent of seats (4). PPP, with only 2.5 per cent of the popular vote, won 2 seats reflecting 3.8 per cent.

The winner with the lowest percentage of votes was in Lower Fulladu West constituency with 23 per cent of the vote while the winner with the highest percentage of the vote was in Foni Kansala constituency with 88 per cent. The winner with the lowest number of votes was in Janjanbureh constituency with 474 votes while the winner with the highest number of votes was in Kombo South constituency with 10,022 votes. These result figures accentuate the unequal level of representation of the electorate in the National Assembly.

The closest margin of victory was recorded in Sandu constituency with 14 votes difference (won by UDP versus GDC), in Lower Niumi constituency with 37 votes difference (won by UDP versus GDC), and in Niamina East constituency with 43 votes difference (won by GDC versus UDP).

Urban areas, in particular, recorded a low voter turnout with, for example, Kanifing region with 36.2 per cent, Banjul municipality with 39.8 per cent and Basse town with 36.8 per cent. The constituencies with the lowest turnout were Serekunda constituency with 31.5 per cent, Old Yundum constituency with 31.8 per cent, Kantoro constituency with 32.5 per cent and Serekunda West with 33.6 per cent. The highest voter turnout was recorded in rural areas such as in Kerewan region with 58.4 per cent and in the five constituencies of Foni area. The constituencies with the highest recorded turnout were Niamina Dankunku with 63.0 per cent, Foni Bintang with 62.6 per cent, and Janjanbureh with 60.1 per cent.

## **XVIII. POST-ELECTION DAY DEVELOPMENTS**

Fifty-three members of the National Assembly were elected on 6 April 2017. The political parties affiliated with the Coalition 2016 secured more than 80 per cent of these elected seats. The UDP obtained 58.5 per cent of seats with 31 elected National Assembly Members. Among the other members of the coalition, three parties and one independent candidate were elected. These were the NRP with five seats, PDOIS with four and PPP with two. The single independent candidate elected in Basse constituency had been one of the founders of the Coalition 2016. Outside the coalition, the APRC and the GDC secured five seats each. An additional five members were nominated to the National Assembly by the President.

An analysis of the results from a proportional perspective shows that Coalition 2016 increased their support from the presidential elections by a 24 per cent margin. The Coalition 2016 won 67 per cent of the National Assembly votes, compared to 43 per cent of the votes won by them in the presidential election. The UDP obtained 37.5 per cent of the total nationwide vote. The party was the largest opponent of the Jammeh

regime and, since his defeat, the party has grown in popularity amongst all segments of the population. The APRC lost support on a national scale, except within its strongholds in the five Foni constituencies. In total, the party secured 16 per cent of the votes compared to the about 40 per cent secured in the 2016 presidential election.

The GDC obtained 17 per cent of the votes, winning the majority in five constituencies in both elections. These results seem to indicate maintenance of a *status quo* in terms of voter support. However, this is not the case as the wins were not in the same five constituencies each time. The NRP is believed to have attracted former GDC voters to their camp, winning three constituencies in which the GDC had won the majority last December. The GDC, however, won in 3 other constituencies, in which the APRC had won the majority in the presidential election. In the Central River Region, votes were mostly cast in support of the GDC and NRP, both drawing votes away from the APRC. The NRP benefited from the ‘first-past-the-post system’ that allowed them to win in five constituencies with a relatively low number of the total votes. On a proportional basis on the national level, the NRP won only six per cent compared to 17 per cent for GDC. The PDOIS won the majority in 4 constituencies, two of which are the home of charismatic party figures. In one constituency, Banjul North, the winning PDOIS candidate drew significant support through Team Tahawal Banjul canvassing. The two elected members from PPP were also supported by the TTB.

Both the APRC and the GDC expressed concern at the results of the elections. The APRC voiced their concerns more quietly, while conversely the GDC leader publicly declared his intention to reject the election results. He asserted that the outcome of the elections had been deeply influenced by the presidential tour. He also claimed that in some constituencies the results were incorrectly tallied and deductions were made from the GDC votes during the collation of the votes. He also criticised the EU EOM and other international observers during a press conference held on 10 April. The APRC leadership, with a different grievance, argued that in most polling stations their party agents did not receive a copy of the polling station results form. In their press conference, however, they did not make a major issue of their election concerns but rather focused on distancing themselves from former President Jammeh. No election petitions were in the end submitted to the Supreme Court to challenge the outcome of the elections in any constituency.

On 11 April members of the National Assembly were sworn in after the Speaker and Deputy Speaker were elected. As set out in the Constitution, both the speaker and the deputy speaker were elected from among the National Assembly members nominated by the president. This was followed by the election of the Majority and Minority leaders. The minority leader elected represents the NRP. He was also the minority leader in the past legislature. His election was supported by the other members of the Coalition 2016. He obtained 47 votes compared to 5 for the APRC and 5 for the GDC candidates. This means both the Majority Leader and Minority Leader are from parties within the government.

While Election Day was notable for peace and calm, a few incidents of disorder occurred subsequently. On 7 April, clashes between UDP and GDC supporters took place in Sandu constituency following the proclamation of the victory of the UDP candidate with just 14 votes more than the GDC candidate. The situation was mitigated by the intervention of the police. The same day, violence occurred between UDP and APRC during the celebration of their respective victories (at the national level for the UDP and at the constituency level for APRC) in Foni Bintang constituency. The police were initially unable to control the situation and the clashes continued until the arrival of additional forces. A few days later, on 10 April, the Minister of Interior and the Minister of Lands and Regional Government held a “peace and stability” meeting to reconcile the APRC and UDP supporters.

On 20 April, an incident occurred in the village of former president Jammeh in Foni Kansala constituency between members of the Gambian Army and the ECOMIG forces over access to Jammeh’s villa. Gambian military denied access to the property to the ECOMIG troops. A clash occurred and three Gambian soldiers were injured. Both the Minister of the Interior and the Army claimed that the shooting was part of a misunderstanding between both parties and was not symptomatic of tensions between national and

ECOMIG troops. According to the EU EOM's key interlocutors, APRC supporters in Foni perceive the presence of ECOMIG troops as a threat and a “punishment” for their support to Jammeh. The situation in the Foni area remains fragile.

The media’s post-election agenda covered the GDC objections to the election results in several constituencies, as well as politically motivated fracas in some parts of the country. Statements of the GDC leader were livestreamed on the party’s Facebook account and reverberated across mainstream media. The GDC leader’s press conference triggered public pronouncements by the APRC and the PPP, thus expanding the public debate among electoral stakeholders on the conduct and results of the elections. Overall, media content amplified the general acceptance of the outcome of the elections.

During the post-electoral period media, including online, greatly contributed to the overall awareness and understanding of the role of National Assembly. The state-owned GRTS broadcast *live* the first session of the National Assembly, as a measure to enhance transparency. Furthermore, media featured the newly elected members of the National Assembly and reminded the public of their duties and pre-election promises.

Prior to departure the EU EOM invited key electoral stakeholders to a round table discussion on selected recommendations for possible improvements of several aspects of the electoral legal framework and the electoral process, particularly with respect to compliance with regional and international commitments, standards and best practice. The election round table was attended by the IEC chairperson and vice-chairperson, leaders and representatives of political parties, including the GDC and PDOIS leaders, members of the National Assembly, as well as representatives of the media and civil society.

The IEC chairperson publicly stated the aspiration of The Gambia to change from marble ballot tokens to ballot papers. UDP, with 31 seats in the National Assembly and NRP with 5 seats publicly stated their support for the current system while GPDP and PDOIS expressed their preference to switch to ballot paper. Citizen observers from WANEP also considered that the current system has the trust of the voters as it is safe, transparent and quick.

Two weeks following election day, the IEC chairperson refused to release detailed election results in response to a request in writing from the APRC to receive results broken down by polling station. This refusal is contrary to international commitments which stipulate that “there should be independent scrutiny of the voting and counting process”<sup>26</sup>.

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See ICCPR GC 25 Paragraph 20 as well as ECOWAS Protocol on Democracy and Good Governance Article 6.

## **XIX. RECOMMENDATIONS**

Enhancement of several aspects of the electoral process is required for the full realisation of the fundamental rights of individuals and groups, as provided for in the applicable international and regional commitments to democratic elections of The Gambia. In this regard, the following priority recommendations are offered, for consideration and action, to the Government of The Gambia, the IEC, political parties, civil society and the international community. Discussion on implementation of all recommendations should be undertaken as expeditiously as possible in order to address the shortcomings identified in the 2017 electoral process in a timely manner. A detailed table of recommendations can be found in Annex I to this report, while the recommendations are listed below:

### **Legal Framework**

- 1. Revise the legal requirements for registration as a political party.**
2. Consolidate the Constitution and electoral law to include all amendments. Disseminate widely.
3. Revise the law which disqualifies all prisoners from voting, regardless of the reason for imprisonment, ensuring that the suspension of voting rights is proportionate to the offence committed.
4. Review the system of presidential appointments to the National Assembly, with a view to having a parliament that is directly elected by, and accountable to, the people.
5. A moratorium could be considered on the president and members of government opening public works or announcing same during the campaign period. Consideration could be given, in the interest of maintaining a level playing-field, to ensuring that the timing of presidential tours does not overlap with the campaign period.

### **Election Administration**

- 6. Strengthen the institutional independence of the IEC by: establishing an inclusive mechanism for the selection and appointment of the IEC Chairperson and Commissioners; by ensuring the security of the IEC Commissioners' tenure; and by providing the IEC with full sovereignty over its budget; as well as a legal requirement for the IEC Commission to make joint decisions, particularly on results.**
- 7. Establish clear and coherent procedures for polling, counting, result transfer, and collation, in conjunction with the introduction of improved security measures of result and collation forms; as well as provide timely, participatory training of election staff and candidate agents on these procedures.**
8. Increase the transparency of the IEC by conducting regular meetings with stakeholders (political parties, observers) at the national and regional levels, together with opening up IEC Commission sessions and publishing its minutes and decisions, as well as other information materials via IEC website and social media channels.
9. Establish clear deadlines for announcing official election results and introduce a robust result management system in conjunction with the timely national display of scanned polling station result forms on the IEC website.

10. Improve office, storage and communication infrastructure of the IEC, especially at the regional level, for the sustainable, safe and quality implementation of its constitutional tasks.
- 11. Establish the Boundaries Commission and enact legislation outlining the criteria for the demarcation of constituency boundaries, impartially and transparently, ensuring the equality of the vote, with legally binding permitted deviations from the national average number of voters per constituency.**

#### Voter Registration

- 12. Establish an accurate voter register and provide citizens with timely opportunities to register as voters, to update voter registration entries in case of error or change of place of residence, to remove deceased and other unqualified persons' entries, with adequate time for display and challenge.**
13. Introduce the provision of duty certificates to allow those on electoral duty to vote at a polling station other than where they are registered; together with establishing timely deployment plans of staff on electoral duty to minimise the number of voters affected.
- 14. Deliver extensive and continuous civic education which would ensure that all citizens are informed of their rights as citizens and voters. They would also be made aware of the role of elected institutions and of the main aspects of governance. Special programmes aimed at youth, women and persons with disabilities could also be developed and implemented. CSOs could play an active role in the promotion and implementation of these activities.**
15. Implement a comprehensive and timely voter education and voter information campaign through field activities (incl. street theatre), social media (incl. podcasts) and media campaign, sensitising about suffrage rights and electoral procedures, with a special emphasis on women, youth, PWDs, and marginalised groups. The state TV and Radio has to play an essential role in the educative campaign.

