



EUROPEAN PARLIAMENT

ELECTION OBSERVATION DELEGATION TO THE PRESIDENTIAL AND PARLIAMENTARY ELECTIONS IN UGANDA

(18 February 2011)

**Report by
JOACHIM ZELLER, Chair of the Delegation**

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Introduction

Following an invitation sent by the Chairman of the Electoral Commission of the Republic of Uganda on 23 February 2011, the Conference of Presidents of the European Parliament authorised, on 13 January 2011, the sending of an Election Observation Delegation to observe the presidential and parliamentary elections in Uganda, scheduled for 18 February 2011.

The European Parliament Election Observation Delegation was composed of four Members: Mr Joachim ZELLER (EPP, Germany), Mr Justas PALECKIS (S&D, Lithuania), Mr Juan Fernando LOPEZ AGUILAR (S&D, Spain) and Ms Nicole KIIL-NIELSEN (Greens/EFA, France). Mr Joachim ZELLER was appointed Chair of the Delegation at its constitutive meeting.

The Delegation conducted its activities in Uganda from 16 to 20 February 2011 and was integrated into the EU Election Observation Mission (EU EOM). The relationship between the EU EOM and the Chief Observer, Mr Edward SCICLUNA (S&D, Malta), followed the example of recent Election Observation Missions representing a model of successful cooperation.

The European Parliament Delegation performs election observation in accordance with the Declaration of Principles of International Election Observation and the Code of Conduct for international election observers. Members of the EP Delegation signed the Code of Conduct for Members of the European Parliament Election Observation Delegations, in conformity with the decision of the Conference of Presidents of 10 December 2009.

Programme

Before Election Day, the EP Delegation met the EU EOM which provided a full briefing on the political background, legal and electoral framework and media landscape. The Delegation also met with Mr Badru Kiggundu, Chairman of the Election Commission and with representatives of the ruling party (NRM). Despite repeated efforts, it was not possible to meet with the main opposition parties which had cancelled the originally scheduled meetings, due to their heavy pre-electoral schedules. The Delegation also met with Human Rights Watch and with a Ugandan civil platform working on LGBT issues. Ambassador Dr Roberto RIDOLFI, Head of the European Union Delegation to Uganda organized a briefing for the EP Delegation, with Member State's Heads of Mission, which proved very useful.

EU - Uganda Relations

Under the 10th European Development Fund (EDF) Country Strategy Paper (CSP), signed between the European Commission and Uganda on 7 July 2008 and covering 2008-2013, a €460.9 million budget is planned in order to address several priorities. The main sectors of assistance will remain macroeconomic support, transport infrastructure and rural development. The fourth principal area of support focuses on democratic governance and civil society. In this regard, the CSP notably reminded that the *"2006 national and local elections, which were conducted in a peaceful manner, underlined the importance of further consolidating the multiparty democracy and governance institutions"* (p.8).

The 2008-2013 Uganda CSP supports *"the consolidation of a multi-party system of government [...] in particular to support the government's electoral reform program [including] enhancing a credible system of representation; [...] strengthening an electoral system that guarantees free and fair elections; creating a vibrant civil society able to monitor government and to provide alternative forms for political participation "* (p.31).

The President of the European Parliament Jerzy Buzek sharply condemned the assassination of David Kato, an activist who campaigned for the rights of sexual minorities and used the occasion of the killing to demand that Uganda decriminalise homosexuality. The European Parliament had earlier adopted two resolutions condemning the Ugandan anti-homosexual draft legislation¹, and voted a resolution on the case of David Kato on 17 February. A hearing on the human rights situation in Uganda was organised by the European Parliament on 24 January 2011.

Background

The 2011 elections were the sixth general elections since independence in 1962 and the second general elections since the introduction of multi-party democracy in 2005. The first multi-party elections of 2006 fell short of full compliance with international principles for genuine democratic elections, in particular because a level playing field was not in place.

On 18 February 2011, elections were held for the President, 238 Members of the Parliament in regular constituencies and 112 women Members of Parliament in the district constituencies reserved for women. The elections are based on a simple majority, first-past-the-post system.

For the 2011 elections, there were eight candidates contesting the presidential election. The 238 regular constituency parliamentary seats were contested by 1,270 parliamentary candidates and 443 women candidates contested the district constituencies reserved for women, giving the electorate a broad choice to elect the candidates of their preference.