#### Campaign, Political Parties and Campaign Finance

16. The Elections Act could be revised to include stricter rules and limits for donations and campaign spending. Consideration should be given to introduce ceilings on expenditure for parties and candidates. Responsibilities could be assigned to a new institution, such as an anti-corruption commission, to monitor compliance and enforce the rules.
- 17. Confer the power to conduct effective campaign finance oversight on the IEC or on a yet-to-be-established anti-corruption body. The respective body should be granted sufficient powers to monitor and enforce rules on campaign finance. To enhance transparency, financial reports of all parties and candidates could be published before and after the campaign period.**
18. The relations among political parties and the resolution of either political and election related disputes would benefit from the institutionalisation of the inter-party committee.
19. Political parties, as well as Members of the National Assembly, would benefit from the establishment of capacity building programs.

## Media

- 20. Amend the legal framework for traditional and online media regarding content limitations and registration procedures; decriminalise defamation and lift online media’s liability for third-party content, consequently bringing the overall legal framework into line with The Gambia’s international commitments regarding freedom of expression.**
- 21. Establish legal safeguards for the public service broadcaster’s editorial independence and financial autonomy.**
22. Establish an independent regulatory body for the media, clearly defining institution’s mandate and decision-making process. Envisage that during the campaign, the regulatory body oversees the media’s conduct. Following good practice, conduct an inclusive consultation prior to the establishment of a new regulatory institution.
23. State authorities should put in place measures aimed to foster media’s role throughout the campaign. Introducing political debates as an indispensable component of the campaign at the national and the constituency level, would enable voters to compare candidates and to make informed decisions. State subsidies could be allocated to debates, including on commercial and community radio stations.
24. Enhance the capacity of community radio stations, by allocating adequate funding, technical equipment and by organising professional trainings.
25. Introduce Freedom of Information Act that would facilitate the public’s right to prompt access to the information in person, offline and online, also regarding the elections.

## Participation of Women

- 26. Introduce legal requirements, such as mandatory quotas, for political parties to apply affirmative action gender policies within their parties, in terms of integrating women into party structures and selecting women as party candidates. Such policies can be particularly effective when using the bottom-up approach. Enforcement measures could be linked to the ongoing registration of the political party. In any revision of the electoral system, introduction of quotas for female candidates could be considered.**

## Participation of Persons with Disabilities

27. Revise disqualifications from voting on the grounds of “unsound mind” and “lunacy”. Ensure polling station locations are selected on the basis of physical accessibility. The use of Braille labels on ballot drums could be introduced to protect secrecy. A voter education programme, prepared in consultation with the PwD community, could support their participation in the electoral process.

## Electoral Justice

28. Detailed complaints procedures should be provided for, to allow for the implementation of the Code on Election Campaign Ethics. Fair procedures are essential in the treatment of such complaints, requiring details of how decisions will be made, sanctions imposed, and allowing for the possibility of an appeal.

29. **The introduction of a detailed complaints procedure, with reasonable time limits for adjudication, should be considered. The procedure could regulate matters such as when, in what format and to which institution, complaints would be submitted and how they would be adjudicated upon.**
30. Revision of the rules to challenge the nomination of candidates for election could be considered. The time period could be extended until some days after the list of nominees has been published. An appeal to the courts against the decision of the IEC, could also be considered.
31. Election petitions should be accorded priority over other cases scheduled before the Supreme Court. The requirement of lodgement of security deposit for costs could be reviewed and removed, to enhance access to the court for all parties.

## ANNEX I Table of Recommendations

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
<b>LEGAL FRAMEWORK</b>					
1	<p><i>Political Party Registration</i></p> <p>Excessive requirements for potential parties to become active include an unreasonably high registration fee and a very high minimum of members.</p> <p><i>Page 17</i></p>	<p>Revise the legal requirements for registration as a political party.</p>	<p>Revision of Section 105 of the Elections Act.</p>	<p>National Assembly</p>	<p>The Right to Political Representation through Political Party</p> <p>ACHPR Art. 10 (1); ICCPR Art. 22.1</p>
2	<p><i>Legal Framework</i></p> <p>Access to the law can be difficult, as there is limited availability in print, and almost no availability electronically. Amendments to the legal framework have not been consolidated.</p> <p><i>Page 11</i></p>	<p>Consolidate the Constitution and electoral law to include all amendments. Disseminate widely.</p>	<p>No change to the legal framework; change the practice of the Government of the Gambia in the dissemination of official documents.</p>	<p>Ministry of Information and Communication Infrastructure</p>	<p>Rule of Law</p> <p>UDHR; Declaration of the high-level meeting of the General Assembly on the rule of law at national and international levels; ACDEG (<i>signed, not ratified</i>)</p>



No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
3	<p><i>Legal Framework</i></p> <p>Persons serving a sentence of imprisonment are disqualified from voting. <i>Page 16</i></p>	<p>Revise the law which disqualifies all prisoners from voting, regardless of the reason for imprisonment, ensuring that the suspension of voting rights is proportionate to the offence committed.</p>	<p>Revise Section 13. (b) of the Elections Act.</p>	<p>National Assembly</p>	<p>The Right to Vote  ICCPR GC 25 Paragraph 14</p>
4	<p><i>Electoral System</i></p> <p>Five members of the National Assembly are nominated by the President. The will of the people should be the basis of governmental authority, meaning that all representatives should be freely chosen by voters. <i>Page 13</i></p>	<p>Review the system of presidential appointments to the National Assembly, with a view to having a parliament that is directly elected by, and accountable to, the people.</p>	<p>Revise Article 88.1 (b) of the Constitution of the Republic of The Gambia.</p>	<p>National Assembly</p>	<p>Direct Elections  UDHR Art. 21.1, 21.3. ACHPR Art. 13.1</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
5	<p><i>Campaign Environment</i></p> <p>The use of public property during a campaign is prohibited. There are no restrictions on the announcement of or the opening of new projects, which could influence the public. There is no time limit of the conduct of presidential tours, which could also affect the campaign.</p> <p><i>Page 19</i></p>	<p>A moratorium could be considered on the president and members of government opening public works or announcing same during the campaign period. Consideration could be given, in the interest of maintaining a level playing-field, to ensuring that the timing of presidential tours does not overlap with the campaign period.</p>	<p>Revision of Art 222 (15) of the Constitution inserting temporal restriction on presidential tours; revision of Section 91(b) of the Elections Act to extend restrictions on use of public property during campaign period.</p>	<p>National Assembly</p>	<p>Fairness of Campaign</p> <p>AU Declaration on the Principles Governing Democratic Elections in Africa IV.9;</p> <p>ICCPR GC 25 Paragraph 19</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
<b>ELECTION ADMINISTRATION</b>					
6	<p><i>Election Administration</i></p> <p>All 5 IEC members, including the Chairperson are directly appointed by the President.</p> <p>The Minister of Finance approves and disburses funding to the IEC. Lack of legislation about IEC decisions and result announcement.</p> <p><i>Page 14, 30</i></p>	<p>Strengthen the institutional independence of the IEC by: establishing an inclusive mechanism for the selection and appointment of the IEC Chairperson and Commissioners; by ensuring the security of the IEC Commissioners' tenure; and by providing the IEC with full sovereignty over its budget; as well as a legal requirement for the IEC Commission to make joint decisions, particularly on results.</p>	<p>Constitutional amendment Section 42(3) &amp; (6), Section 44.</p> <p>Amendment of the Elections Act.</p>	<p>IEC Ministry of Justice National Assembly</p>	<p>Independent Electoral Authority</p> <p>ICCPR Article 25 ICCPR GC 25 Paragraph 20, African Charter on Democracy, Elections and Governance Article 17.1 (signed not ratified)</p>
7	<p><i>Election Administration</i></p> <p>Lacking written IEC procedures for polling, counting, collation and result transfer.</p> <p><i>Page 29</i></p>	<p>Establish clear and coherent procedures for polling, counting, result transfer, and collation, in conjunction with the introduction of improved security measures of result and collation forms; as well as provide timely, participatory training of election staff and candidate agents on these procedures.</p>	<p>Introducing regulations for coherent procedures by the IEC.</p>	<p>IEC</p>	<p>Independent Electoral Authority; Transparency</p> <p>ICCPR Article 25 ICCPR GC 25, Paragraph 20 ICCPR GC 34, Paragraph 19</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
8	<p><i>Election Administration</i></p> <p>The IEC does not conduct regular meetings with political parties. The IEC meetings and minutes are not public.</p> <p><i>Page 15</i></p>	<p>Increase the transparency of the IEC by conducting regular meetings with stakeholders (political parties, observers) at the national and regional levels, together with opening up IEC Commission sessions and publishing its minutes and decisions, as well as other information materials via IEC website and social media channels.</p>	<p>Amendment of the Elections Act to institutionalise regular contact with stakeholders and for providing increased transparency.</p>	<p>IEC Ministry of Justice National Assembly</p>	<p>Transparency of Election Administration</p> <p>ICCPR GC 25 Paragraph 20 ICCPR GC 34, Paragraph 19 ECOWAS Protocol on Democracy and Good Governance Article 6</p>
9	<p><i>Election Administration</i></p> <p>No legal deadlines for announcing official results; lacking result management system, and no polling station results displayed nationally.</p> <p><i>Page 15, 30</i></p>	<p>Establish clear deadlines for announcing official election results and introduce a robust result management system in conjunction with the timely national display of scanned polling station result forms on the IEC website.</p>	<p>Amendment of the Elections Act; Introducing regulations for coherent procedures by the IEC.</p>	<p>IEC Ministry of Justice National Assembly</p>	<p>Transparency and Independent Scrutiny of Voting and Counting</p> <p>ECOWAS Protocol on Democracy and Good Governance Article 6 ICCPR GC 25 Paragraph 20 UN CAC Articles 7.4 and 10 ICCPR GC 34 Paragraph 19</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
10	<p><i>Election Administration</i></p> <p>The IEC has insufficient infrastructure and equipment to meet its constitutional obligations. <i>Page 14</i></p>	<p>Improve office, storage and communication infrastructure of the IEC, especially at the regional level, for the sustainable, safe and quality implementation of its constitutional tasks.</p>	<p>None, Budget Act 2018</p>	<p>IEC Ministry of Justice National Assembly</p>	<p>Effective Management of Election Administration</p> <p>ICCPR GC 25 Paragraph 20</p>
<b>DELIMITATION OF CONSTITUENCIES</b>					
11	<p><b><i>Constituency Delimitation</i></b></p> <p>The current representation of the electorate for the 53 NA constituencies varies from 1,980 to 46,502 voters per constituency. The Constitution provides for a Boundaries Commission and specific Act with criteria; to date both have not been introduced. <i>Page 15</i></p>	<p>Establish the Boundaries Commission and enact legislation outlining the criteria for the demarcation of constituency boundaries, impartially and transparently, ensuring the equality of the vote, with legally binding permitted deviations from the national average number of voters per constituency.</p>	<p>Introducing an Act outlining specific criteria for the demarcation of constituency boundaries as provided for in the Constitution Section 50(2), Aligning Elections Act.</p>	<p>IEC Ministry of Justice Ministry of Local Government National Assembly</p>	<p>Equal Suffrage</p> <p>ICCPR Article 25 ICCPR GC 25, Paragraph 21</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
<b>VOTER REGISTRATION</b>					
12	<p><b><i>Voter Registration</i></b></p> <p>Entries in the 2011/2016 voter register cannot be changed and no continuous voter registration is taking place also because the IEC does not own the voter register source code.</p> <p><b><i>Page 16</i></b></p>	<p>Establish an accurate voter register and provide citizens with timely opportunities to register as voters, to update voter registration entries in case of error or change of place of residence, to remove deceased and other unqualified persons' entries, with adequate time for display and challenge.</p>	<p>Amendment of the Elections Act to provide for the IEC to correct and update the voter register continuously and delete entries following clearly set out procedures.</p>	<p>IEC Ministry of Justice National Assembly</p>	<p>Universal Suffrage</p> <p>ICCPR Article 25 ICCPR GC 25, Paragraph 11</p>
13	<p><i>Voter registration</i></p> <p>The measure that voters can only vote at the polling station where they are registered disenfranchises polling staff, police, agents and observers on electoral duty of their right to vote. For presidential election, the IEC issued duty certificates.</p> <p><b><i>Page 17</i></b></p>	<p>Introduce the provision of duty certificates to allow those on electoral duty to vote at a polling station other than where they are registered; together with establishing timely deployment plans of staff on electoral duty to minimise the number of voters affected.</p>	<p>Amendment of the Elections Act to provide for the IEC to issue duty certificates for those on electoral duty following clearly set out procedures</p>	<p>IEC Ministry of Justice National Assembly</p>	<p>Universal Suffrage</p> <p>ICCPR Article 25 ICCPR GC 25, Paragraph 11</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
<b>CIVIC AND VOTER EDUCATION</b>					
14	<p><i>Civic and Voter Education</i></p> <p>The Gambia has emerged from 22 years of authoritarian rule where the civil and political rights were suppressed, discouraging political participation. <i>Page 18</i></p>	<p>Deliver extensive and continuous civic education which would ensure that all citizens are informed of their rights as citizens and voters. They would also be made aware of the role of elected institutions and of the main aspects of governance. Special programmes aimed at youth, women and persons with disabilities could also be developed and implemented. CSOs could play an active role in the promotion and implementation of these activities.</p>	<p>Implementation of the Constitution Section 1999</p>	<p>ICCE, IEC, CSOs, political parties, National Assembly (budget)</p>	<p>Effective Exercise of Political Rights; Right to Information</p> <p>ICCPR Art. 25 (a)</p> <p>ICCPR GC 25, Paragraph 11</p> <p>ACDG Art.2 (10)</p>
15	<p><i>Civic- and voter education</i></p> <p>Low level of civic understanding of political rights and the democratic and electoral processes. <i>Page 18</i></p>	<p>Implement a comprehensive and timely voter education and voter information campaign through field activities (incl. street theatre), social media (incl. pod casts) and media campaign, sensitising about suffrage rights and electoral procedures, with a special emphasis on women, youth, PWDs, and marginalised groups. The state TV and Radio has to play an essential role in the educative campaign.</p>	<p>Implementation of the Constitution Section 199 and Elections Act 134A</p>	<p>NCCE IEC CSOs NA (budget)</p> <p>Media</p>	<p>Right to Information; Effective Exercise of Political Rights</p> <p>ICCPR Article 25 ICCPR GC 25, Paragraph 11&amp;12</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
<b>CAMPAIGN, POLITICAL PARTIES AND CAMPAIGN FINANCE</b>					
16	<p><i>Campaign Finance</i></p> <p>Campaign finance is lightly regulated. There are no ceilings on donations or expenditure and no monitoring and enforcement mechanisms in place.</p> <p><i>Page 21</i></p>	<p>The Elections Act could be revised to include stricter rules and limits for donations and campaign spending. Consideration should be given to introduce ceilings on expenditure for parties and candidates. Responsibilities could be assigned to a new institution, such as an anti-corruption commission, to monitor compliance and enforce the rules.</p>	<p>Implementation of Article 104 of the Elections Act</p>	<p>National Assembly</p>	<p>Fairness of Campaign</p> <p>ICCPR Art. 25 (b)</p> <p>ICCPR GC 25, Paragraph 19</p> <p>UN CAC Art. 7 (3)</p> <p>AU CPCC Art. 10 (a)</p>
17	<p><i>Campaign Finance</i></p> <p>Currently, there are no reporting requirements of campaign expenditure for political parties nor is there an effective campaign finance monitoring.</p> <p><i>Page 21</i></p>	<p><b>Confer the power to conduct effective campaign finance oversight on the IEC or on a yet-to-be-established anti-corruption body. The respective body should be granted sufficient powers to monitor and enforce rules on campaign finance. To enhance transparency, financial reports of all parties and candidates could be published before and after the campaign period.</b></p>	<p>Implementation of Article 104 of the Elections Act</p>	<p>National Assembly</p>	<p><b>Transparency in the Funding of Candidates for Elected Public Office</b></p> <p>ICCPR Art. 25 (b)</p> <p>ICCPR GC 25, Paragraph 19</p> <p>UN CAC Art. 7 (3)</p> <p>AU CPCC Art. 10 (b)</p>



No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
18	<p><i>Campaign Environment</i></p> <p>The inter-party committee was inactive during the campaign period, despite the agreement of a Memorandum of Understanding covering the campaign period. <i>Page 19</i></p>	<p>The relations among political parties and the resolution of either political and election related disputes would benefit from the institutionalisation of the inter-party committee.</p>		<p>IEC,  olitical Parties, National Assembly</p>	<p>Right to an Effective Remedy  ACDEG Art.17 Paragraphs 2 and 4</p>
19	<p><i>Political Background</i></p> <p>The 2016 presidential election paved the way for a democratic transition and 2017 National Assembly elections provided for a genuine political competition. <i>Page 9</i></p>	<p>Political parties, as well as Members of the National Assembly, would benefit from the establishment of capacity building programs.</p>		<p>Political parties, National Assembly</p>	<p>UDHR Art.21(a)  ICCPR Art. 25 (a)  ICCPR GC 25, Paragraph 6 and 7</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
<b>MEDIA</b>					
20	<p><i>Legal Framework for Media</i></p> <p>The legal framework contains stringent content limitations; disproportional sanctions for defamation; burdensome media registration procedures. <i>Page 22</i></p>	<p>Amend the legal framework for traditional and online media regarding content limitations and registration procedures; decriminalise defamation and lift online media’s liability for third-party content, consequently bringing the overall legal framework into line with The Gambia’s international commitments regarding freedom of expression.</p>	<p>Amend Criminal Code; Information and Telecommunication Act; Newspapers registration Act; Public Utilities Regulatory Authority Act.</p>	<p>Ministry of Information; Ministry of Justice; National Assembly.</p>	<p>Freedom of Expression</p> <p>ICCPR Art.19; ACHPR Art.9 ICCPR GC 34, Paragraphs 13, 15, 39, 40, 47; ICCPR GC 25 Paragraph 25.</p>
21	<p><i>Media Environment</i></p> <p>The GRTS’s yearly budget depends on the government; the Director General is appointed by the President; the Act on the GRTS imposes wide content obligations. <i>Page 22</i></p>	<p>Establish legal safeguards for the public service broadcaster’s editorial independence and financial autonomy.</p>	<p>Draft a new Act governing GRTS. Revoke the previous Act of Parliament from 1995.</p>	<p>GRTS; Ministry of Information; Ministry of Justice; National Assembly.</p>	<p>Independent Public Broadcasting</p> <p>ICCPR Art.19; ACHPR Art.9 ICCPR GC 34, Paragraph 16; DPFEA: IV Public Broadcasting.</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
22	<p><i>Legal Framework for Media and Legal Framework for Election Coverage</i></p> <p>There is no independent oversight or regulatory body for media; the IEC has to oversee media's conduct during the campaign period.</p> <p><i>Page 23, 24</i></p>	<p>Establish an independent regulatory body for the media, clearly defining institution's mandate and decision-making process. Envisage that during the campaign, the regulatory body oversees the media's conduct. Following good practice, conduct an inclusive consultation prior to the establishment of a new regulatory institution.</p>	<p>Draft a new Act establishing and defining regulatory body for media. Revoke the Act on National Media Commission. Revoke provisions in the Electoral Act obliging the IEC to oversee media during campaign.</p>	<p>GRTS; The Gambia Press Union; Commercial and community media; Ministry of Information; National Assembly.</p>	<p>Freedom of the Press</p> <p>ICCPR Art.19; ACHPR Art.9 ICCPR GC 34, Paragraph 39; DPFEA: VII Regulatory Bodies for Broadcast and Telecommunication.</p>
23	<p><i>Media Monitoring Results</i></p> <p>Some debates were conducted on the radio station's own initiative, including on some community radio stations. Media did not receive any additional funding prior to the election.</p> <p><i>Page 22</i></p>	<p>State authorities should put in place measures aimed to foster media's role throughout the campaign. Introducing political debates as an indispensable component of the campaign at the national and the constituency level, would enable voters to compare candidates and to make informed decisions. State subsidies could be allocated to debates, including on commercial and community radio stations.</p>	<p>Prior to the elections allocate state subsidies for the debates. The regulatory body should have a decisive role in organising the tender.</p>	<p>Ministry of Information; Ministry of Finance; National Assembly.  Media's regulatory body (once established)</p>	<p>Freedom of Expression; Equality of Opportunity</p> <p>ICCPR Art.19 ICCPR Art. 25 ACHPR Art.9 ICCPR GC 25 Paragraph 25; ICCPR GC 34 Paragraph 11,12, 13</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
24	<p><i>Media Environment</i></p> <p>The community radio stations lack a basic technical equipment and budgetary security. Quality journalism deems to be achieved by media practitioners.</p> <p><i>Page 22</i></p>	<p>Enhance the capacity of community radio stations, by allocating adequate funding, technical equipment and by organising professional trainings.</p>	<p>Establish a designated budget line (sectorial allocation) in a state's yearly budget – a temporary measure.</p>	<p>Ministry of Information; Ministry of Finance; National Assembly</p>	<p>Access to Information</p> <p>ICCPR Art.19 ACHPR Art.9 ICCPR GC 34 Paragraph 14 DPFEA : XIV Economic Measures.</p>
25	<p><i>Media Environment and Legal Framework for Media</i></p> <p>There is no Freedom of Information Act. State institutions are not legally obliged to foster transparency and accountability offline and online.</p> <p><i>Page 22</i></p>	<p>Introduce Freedom of Information Act that would facilitate the public's right to prompt access to the information in person, offline and online, also regarding the elections.</p>	<p>Draft a new Freedom of Information Act.</p>	<p>Ministry of Justice; National Assembly.</p>	<p>Right to Information</p> <p>ICCPR Art.19 ACHPR Art.9 ICCPR GC 34, Paragraph 11, 18,19; UN CAC II Preventive Measures, Article 5, 7.</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
<b>PARTICIPATION OF WOMEN</b>					
26	<p><i>Participation of Women</i></p> <p>Women are under-represented in the National Assembly, with 3 among the 53 elected members being female. There are three women among the presidential nominees.</p> <p><i>Page 26</i></p>	<p>Introduce legal requirements, such as mandatory quotas, for political parties to apply affirmative action gender policies within their parties, in terms of integrating women into party structures and selecting women as party candidates. Such policies can be particularly effective when using the bottom-up approach. Enforcement measures could be linked to the ongoing registration of the political party. In any revision of the electoral system, introduction of quotas for female candidates could be considered.</p>	<p>Revision of the Elections Act</p>	<p>National Assembly</p>	<p>Equal Participation of Women in Political Life</p> <p>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Art.9; CEDAW Art.4.1</p>
<b>PARTICIPATION OF PERSONS WITH DISABILITIES</b>					
27	<p><i>Persons with Disabilities</i></p> <p>There are many obstacles, in law and in practice, to the exercise of the right to vote by PwD. Electoral law disqualifies voters on the grounds of "unsound mind" and "lunacy". Many polling stations were inaccessible; secrecy rights were not protected.</p> <p><i>Page 27</i></p>	<p>Revise disqualifications from voting on the grounds of "unsound mind" and "lunacy". Ensure polling station locations are selected on the basis of physical accessibility. The use of Braille labels on ballot drums could be introduced to protect secrecy. A voter education programme, prepared in consultation with the PwD community, could support their participation in the electoral process.</p>	<p>Revise Section 13 (c) of the Elections Act to remove disqualifications from voting on the grounds of disability. Additionally, changes in practice.</p>	<p>National Assembly</p> <p>IEC NCCE</p>	<p>The Right to Vote, without Discrimination</p> <p>CRPD Art. 29</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
<b>ELECTORAL JUSTICE</b>					
28	<p><i>Complaints and Appeals</i></p> <p>IEC may impose severe penalties for violations of the Code on Election Campaign Ethics. There are no procedures in the Code establishing how a complaint is to be made or how a sanction is to be imposed. <i>Page 28</i></p>	<p>Detailed complaints procedures should be provided for, to allow for the implementation of the Code on Election Campaign Ethics. Fair procedures are essential in the treatment of such complaints, requiring details of how decisions will be made, sanctions imposed, and allowing for the possibility of an appeal.</p>	<p>Review the provisions of the Code on Election Campaign Ethics Order, made under Section 92(1) of the Elections Act.</p>	<p>IEC</p>	<p>Right to Effective Remedy</p> <p>ACDEG Art. 17;</p> <p>AU Declaration on the Principles Governing Democratic Elections in Africa IV.7</p>
29	<p><i>Complaints and Appeals</i></p> <p>Steps to file electoral complaints are not provided for in the law. Additionally, there are forms, deadlines or adjudication procedures laid down. <i>Page 28</i></p>	<p>The introduction of a detailed complaints procedure, with reasonable time limits for adjudication, should be considered. The procedure could regulate matters such as when, in what format and to which institution, complaints would be submitted and how they would be adjudicated upon.</p>	<p>Review the Elections Act; enact subsidiary legislation.</p>	<p>National Assembly IEC</p>	<p>Right to Effective Remedy</p> <p>ICCPR Art. 2.3 UDHR Art. 8</p>