There will also be 25 Special Interest Group (SIG) seats which are indirectly elected. The EU EOM Preliminary Statement found that "While the Constitution enshrines affirmative action, the restricted right to vote and to stand for these seats undermines universal suffrage, and further marginalizes democratic opposition in the legislature". Seats reserved for the military raise further conflicts of interest related to the separation of powers, since army MPs remain on active duty, and are thus not accountable to constituents, but exclusively to the President in his role as Commander-in-Chief.

Political environment

The Ugandan political landscape is dominated by the incumbent president's party, the National Resistance Movement Organisation, the successor of the National Resistance Movement. President Museveni has been the president of Uganda for the last 24 years and his party claims to have a membership base of 9 million.

¹ EP resolution of 17 December 2009 on Uganda: anti-homosexual draft legislation, and EP resolution of 16 December 2010 on Uganda: the so-called 'Bahati-bill' and discrimination against the LGBT population.

The second most important party is the Inter-Party Coalition (IPC), a coalition of four opposition parties: (i) Forum for Democratic change (FDC) - the party emerged from the NRM and led by Kizza Besigye- (ii) the Conservative Party (CP), (iii) the Justice Forum (JEEMA) and (iv) the Social Democratic Party (SDP). The leader of the IPC, Kizza Besigye unsuccessfully challenged President Museveni in the two latest presidential races (in 2001 and 2006, scoring 28 % and 37 % of the vote). Since Dr Besigye returned from exile, in 2005, he has been judicially prosecuted, accused of treason. In October 2010 he was finally acquitted by the Constitutional Court.

A potentially significant number (45) of ministers and sitting MPs were de-selected in the NRM primary elections conducted in the autumn of 2010. Some unsuccessful primary candidates are standing as independent parliamentary candidates.

Unlike previous fiscal years a Supplementary Budget of US\$ 602 billion (+ - 185 Mio EUR) was approved in January during the election period, ostensibly to facilitate MPs' monitoring of government programmes in their constituencies, and the payment was widely criticized by civil society and opposition representatives.

The campaign was conducted in a fairly open and free environment, in which the freedoms of expression, assembly and association were generally respected. Candidates and parties campaigned intensively, and were mostly able to move freely throughout the country. The distribution of money and gifts by candidates, especially from the ruling party, a practice inconsistent with democratic principles, was widely observed by EU EOM observers.

Domestic and International Election Observation

A significant number of non-governmental organizations accredited by the Electoral Commission to carry out voter education and election observation showed Ugandan civil society commitment to supporting the democratic process, i.e. the Democracy Monitoring Group (DEMGroup), Citizens Elections Watch IT, the Inter-Religious Council of Uganda, the Uganda Human Rights Commission.

Observers from the Commonwealth, the African Union and a joint observer mission from the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA) and Intergovernmental Authority on Development (IGAD) also observed these elections.

Electoral Administration

Globally, EU EOM Preliminary Statement finds that "Uganda's legal framework sets out comprehensive and detailed electoral provisions which provide a workable foundation for the conduct of elections, generally in line with Uganda's international commitments and obligations".

The Electoral Commission composed of seven members all appointed by the President with the approval of the Parliament, is mandated to organise elections and to declare election results within 48-hours after the vote.

The final National Voter Register for the 2011 elections lists 13,954,129 voters, an increase of 33% since 2006. The accuracy of the voter register and the provisions taken to avoid multiple voting was contested by opposition parties.

The number of constituencies, 238, also represents an increase (of 23) since 2006 elections. The demarcation of constituencies has been controversial, and the possibility of gerrymandering is not excluded.

The lack of trust by stakeholders in the fundamental building blocks of the electoral process, namely in the Electoral Commission itself and the National Voter Register, dominated debate at the expense of policy issues which would normally be at the centre of an election campaign.

Despite being under-resourced, the courts have demonstrated an impressive degree of independence in upholding the rule of law and respect for human rights.

Media

While media are lively compared to the other countries of the region, there are problems with the freedom of expression and the independence and impartiality of media, especially outside Kampala, the capital city. Most of the radios (around 200), the main source of information in the rural areas, are owned by the ruling party. Difficulties were reported for opposition officials to be interviewed on TV and in relation to forms of harassment and intimidation of journalists who interviewed opposition candidates.