No	Context (Reference to the section in the Final Report)	RECOMMENDATION	Suggested change(s) in legal framework	Primary responsibility for implementation	International Principle/ Int. and Reg. Obligations and Commitments
30	<p><i>Complaints and Appeals</i></p> <p>Objections to candidate nominations are permitted briefly, immediately upon conclusion of nominations. After that, objection is only possible to the Supreme Court, and only after the election.</p> <p><i>Page 28</i></p>	<p>Revision of the rules to challenge the nomination of candidates for election could be considered. The time period could be extended until some days after the list of nominees has been published. An appeal to the courts against the decision of the IEC, could also be considered.</p>	<p>Revise Section 49 of the Elections Act</p>	<p>National Assembly</p>	<p>Right to Effective Remedy</p> <p>ICCPR Art. 2.3 UDHR Art. 8</p>
31	<p><i>Election Petitions</i></p> <p>The Supreme Court has 30 days to adjudicate on election petitions. Delay does not cause invalidity. There is effectively no time limit for decisions. Security for costs to be deposited within three days of filing a case may serve as a deterrent.</p> <p><i>Page 29</i></p>	<p>Election petitions should be accorded priority over other cases scheduled before the Supreme Court. The requirement of lodgement of security deposit for costs could be reviewed and removed, to enhance access to the court for all parties.</p>	<p>Review the provisions of the Constitution on the adjudication of election petitions, ensuring their priority over all other cases. Review the provisions of the Elections Act on lodgement of costs.</p>	<p>National Assembly</p>	<p>Right to Effective Remedy</p> <p>ICCPR Art. 2.3; UDHR Art.8</p>

## ANNEX II Election Results

**Table 1: Election Results**

Party	# total votes (nationwide)	% of total votes (nationwide)	# seats won	% seats won
UDP	142,146	37.5%	31	58.5%
GDC	65,938	17.4%	5	9.4%
APRC	60,331	15.9%	5	9.4%
Independent (combined)*	36,251	9.6%	1	1.9%
PDOIS	33,894	8.9%	4	7.5%
NRP	23,755	6.3%	5	9.4%
PPP	9,503	2.5%	2	3.8%
GMC	4,458	1.2%		
NCP	1,773	0.5%		
GPDP	1,271	0.3%		
<b>total</b>	<b>379,320</b>	<b>100.0%</b>	<b>53</b>	<b>100.0%</b>

**Table 2: Registered voters per constituency, constituency size variation, and voter turn out**

Column A - includes the name of the respective administrative area (city, municipality, region) as well as the respective constituency (in total 53).

Column B - indicates the number of registered voters as provided by the IEC for the December 2016 election and as used again for the April 2017 elections.

Column C - includes the variation of the respective constituency from the average number of registered voters per constituency (16,728; calculated by dividing the total number of registered voters (886,578) with the number of constituencies (53)).

Column D - includes the percentage points of the size of the voter population in respect of the average (median) voter population size.

Column E - includes the variation in terms of how over or underrepresented a constituency is in relation to the average (median) voter population size per constituency. Example Banjul South is 2.67 times over represented while Jeshwang constituency is 1.9 times underrepresented.

Column F - includes the number of nominated candidates per constituency competing in the elections as published by the IEC.

Column G - includes the number of polling stations (PS) as published by the IEC for the December 2016 election.



Column H - includes the number of metal drums required for each constituency (number of PS multiplied with the number of candidates).

Column I - Includes the number of valid votes cast per constituency (figures for total votes cast and number of invalid votes were not released by the IEC). Column J includes the number of voter turnout calculated against the provided figure of valid votes cast.

A	B	C	D	E	F	G	H	I	J
REGION/CONSTITUENCY	# voters registered	variation Ø 16728	variation % 100%=16728	variation x-fold	# cand. nomin.	PSs	# drums required	# votes counted	% turn out
<b>BANJUL CITY</b>									
BANJUL SOUTH	6258	-10470	267.31%	2.67	5	10	50	2411	38.53%
BANJUL CENTRAL	9371	-7357	178.51%	1.79	5	14	70	3697	39.45%
BANJUL NORTH	7102	-9626	235.54%	2.36	6	11	66	2936	41.34%
<b>BANJUL TOTAL</b>	<b>22731</b>	<b>-27453</b>	<b>220.77%</b>	<b>2.21</b>	<b>16</b>	<b>35</b>	<b>186</b>	<b>9044</b>	<b>39.79%</b>
<b>KANIFING MUNICIPALITY</b>									
BAKAU	17148	420	97.55%	-1.03	3	26	78	6754	39.39%
JESHWANG	31857	15129	52.51%	-1.90	6	46	276	12285	38.56%
SEREKUNDA WEST	46502	29774	35.97%	-2.78	7	69	483	14664	31.53%
SEREKUNDA	14701	-2027	113.79%	1.14	3	23	69	4939	33.60%
BUNDUNGA KUNDA	31065	14337	53.85%	-1.86	7	43	301	11388	36.66%
LATRIKUNDA SABIJIE	33970	17242	49.24%	-2.03	7	47	329	12861	37.86%
TALINDING KUNJANG	24714	7986	67.69%	-1.48	4	33	132	9485	38.38%
<b>KANIFING TOTAL</b>	<b>199957</b>	<b>82861</b>	<b>58.56%</b>	<b>-1.71</b>	<b>37</b>	<b>287</b>	<b>1668</b>	<b>72376</b>	<b>36.20%</b>
<b>BRIKAMA (WEST COAST REGION)</b>									
FONI JARROL	3926	-12802	426.08%	4.26	3	8	24	2371	60.39%
FONI BREFET	8455	-8273	197.85%	1.98	4	14	56	4946	58.50%
FONI BINTANG	9073	-7655	184.37%	1.84	3	17	51	5680	62.60%
FONI BONDALI	4104	-12624	407.60%	4.08	3	8	24	2444	59.55%
FONI KANSALA	8245	-8483	202.89%	2.03	2	14	28	4703	57.04%
KOMBO EAST	21626	4898	77.35%	-1.29	4	34	136	11098	51.32%
KOMBO SOUTH	45152	28424	37.05%	-2.70	6	66	396	19608	43.43%
BRIKAMA NORTH	29369	12641	56.96%	-1.76	5	45	225	12361	42.09%
BRIKAMA SOUTH	30814	14086	54.29%	-1.84	5	49	245	13688	44.42%
SANNEH MENTERENG	39618	22890	42.22%	-2.37	7	54	378	14073	35.52%
OLD YUNDUM	44131	27403	37.91%	-2.64	8	62	496	14038	31.81%
BUSUMBALA	36602	19874	45.70%	-2.19	4	56	224	15330	41.88%
<b>BRIKAMA TOTAL</b>	<b>281115</b>	<b>80379</b>	<b>71.41%</b>	<b>-1.40</b>	<b>54</b>	<b>427</b>	<b>2283</b>	<b>120340</b>	<b>42.81%</b>
<b>KEREWAN (NORTH BANK REGION)</b>									
LOWER NUIMI	23935	7207	69.89%	-1.43	5	41	205	9117	38.09%
UPPER NUIMI	14536	-2192	115.08%	1.15	5	27	135	7382	50.78%
JOKADU	10725	-6003	155.97%	1.56	5	21	105	5438	50.70%
LOWER BADDIBU	9782	-6946	171.01%	1.71	3	16	48	5095	52.09%
CENTRAL BADDIBU	9672	-7056	172.95%	1.73	2	15	30	4814	49.77%
ILLIASSA	20826	4098	80.32%	-1.24	4	39	156	8687	41.71%
SABACH SANJAL	12241	-4487	136.66%	1.37	5	24	120	7151	58.42%
<b>KEREWAN TOTAL</b>	<b>101717</b>	<b>-15379</b>	<b>115.12%</b>	<b>0.16</b>	<b>29</b>	<b>183</b>	<b>799</b>	<b>47684</b>	<b>46.88%</b>