The state-owned broadcaster, Uganda Broadcasting Corporation (UBC), failed to comply with its legal obligations to treat each presidential and parliamentary candidate equally, with its television channel giving the incumbent president and the ruling NRM party substantially more coverage than their nearest rivals. The government's dominance of state-owned radio, the only broadcasting network covering almost all areas of the country, was not balanced by private radio stations established outside the capital, which generally provided opposition candidates with very limited access.

Recent threats against the freedom of the press, coupled with limited critical reporting of the incumbents' record in office, give rise to concern about the ability of media to exercise fully their fundamental right and freedom to report.

Election Day

On Election Day, the EP Delegation split into 3 groups to observe in Kampala (and Wakiso district) as well as in Masaka town and in Luwero district, and altogether, observed in some 30 polling stations. The 3 EP teams deployed to observe these elections reached similar conclusions (which are in line with the observations of the over 100 observers from all 27 Member States deployed by the EU EOM):

- The vote took place in a peaceful and calm environment (the EU EOM however related isolated incidents of violence). In itself, this fact constitutes a great improvement compared to past elections.

- MEPs observed several procedural shortcomings during the vote. Most of the polling stations opened late which was largely due to materials not having been delivered in time or the absence of some of the polling staff.
- Procedures were not always followed in a consistent manner (i.e. ballot boxes unsealed,) and, in general, the management of polling stations suffered from a lack of efficiency. All teams agreed that lack of training of the polling staff and/or inappropriate recruitment processes could be the origin of some of these shortcomings.
- All teams observed that a high rate of people were not able to vote as their names could not be found on the register. In all cases, it would have been helpful to post a copy of the voter list at each polling station. In general, more effective voter information could have been provided to avoid people queuing at the wrong polling stations before finally being turned away.
- In the polling stations observed, the polling staff also failed to follow in a consistent manner the procedures for counting (i.e. reconciliation of results was not done; results were not properly protected, etc...).
- In Luwero, the head of the delegation witnessed huge disorder at the district level and in the tally centre (many sealed boxes had to be opened confirming the poor conduct of the counting procedures in some polling stations: results not sealed, sometimes even put in the boxes together with ballots and unused ballots; some results had to be completed in the tally centre, etc...).

In the polling stations that were observed by the EP Delegation, voter turn-out was quite low with estimations ranging from 30 to 40%. However, at the national level, it is estimated that voter turnout reached 58%.

Results

The Uganda Electoral Commission declared Yoweri Museveni the winner of the 2011 election with 68 percent (5,428,369 votes), while challenger Kizza Besigye had 26 percent (2,064,963 votes), and Norbet Mao had 147,708 votes.

Concerning the Parliamentary election, preliminary results for the 350 seats contested (238 Members of the Parliament in regular constituencies and 112 women Members of Parliament in the district constituencies reserved for women) are as follows:

Party	Number of Seats
National Resistance Movement (NRM)	279
Forum for Democratic Change (FDC)	34
Democratic Party (DP)	11
Uganda People's Congress (UPC)	9
Conservative Party (CP)	1
Justice Forum (JEEMA)	1
Independents	37

The opposition has contested these results.

In comparison to the results of 2006, the results of the 2011 presidential and parliamentary elections indicate that the opposition has turned weaker: In the previous Parliament, NRM had 212 directly elected MPs while the opposition strength stood at 60.

Press conference and presentation of Preliminary Statement

On 20th February, the press conference where the EUEOM Preliminary Statement was presented was well attended by the media and election stakeholders.

The EU EOM's Preliminary Statement, which the EP delegation endorsed, was entitled “*Uganda 2011 elections: improvements marred by avoidable failures*”.

Mr Scicluna, Chief Observer of the EU EOM, mentioned that the 2011 elections showed some improvements compared to the 2006 elections. However, it was reported that the electoral process was marred by avoidable administrative and logistical failures which led to an unacceptable number of Ugandan citizens being disenfranchised. Mr Scicluna further stated that a number of the observed shortcomings could have been avoided by following the provisions of the 2006 EU EOM’s recommendations which were not followed by Ugandan authorities.

Conclusions

The EU EOM mission found that politics in Uganda in these Presidential and Parliamentary elections remain dominated by the ruling party (NRM) and by the incumbent President Museveni. The EU EOM has identified a series of shortcomings that give a great systemic advantage to the incumbent President and the ruling party. For example, the great disparity of financial resources between the ruling party and the opposition and an unequal access to media.