A	B	C	D	E	F	G	H	I	J
REGION/CONSTITUENCY	# voters registered	variation Ø 16728	variation % 100%=16728	variation x-fold	# cand. nomin.	PSs	# drums required	# votes counted	% turn out
<b>MANSAKONKO (LOWER RIVER REGION)</b>									
JARRA WEST	14941	-1787	111.96%	1.12	3	24	72	6276	42.01%
JARRA EAST	8609	-8119	194.31%	1.94	3	17	51	3755	43.62%
JARRA CENTRAL	4820	-11908	347.05%	3.47	3	9	27	2632	54.61%
KIANG WEST	10343	-6385	161.73%	1.62	2	20	40	4477	43.29%
KIANG EAST	4483	-12245	373.14%	3.73	2	10	20	2298	51.26%
KIANG CENTRAL	6002	-10726	278.71%	2.79	2	10	20	2785	46.40%
<b>MANSAKONKO TOTAL</b>	<b>49198</b>	<b>-51170</b>	<b>204.01%</b>	<b>0.34</b>	<b>15</b>	<b>90</b>	<b>230</b>	<b>22223</b>	<b>45.17%</b>
<b>JANJANBUREH (CENTRAL RIVER REGION)</b>									
JANJANBUREH	1980	-14748	844.85%	8.45	5	3	15	961	48.54%
NIANI	13593	-3135	123.06%	1.23	5	24	120	7029	51.71%
NIANIJA	4974	-11754	336.31%	3.36	6	8	48	3039	61.10%
NIAMINA WEST	4375	-12353	382.35%	3.82	2	9	18	2631	60.14%
NIAMINA EAST	11151	-5577	150.01%	1.50	6	21	126	6202	55.62%
NIAMINA DANKUNKU	3574	-13154	468.05%	4.68	3	8	24	2253	63.04%
LOWER FULLADU WEST	20414	3686	81.94%	0.82	9	35	315	8307	40.69%
UPPER FULLADU WEST	24678	7950	67.79%	0.68	8	41	328	9162	37.13%
LOWER SALOUM	9253	-7475	180.78%	1.81	5	16	80	4956	53.56%
UPPER SALOUM	11042	-5686	151.49%	1.51	4	19	76	6171	55.89%
SAMI	11641	-5087	143.70%	1.44	5	23	115	6341	54.47%
<b>JANJANBUREH TOTAL</b>	<b>116675</b>	<b>-67333</b>	<b>157.71%</b>	<b>0.14</b>	<b>58</b>	<b>207</b>	<b>1265</b>	<b>57052</b>	<b>48.90%</b>
<b>BASSE (UPPER RIVER REGION)</b>									
BASSE	20655	3927	80.99%	0.81	6	32	192	7601	36.80%
JIMARA	21434	4706	78.04%	0.78	4	35	140	8443	39.39%
TUMANA	16966	238	98.60%	0.99	3	28	84	7990	47.09%
KANTORA	19146	2418	87.37%	0.87	4	31	124	6213	32.45%
SANDU	13167	-3561	127.04%	1.27	5	24	120	7216	54.80%
WULLI WEST	11632	-5096	143.81%	1.44	3	22	66	6178	53.11%
WULLI EAST	12185	-4543	137.28%	1.37	4	21	84	6960	57.12%
<b>BASSE TOTAL</b>	<b>115185</b>	<b>-1911</b>	<b>101.66%</b>	<b>0.15</b>	<b>29</b>	<b>193</b>	<b>810</b>	<b>50601</b>	<b>43.93%</b>
<b>NATIONAL TOTAL:</b>	<b>886578</b>	<b>16728</b>	<b>100.00%</b>	<b>1.00</b>	<b>238</b>	<b>1422</b>	<b>7241</b>	<b>379320</b>	<b>42.78%</b>

## ANNEX III Media Monitoring Results

### 1. Radio

As radio is the most popular medium in The Gambia, the EU EOM included three radio stations in its sample. The sample includes:

- State-owned The Gambia Radio and Television Services radio station (**GRTS Radio**)
- Two privately owned radio stations – **Paradise FM** and **Star FM**. Both radio stations broadcasted political debates. In addition, Paradise is the only commercial FM station with regional offices.

*Monitoring periods:*

- Paradise FM and GRTS radio – from 16 March to 4 April 2017 during the evening prime-time programming;
- Star FM – from 18 March to 4 April 2017 (*delay was caused by technical challenges to stabilize the radio signal on the recording device*)

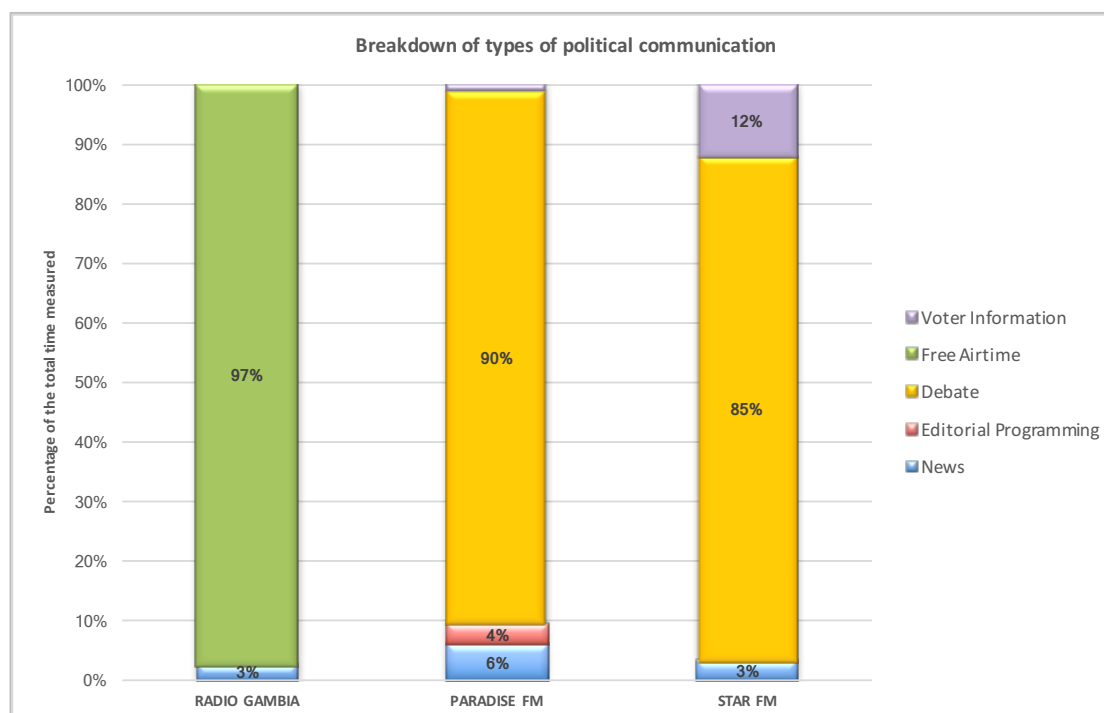
*Total time coded – 287 hours*

*Total time allocated to political communication – 30 hours and 22 minutes, or 11 per cent of the monitored time.*

#### Total time allocated to political communication in radio’s prime time programming

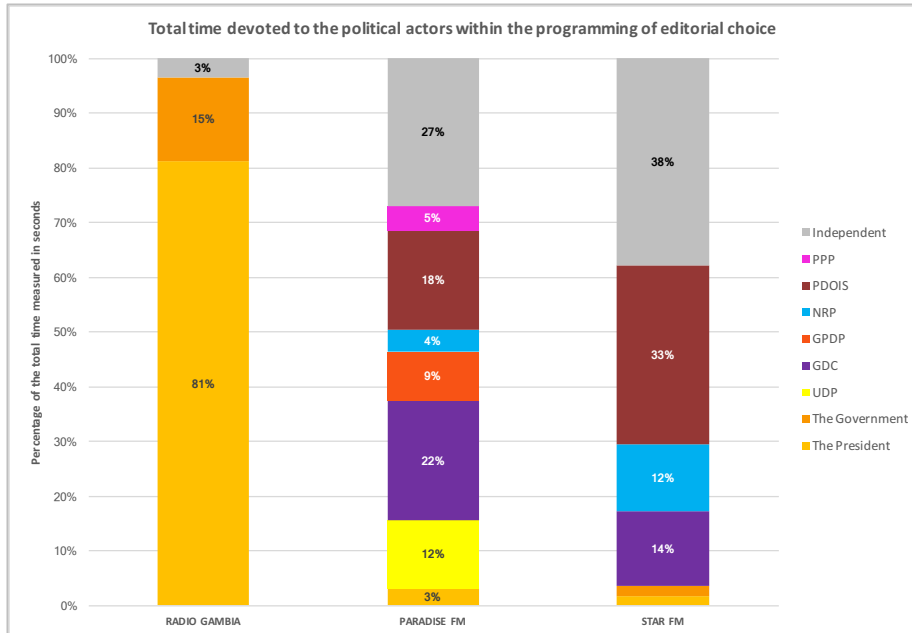
	Percentage of total time coded	Time allocated to political communication
<b>GRTS Radio</b>	14 per cent	14 hours 53 min
<b>Paradise FM</b>	12 per cent	11 hours 48 min
<b>Star FM</b>	5 per cent	3 hours 41 min

#### Breakdown of types of political communication in the radio stations’ prime time programming



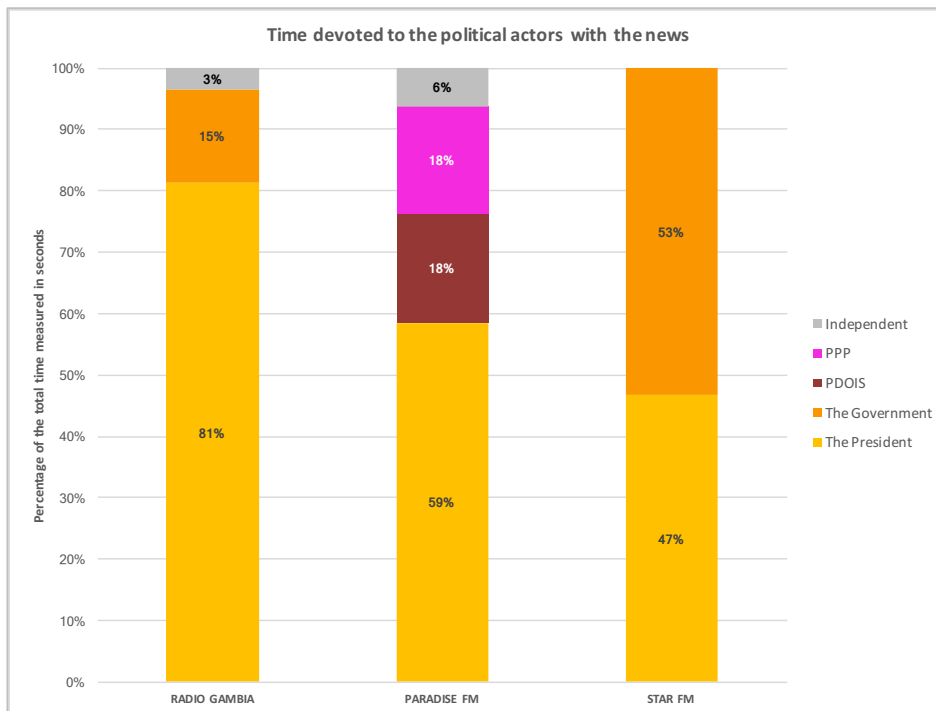
**Total time allocated to political actors during radio stations’ election-related prime programming (not including political advertisements and free airtime)**

	GRTS Radio	Paradise FM	Star FM
Total time devoted to parties and candidates	30 min	8h 56min	3h 14min

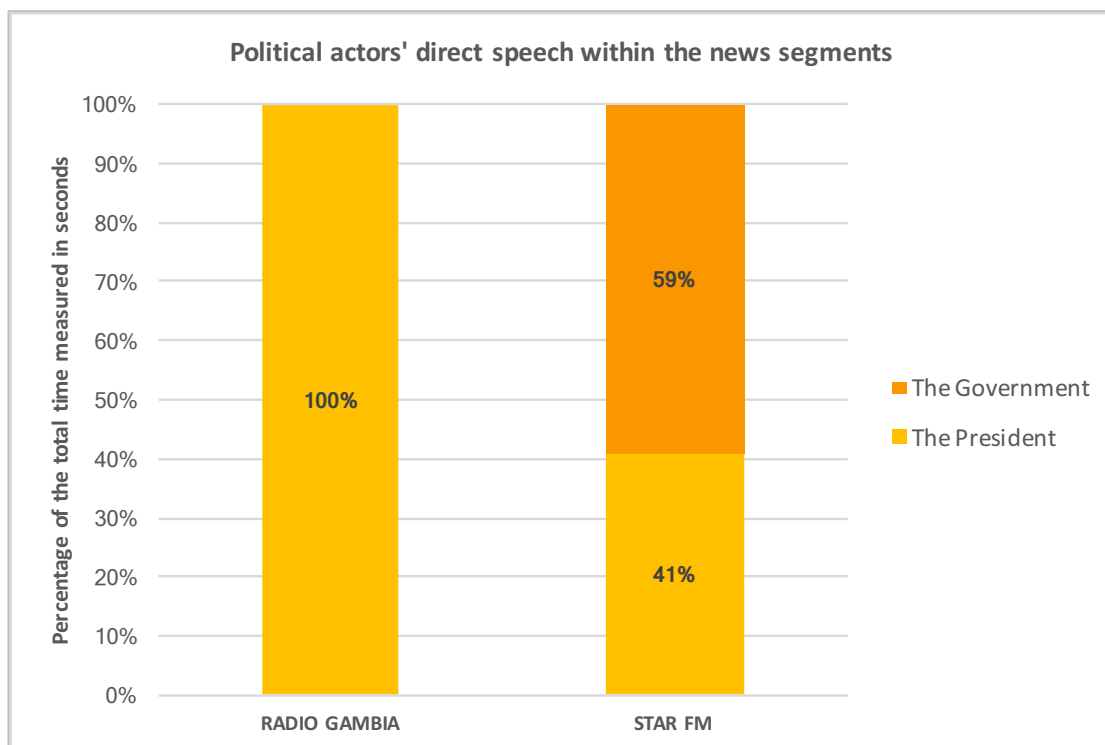


**Total time allocated to political actors in the news segments on electoral matters**

	GRTS Radio	Paradise FM	Star FM
Total time devoted to parties and candidates	30 min	32 min	15min



Direct quotes from political actors within news segments on electoral matters



## 2. Television

The EU EOM monitored the country's only television station - state-owned **GRTS Television**.

*Monitoring periods* – from 20 March to 4 April from 18:00 to 24:00 daily.

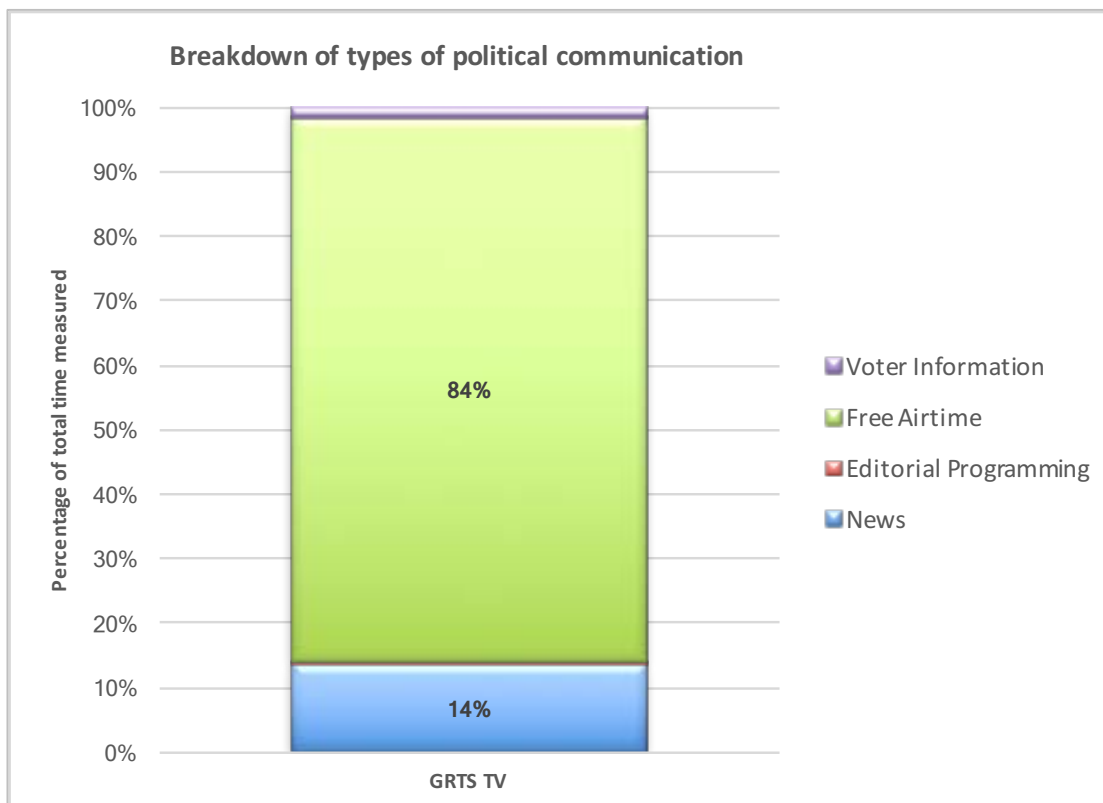
*Total time coded* – 104 hours.

*Total time allocated to political communication* – 19 hours 47 minutes or 19 per cent.

### Total time allocated to political communication in the television channels' prime time programming

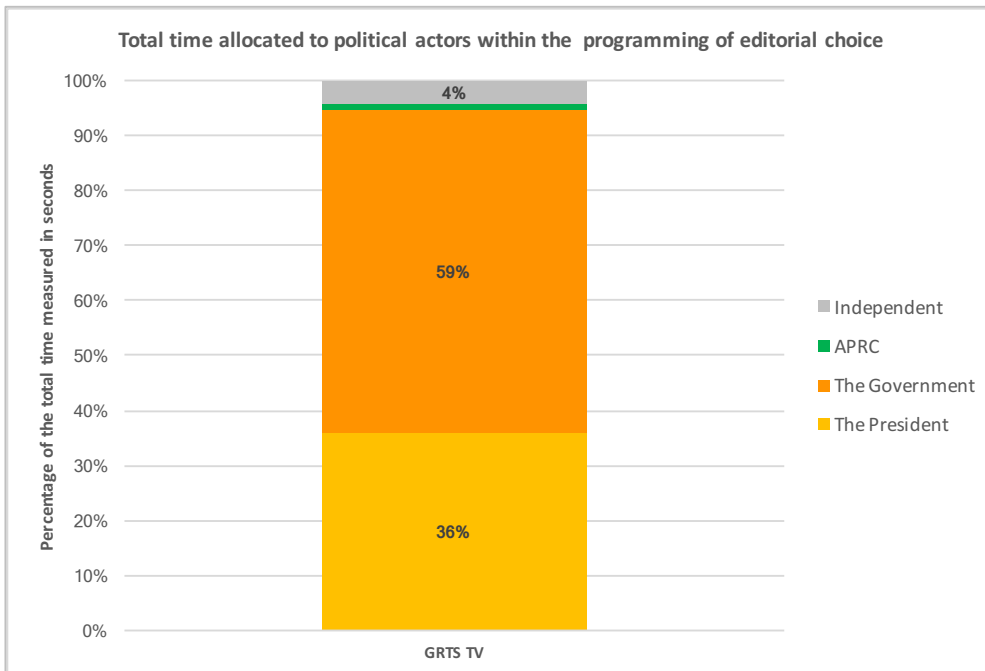
	Percentage of total time coded	Time allocated to political communication
<b>GRTS TV</b>	19 per cent	19 hours 47 min

### Breakdown of types of political communication in the GRTS's prime-time programming

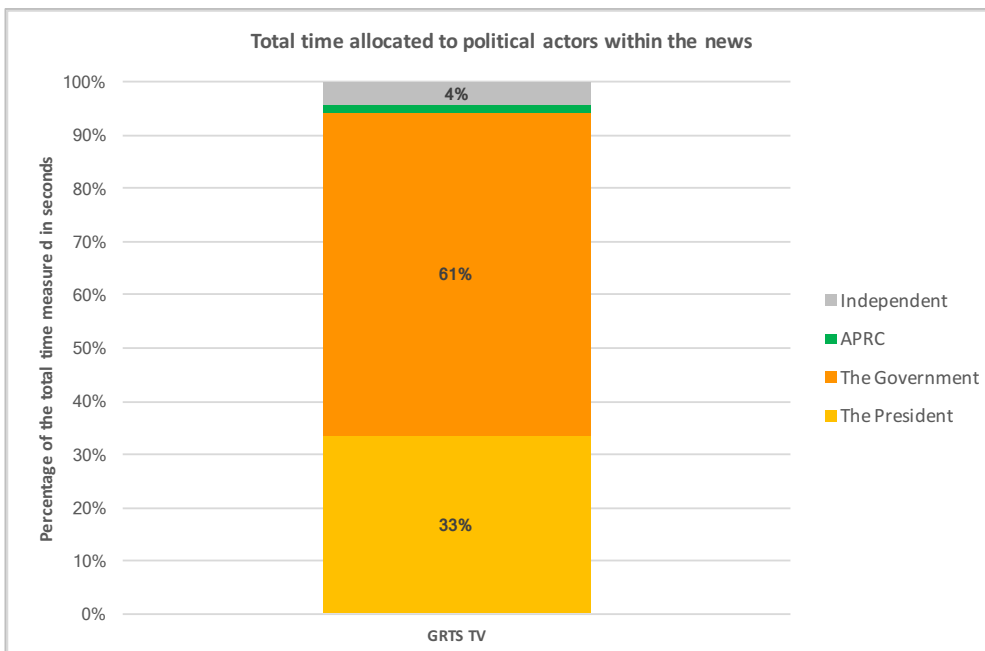


**Total time allocated to political actors during election related prime-time programming (not including free airtime programmes)**