The EP Delegation was shocked by the “monetization” of the election and the use of state resources.

However, the vote took place in a peaceful and calm environment despite isolated incidents. In itself, this fact constitutes a great improvement compared to past elections.

It is highly deplorable that Uganda’s authorities decided to ignore the recommendations of the EU EOM to Uganda in 2006, as these recommendations already contained provisions that could have avoided shortcomings mentioned in 2011 preliminary statement.

Recommendations

The EU EOM long term mission will remain in the country until completion of the electoral process and will issue a comprehensive final report in May.

The EP Election Observation Delegation, in the framework of a long term EU EOM was an important tool in assessing the progress made by Uganda in the sphere of democracy and this Election Observation Delegation recommends that the Election Coordination Group, the Development and the Foreign Affairs Committees and the competent Delegations, follow the conclusions and recommendations of EU EOM final report closely.

The discovery of potentially large oil reserves in Western Uganda in 2009 may allow the country to become less dependent on international aid. However, it may also make the ruling

political power even less responsive in its future political dialogue with the EU and other western donors on issues including the holding of genuine elections, respect for human rights, and building democratic institutions. This makes the role of the European Parliament Delegations and Committees in the follow-up of EU EOM's recommendations more important than ever and, in this context, the Delegation calls on the Commission to make full long-term use of these recommendations within the framework of drawing up the Country Strategy Papers/Annual Action Programmes under the European Development Fund and under the external financial instruments of the EU.

The European Parliament must be ready for cooperation with the newly elected parliament both with the majority and the opposition.

EUROPEAN PARLIAMENT

PRESIDENTIAL AND PARLIAMENTARY ELECTIONS
IN UGANDA

ELECTION OBSERVATION DELEGATION

15 - 21 February 2011

List of participants

Members

Mr Joachim ZELLER, EPP, Germany, Head of the Delegation
Mr Justas PALECKIS, S&D, Lithuania
Mr Juan Fernando LOPEZ AGUILAR, S&D, Spain
Ms Nicole KIIL-NIELSEN, Greens/EFA, France

Secretariat

Mrs Emilia GALLEGO PERONA, Administrator
Mrs Valérie RAMET, Administrator
Mrs Danielle JACQUES, Assistant

EUROPEAN PARLIAMENT

PRESIDENTIAL AND PARLIAMENTARY ELECTIONS
IN UGANDA

ELECTION OBSERVATION DELEGATION

15 - 21 February 2011

Final Programme

Membres

Mr Joachim ZELLER, EPP, Germany
Mr Justas PALECKIS, S&D, Lithuania
Mr Juan Fernando LOPEZ AGUILAR, S&D, Spain
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Tuesday 15 February

Afternoon

Arrival of Members in Kampala and transfer to the hotel
Kabira Country Club, Kampala
Tel: (256) 031 - 2227222/3/4/5
Fax: (256) 031 - 2227226
Plot 63, Old Kira Road, Bukoto, Kampala

Rate: 170 USD/single room, including breakfast and taxes
Credit cards accepted: Amex, Mastercard, Visa

Wednesday 16 February

- 8.30 - 11.15* Meeting with the Chief Observer, Mr Edward Scicluna and the Core Team
Venue: KCC - Meeting room The Acacia
- 08.30* Welcome and Introduction by Edward Scicluna, MEP, Chief Observer
- 08.50* Political Background and Context, Marien Gabriel, Political Analyst
- 09.25* Legal Framework, Manuel Wally, Legal Analyst
- 10.00* Electoral Framework, Naledi Lester, Election analyst
- 10.40* Media Landscape and Monitoring, Jocelyn Grange, Media Analyst
- 11.45 - 14.15* Meeting with Head of the EU Delegation and EU Member States Ambassadors
Venue: Residence of the Head of the EU Delegation.
- 14.45 - 15.30* Meeting with Dr Badru Kiggundu, Chairman of the Electoral Commission
Venue: Electoral Commission
- 16.00 - 17.45* Meeting with Mary Burnett, Human Rights Watch
Venue: KCC - Meeting room The Accacia
- 18.00 - 19.00* Observation forms and Deployment
Naledi Lester, Election Analyst
Vera Lourenco, Observer Coordinator
Graham Elson, Deputy Chief Observer
Venue: KCC, Room The Accacia

Thursday 17 February

- 9.00 - 10.00* Meeting with Joanitah Jay, representative of Freedom and Roam
Venue: KCC, The Accacia meeting room
- 11.00 - 12.30* Meeting with Chairman Electoral Commission NRM
Venue: Serena Hotel
- Afternoon* Deployment of the teams to Massaka and Luwero
- 20.00* Briefing with LTOs in charge of the different deployment locations.

Team in Luwera will be staying at New Lydirenes Hotel (tel.: +256 7 85 62 87 17)
Team in Massaka will be staying at Massaka Hotel Brovad (tel.: +256 7 72 42 56 66)

Friday 18 February: Election Day

- all day* Election observation
- Luwero district
 - Kampala and surroundings
 - Masaka

Polling stations open at 7.00 and close at 17.00. Teams should be at 6.30 at polling stations to observe the opening. For the closing of polling stations and counting, teams should be there at 16.30. After the counting process, teams could follow by car the transportation of the results to the tally centres.

Saturday 19 February

- Return to Kampala (for the deployed)
- 14.00* Internal debriefing of the delegation on the election observation from different teams
Venue: KCC
- 16.00* Exchange of views of the delegation with the CO and the EU election Observation Mission
Venue: KCC
- 20.00* Cocktail offered by Mr Joaquim Zeller, Head of the EP Election Observation Delegation
Venue: KCC, Small pool space

Sunday 20 February

- 9.00* Working breakfast with the EU Member States Ambassadors, the CO and the EU-Election Observation Mission.
Venue: Residence of the Head of the EU Delegation.
- 13.00* Joint press conference, presentation of the preliminary statement

End of the mission

EUROPEAN PARLIAMENT

PRESIDENTIAL AND PARLIAMENTARY ELECTIONS
IN UGANDA

ELECTION OBSERVATION DELEGATION

Deployment plan

Team 1 - Luwero
Mr Joachim ZELLER, EPP, Head of the Delegation
Mrs Emilia GALLEGO PERONA, Secretariat

Team 2 - Kampala and surroundings
M. Juan Fernando LÓPEZ AGUILAR, S&D
Mr Justas PALECKIS, S&D
Mrs Valérie RAMET, Secretariat

Team 3 - Masaka
Ms Nicole KIIL-NIELSEN, Greens/EFA
Mrs Danielle JACQUES, Secretariat

EUROPEAN PARLIAMENT

PRESIDENTIAL AND PARLIAMENT ELECTIONS, UGANDA

**Statement by Joachim Zeller, Chairman of the Delegation of the European Parliament,
Kampala, 20 February 2011**

Ladies and gentlemen, dear members of the press, thank you for attending this press conference so that we can share with you our preliminary assessment.

A Delegation of the European Parliament has observed the elections on 18 February in the framework of the EU Election Observation Mission.

Our Delegation fully agrees with the assessment made by Edward Scicluna, Chief Observer of the EU election observation mission. Without repeating what he just said, I would like to make the following remarks concerning what our Delegation observed on Election Day:

- ❖ *The vote took place in a peaceful and calm environment despite isolated incidents. In itself, this fact constitutes a great improvement compared to past elections.*
- ❖ *Our Delegation witnessed a number of shortcomings concerning the running of the votes. As already mentioned by the Chief Observer, some polling stations suffered from a lack of efficiency which resulted in lengthy processes at the opening, for the identification of voters and during the counting process.*
- ❖ *We regret that the resources spent for these elections did not focus more on proper training of the officials in charge of the polling stations.*

The European Parliament will pay attention to the Final Report of the mission and ensure the follow-up of its recommendations.

But, as you know, our assessment is not only based on election day. The European Parliament delegation also pays great attention to the entire electoral cycle.

Concerning the electoral campaign, the mission has identified a series of shortcomings that give a great systemic advantage to the incumbent President and the ruling party. For example, great disparity of financial resources between the ruling party and the opposition and unequal access to media. In particular, the government dominance of state-owned radio, the only broadcasting network covering almost all areas of the country, was not balanced by private radio stations established outside the capital.

As you are aware, the European Parliament represents 500 million citizens and is fully committed to political pluralism, freedom of expression and human rights, within Europe and also in its partnership with countries all over the world.