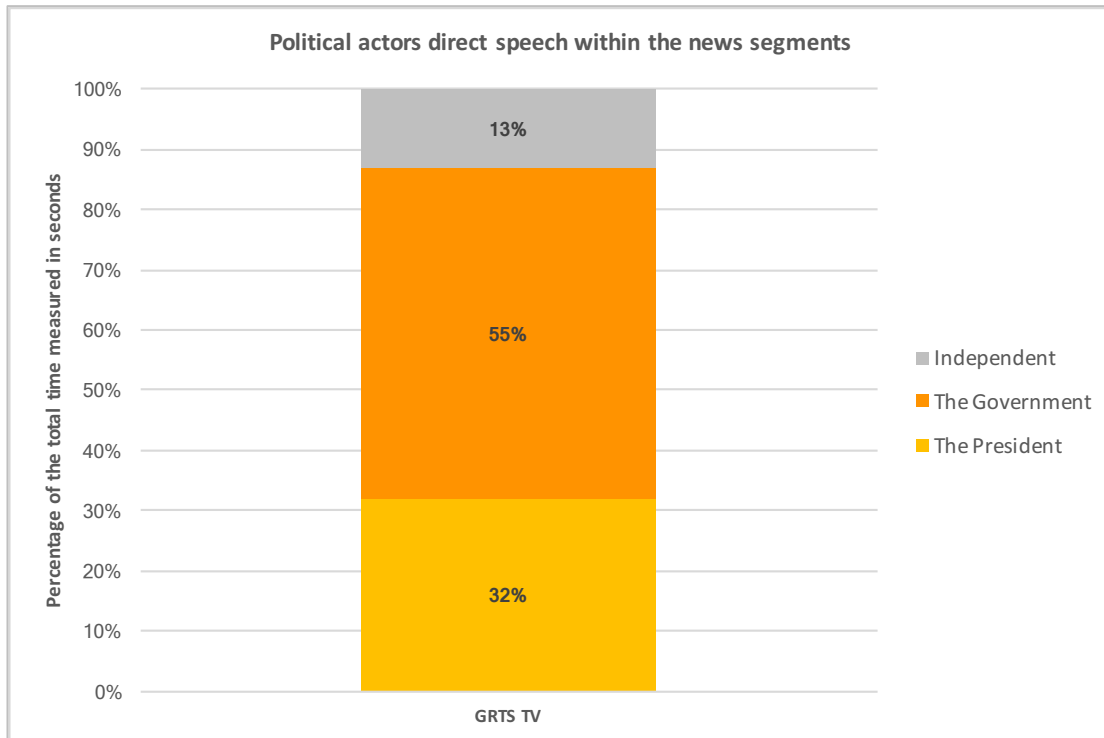
	<i>GRTS TV</i>
<i>Total time devoted to presidential candidates</i>	<i>3 h 13 min</i>



**Total time allocated to political actors in the news segments on electoral matters**



Direct quotes from political actors within news segments on electoral matters





### 3. Newspapers

The EU EOM monitored all four newspapers with a nation-wide distribution. The sample includes:

- Privately owned English language newspapers **Foroyaa, The Point, The Standard** and **The Daily Observer**.

*Monitoring period* – from 15 March to 4 April on weekdays (*newspapers are not published on Saturdays and Sundays*).

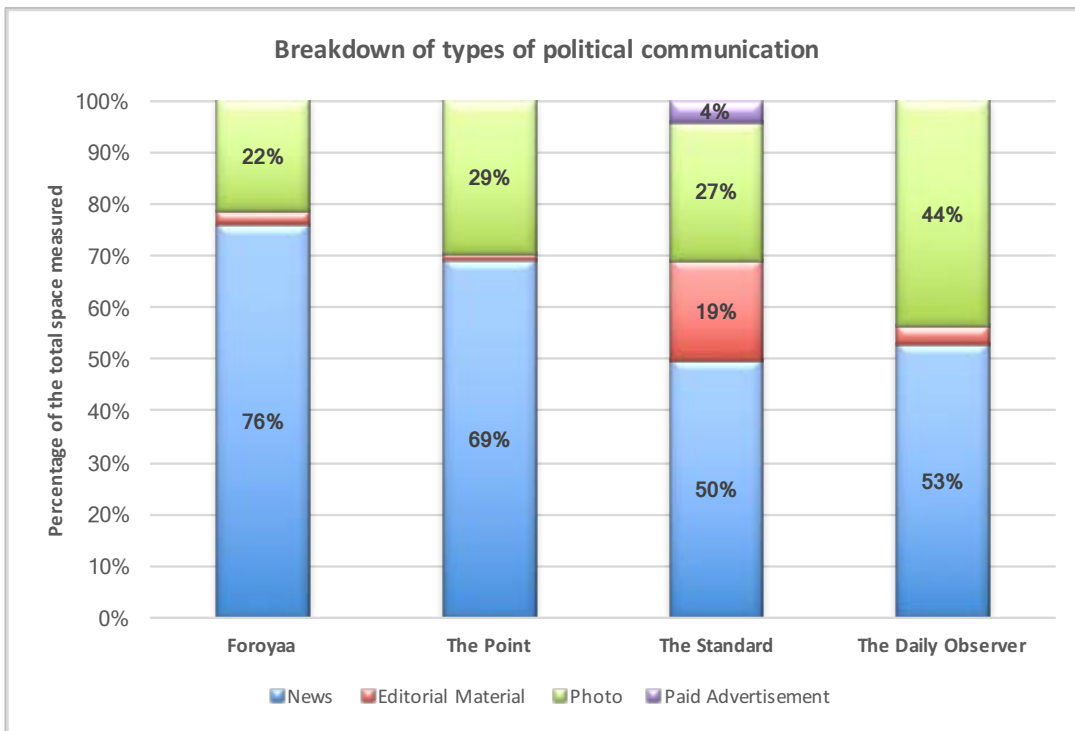
*Total space coded* – 102 square meters

*Total space allocated to political communication* – 4.31 square meters, or 4 per cent on average

#### Total space allocated to political communication in newspapers

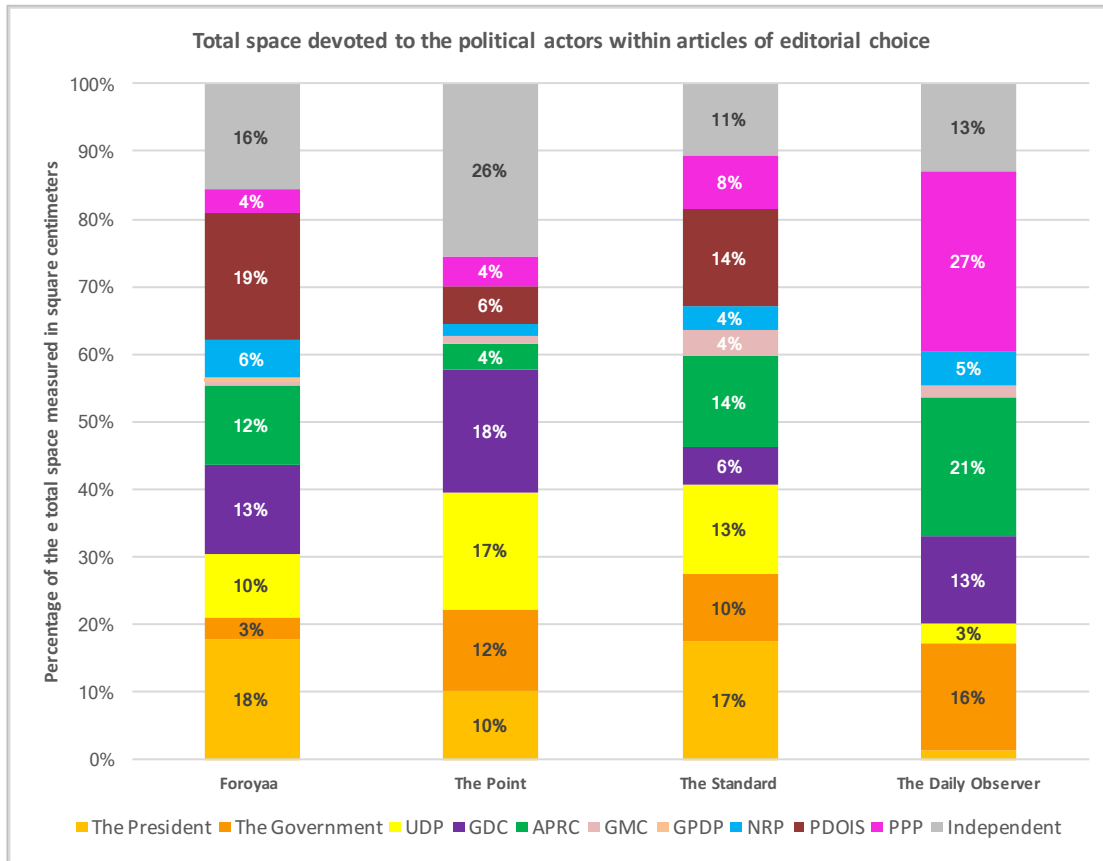
	Percentage of total space coded	Space allocated to political communication
<b>Foroyaa</b>	8 per cent	1 m <sup>2</sup> 260 cm <sup>2</sup>
<b>The Point</b>	4 per cent	1m <sup>2</sup> 60 cm <sup>2</sup>
<b>The Standard</b>	7 per cent	1m <sup>2</sup> 400 cm <sup>2</sup>
<b>The Daily Observer</b>	2 per cent	600 cm <sup>2</sup>

#### Breakdown of types of political communication in newspapers

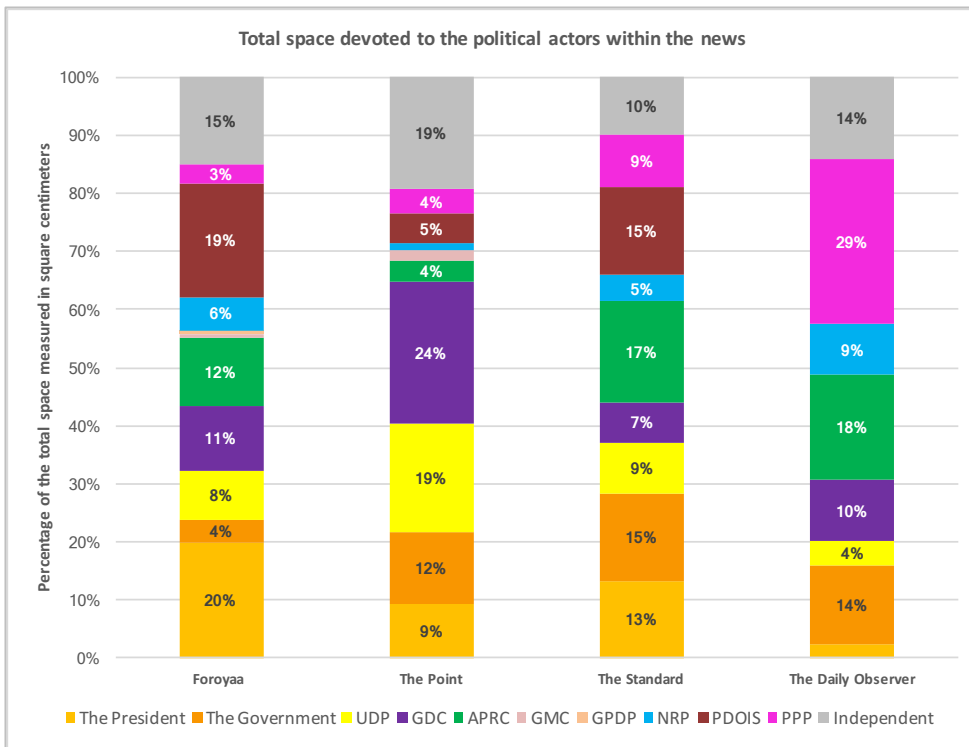


**Total space allocated to political actors within the newspapers’ election-related coverage and the photos illustrating those articles**