The European Union shares with the people of Uganda the attachment to peace and to democracy. It is the responsibility of the government of a country, and especially of its highest representative, the President of the Republic, to turn these aspirations into reality.

Uganda is a very important country in the region and for the European Union. As a member of the European Parliament, I can assure you that the European Parliament will follow carefully the progress of Uganda towards a real multi-party democracy where respect for Human Rights and the rule of law creates conditions for long term stability and fulfils the aspirations of the people of Uganda, as well as fulfils Uganda's commitments to international and regional treaties related to human rights.

The European Parliament is ready for cooperation with the newly elected parliament both with the majority and the opposition.

Dear members of the press, Ladies and Gentleman, I thank you for your attention.

* The other Members of the European Parliament are: Mr Justas Paleckis (Lithuania); Mr Lopez Aguilar (Spain), Mrs Kiil-Nielsen (France)



EUROPEAN UNION ELECTION OBSERVATION MISSION
UGANDA, GENERAL ELECTIONS, 18 FEBRUARY 2011



PRELIMINARY STATEMENT

UGANDA 2011 ELECTIONS: IMPROVEMENTS MARRED BY AVOIDABLE FAILURES

20 February 2011, Kampala

The European Union Election Observation Mission (EU EOM) has been present in Uganda since 15 January 2011 following an invitation from the Government of the Republic of Uganda and the Electoral Commission of Uganda. The EU EOM is led by Edward Scicluna, Member of the European Parliament. The EU EOM deployed 120 observers from 27 EU Member States and Norway. The observers were deployed throughout Uganda to observe and assess the electoral process in accordance with international and regional standards for elections. The EU EOM was joined by a four member delegation from the European Parliament, led by Joachim Zeller, Member of the European Parliament, which endorses this preliminary statement. On election day, observers visited 643 polling stations and district tallying centres in all the Districts of Uganda to observe voting, counting and the tabulation of results. The EU EOM will remain in country to observe post-election developments. This statement is preliminary; a final report including recommendations for future elections will be published in May 2011. The EU EOM is independent in its findings and conclusions.

PRELIMINARY CONCLUSIONS

- **The 2011 Ugandan general elections showed some improvements over the previous elections held in 2006. However, the electoral process was marred by avoidable administrative and logistical failures which led to an unacceptable number of Ugandan citizens being disenfranchised. Furthermore, the power of incumbency was exercised to such an extent as to compromise severely the level playing field between the competing candidates and political parties.**
- **Notwithstanding a number of incidents of violence and intimidation, especially on Election Day, the electoral campaign and polling day were conducted in a peaceful manner. Restraint in campaign rhetoric as well as a generally improved performance by the Ugandan police force contributed to this.**
- **The lack of trust by stakeholders in the fundamental building blocks of the electoral process, namely in the Electoral Commission itself and the National Voter Register, dominated debate at the expense of policy issues which would normally be at the centre**

of an election campaign and led to a breakdown of effective communication between the Electoral Commission and many of the stakeholders.

- The Electoral Commission is to be commended for meeting best international practice by publishing election results polling station by polling station, which ensures full transparency as well as greater confidence and trust in the results for Uganda's citizens. The introduction of electronic transmission of results from district tally centres to the National Tally Centre marked a further improvement. In a further effort to improve transparency and confidence, the Electoral Commission arranged for political party representatives to join Electoral Commissioners in overseeing the printing of presidential and parliamentary ballot papers.
- Uganda's legal framework establishes comprehensive and detailed electoral provisions which provide a workable foundation for the conduct of elections, generally in line with Uganda's international commitments and obligations. Recent amendments to the Election Acts provide for additional safeguards against electoral offences, but they have addressed neither the main concerns of most national stakeholders, nor the core recommendations of the 2006 EU EOM, such as reform of the Electoral Commissioners' appointment process.
- The campaign was conducted in a fairly open and free environment, in which the freedoms of expression, assembly and association were generally respected. Candidates and parties campaigned intensively, and were mostly able to move freely throughout the country. The distribution of money and gifts by candidates, especially from the ruling party, a practice inconsistent with democratic principles, was widely observed by EU EOM observers.
- Citizens, candidates and parties have frequently sought recourse to the courts to resolve critical issues concerning the applicable legal and constitutional framework with regard to elections. Despite being under-resourced, the courts have demonstrated a considerable degree of independence in upholding the rule of law and respect for human rights. The higher courts' decisions frequently cite international law and precedent, including jurisprudence of the European Court of Human Rights.
- Although the police issued repeated warnings against election-related protests, it is regrettable that no significant effort was undertaken by any state body to educate the public about electoral malpractices and the criminal sanctions they attract. Such failure is prone to instil a sense of impunity.
- The state-owned broadcaster, Uganda Broadcasting Corporation (UBC), failed to comply with its legal obligations to treat each presidential and parliamentary candidate equally, with its television channel giving the incumbent president and the ruling NRM party substantially more coverage than their nearest rivals. The government's dominance of state-owned radio, the only broadcasting network covering almost all areas of the country, was not balanced by private radio stations established outside the capital, which generally provided opposition candidates with very limited access.