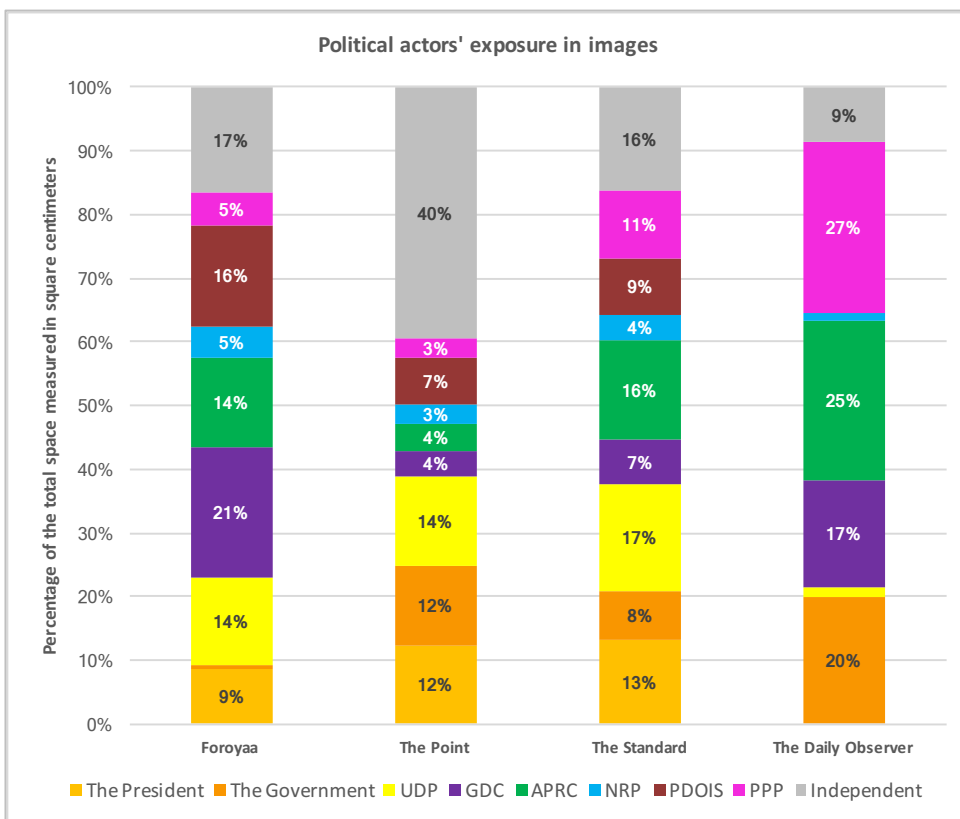
	<i>Foroyaa</i>	<i>The Point</i>	<i>The Standard</i>	<i>The Daily Observer</i>
<i>Total space devoted to presidential candidates</i>	1 m2 260 cm2	1m2 60 cm2	1m2 400 cm2	600 cm2



**Total space allocated to political actors in the news articles**

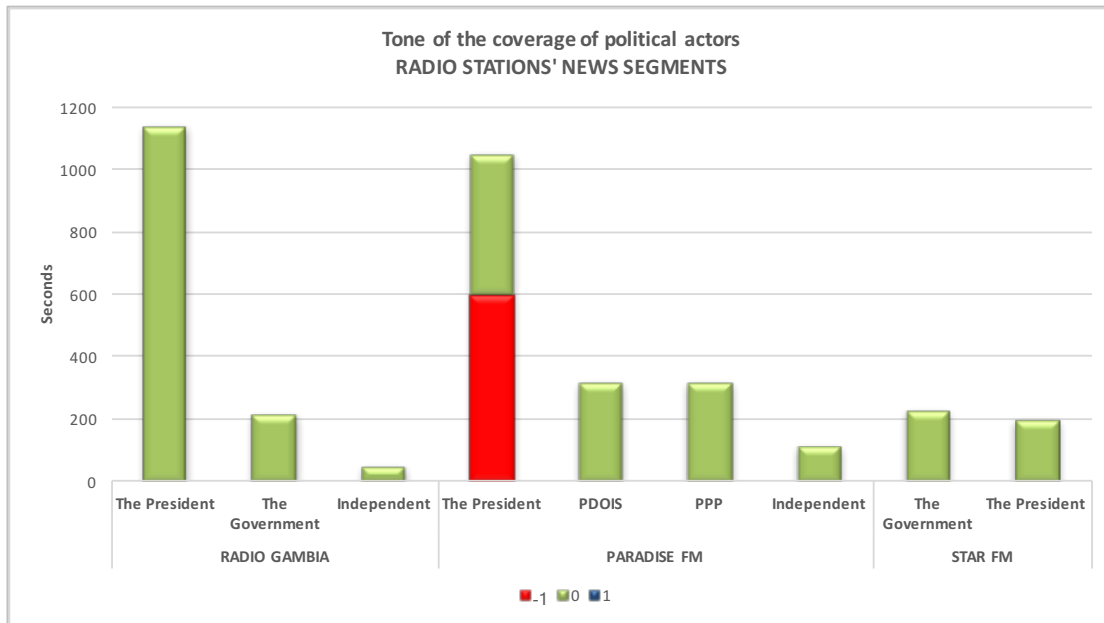


**Total space allocated to political actors in the photos concerning electoral matters**



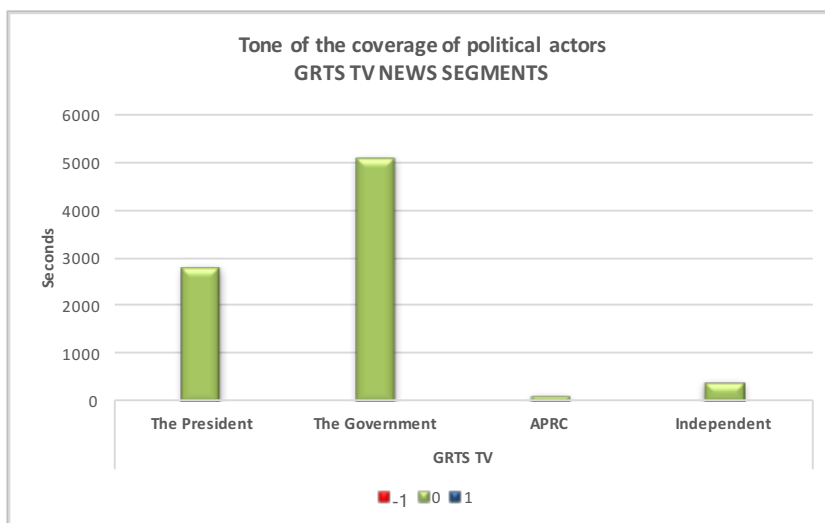
#### 4. Tone of coverage across the media landscape as monitored by the EU EOM

##### Radio



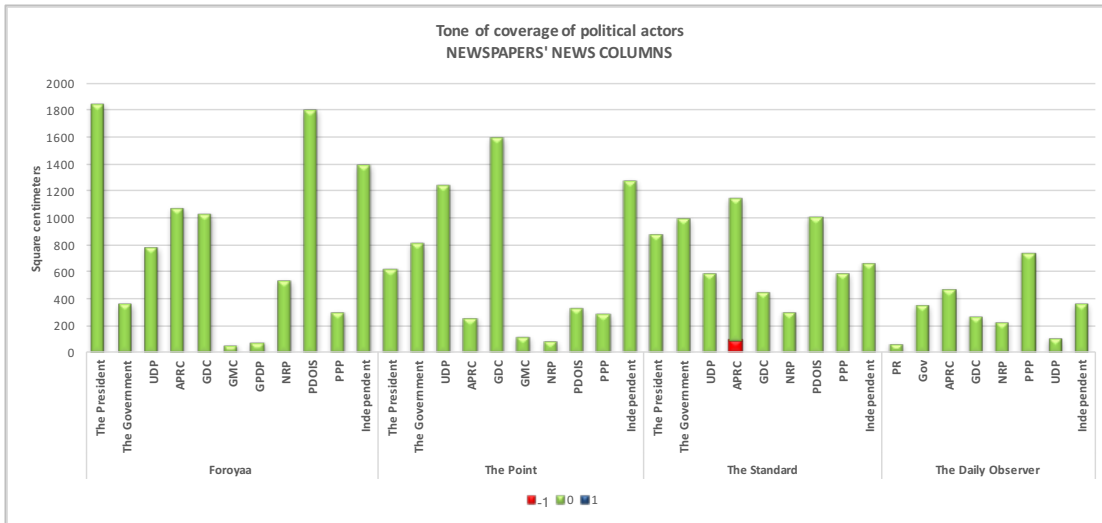
- **1** = the tone is positive towards the subject; **0** = the tone is neutral towards the subject; **-1** = the tone is negative towards the subject.

##### Television



- **1** = the tone is positive towards the subject; **0** = the tone is neutral towards the subject; **-1** = the tone is negative towards the subject.

Newspapers

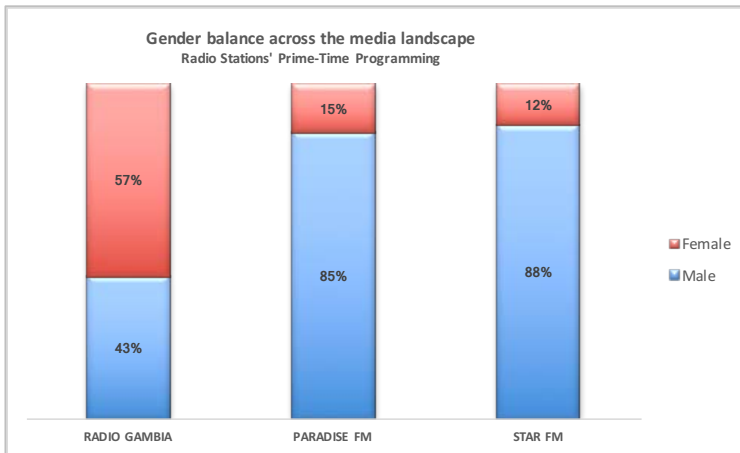


- **1**= the tone is positive towards the subject; **0** = the tone is neutral towards the subject; **-1** = the tone is negative towards the subject.

## 5. Gender balance across the media landscape, as monitored by the EU EOM

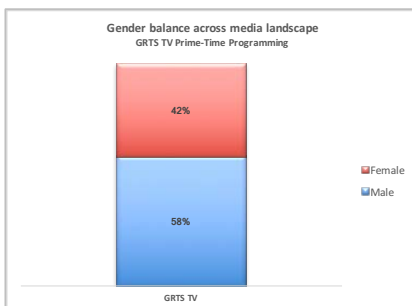
### Radio

Time allotted to political actors on the basis of gender (without free airtime programmes; The President as a political actor is excluded from the total)



### Television

Time allotted to political actors on the basis of gender (without free airtime programmes; The President as a political actor is excluded from the total)



### Newspapers

Time allotted to political actors on the basis of gender (without free airtime programmes; The President as a political actor is excluded from the total)