Recent threats against the freedom of the press, coupled with limited critical reporting of the incumbents' record in office, give rise to concern about the ability of media to exercise fully their fundamental right and freedom to report.

- Ugandan civil society showed itself to be vibrant and committed to supporting the democratic process, with a significant number of non-governmental organizations accredited by the Electoral Commission to carry out voter education and election observation.
- With genuine political commitment by all stakeholders, further progress towards a fully pluralistic and multi-party democracy can be achieved.

PRELIMINARY FINDINGS

BACKGROUND

The 2011 elections were the sixth general elections since independence in 1962 and the second general elections since the introduction of multi-party democracy in 2005. The first multi-party elections of 2006 fell short of full compliance with international principles for genuine democratic elections, in particular because a level playing field was not in place. The 2011 general elections provided an opportunity to consolidate the multi-party system and further develop the electoral and wider democratic process. On 18 February 2011, elections were held for the President, 238 Members of the Parliament in regular constituencies and 112 women Members of Parliament in the district constituencies reserved for women. The elections are based on a simple majority, first-past-the-post system. There are also 25 Special Interest Group (SIG) seats which are indirectly elected.¹

For the 2011 elections, there were eight candidates contesting the presidential election. The 238 regular constituency parliamentary seats were contested by 1,270 parliamentary candidates and 443 women candidates contested the district constituencies reserved for women, giving the electorate a broad choice to elect the candidates of their preference.

Uganda has signed and ratified the most prominent international and regional treaties related to human rights, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of Discrimination Against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination and the African Charter on Human and Peoples' Rights, which contain standards relating to the conduct of democratic elections. These international provisions are binding on their signatory countries. As a member of the African Union, Uganda has agreed and signed the Principles Governing Democratic Elections in Africa encompassed in a 2002 Declaration. Uganda also has commitments to good governance, human rights and the rule of law within the framework of the Africa, Caribbean and Pacific Partnership Agreement with the EU.

¹ Five seats each for youth, workers and persons with disabilities, and ten for the army.

LEGAL FRAMEWORK

Uganda's legal framework sets out comprehensive and detailed electoral provisions which provide a workable foundation for the conduct of elections, generally in line with Uganda's international commitments and obligations.

Uganda is a unitary republic based on the separation of powers and the rule of law. The Constitution vests executive power in the President, who is elected for a term of five years by direct and universal suffrage. Parliament repealed presidential term limits subsequent to the introduction of multi-party democracy by referendum in 2005. Legislative power lies exclusively with Parliament, which can override a presidential veto by a two-thirds majority. Uganda follows the common law legal system, and it has ratified most international and regional instruments relevant to the protection of civil and political rights related to elections².

The Election Acts were amended in 2010 but, despite donor funding, the consolidated law was not published in a timely fashion for the elections, neither in print nor online³. The recent amendments provide for additional safeguards against electoral offences, but they have neither addressed the main concerns of most national stakeholders, nor the core recommendations of the 2006 EU EOM, such as reform of the Electoral Commissioners' appointment process. The reluctance of the incumbent majority in parliament to enact the constitutionally envisioned code of conduct for political parties is bound to weaken Uganda's nascent multi-party democracy.

Perhaps because of the Elections Acts' elaborate detail, and in abdication of its normative powers derived from Constitution, the Electoral Commission neglected to adopt legally binding regulations of key steps in the electoral process. The selection of presiding officers as well as certain aspects of polling and counting were thus governed by *ad hoc* guidelines or rudimentary manuals, both of which are legally unenforceable. The tallying process, perhaps the most sensitive phase of any election, remained entirely unregulated.

Although Uganda's Constitution guarantees all fundamental rights prerequisite to meeting its international electoral commitments, its legislature has enacted a number of laws that unreasonably curb freedom of speech, assembly and association⁴. Parliament has thus constricted democratic space, and the security forces continue to apply provisions struck down by the higher judiciary. Immediately before the polls, at least two political stakeholders were detained for more than three weeks, and one opposition member remains in custody on terrorism charges, which entail a mandatory death sentence, and which echo similar prosecutions that plagued the 2006 elections.

The Presidential Elections Act endorses the incumbent campaign's use of state resources, and thus steeply tilts the playing field. Further, presidential candidates can delay disclosure of accounts until thirty days after the elections, and delinquency does not invalidate an election per se. The law inexplicably exempts parliamentary candidates from campaign finance disclosure. On the other hand, the Electoral Commission has announced that it will apply to the High Court to deregister five

² With the exception of the African Declaration on Democracy, Elections and Governance.

³ Uganda enjoys an excellent and free online case and legislation tracking system whose legislation section inexplicably ends with 2002 (www.ulii.org). Parliament's online bill search has been offline for the duration of the mission.

⁴ The Political Parties and Organisations Act 2002, The Police Act 1994, The Penal Code 2007, The Public Order Management Bill 2010, The Cultural Leaders Bill 2011

political parties for failure to disclose accounts. Uganda's Freedom of Information Act meets modern international standards and could be tested in the courts to compel public access to campaign finance data.

Prior to confirmation by the president, judges of the higher courts are vetted by the independent Judicial Service Commission, as well as by the Parliamentary Appointments Committee. The lack of separation of the executive and legislature stifles checks and balances. Events surrounding the 2006 presidential elections culminated in a stand-off between the government and the courts that has fortified the judiciary's autonomy, and stoked the judges' suspicion of executive overreach⁵. A lack of parliamentary scrutiny produces rushed legislation, which attracts constitutional challenges that in turn burden the under-resourced courts. The higher courts' decisions frequently cite international law and precedent, including jurisprudence of the European Court of Human Rights. The general public largely perceives the higher judiciary as independent and impartial.

A week before the polls, the Constitutional Court dismissed a belated application for an order to postpone the polls in order to address shortcomings in the electoral process. The court's final ruling is pending, and can no longer provide a timely remedy against the alleged defects⁶. Last September, the court received a petition against Parliament's failure to make laws regulating the election of special interest seats⁷. Only weeks before the election, government laid statutory instruments before Parliament that delegate this constitutional duty to trade unions, the association of the disabled and Youth Councils. Those bodies require membership in order to exercise the right to vote, a requirement that is also under constitutional review.

As commander-in-chief, the President selects a short-list of army nominees, and high-ranking officers then confirm ten as SIG Members of Parliament. In breach of the separation of powers, military MPs remain on active duty, and thus subject to the chain-of-command while sitting in Parliament⁸. The Supreme Court has awarded those MPs freedom of speech inside Parliament, but not in public.⁹

While the Constitution enshrines affirmative action, the restricted right to vote and to stand for these seats undermines universal suffrage, and further marginalizes democratic opposition in the legislature.

⁵ The government had prosecuted opposition leader Dr Kizza Besigye and 21 others for treason, illegal possession of firearms, and murder, spreading the charges over different jurisdictions, including a General Court Martial. When the High Court ordered Dr. Besigye's release on bail, special forces invaded the High Court using trained dogs to intimidate members of the judiciary, rearresting the opposition leaders in the heat of the election campaign season. The Supreme Court allowed a reference to the East African Court of Justice in Arusha, which, while not yet vested with human rights jurisdiction by the member states, held that the principle of the rule of law, enshrined in the East African Treaty, had been violated: *Reference 1, 2007 James Katabazi v Secretary General of the EAC and the AG of Uganda*.

⁶ *Joseph Bossa vs AG and EC, 2011*, which alleged inflation of the Voter Register, favouring of the incumbent on the presidential ballot paper, lack of legal basis to recruit crime preventers, diversion of supplementary budget funds, etc.

⁷ *Kasozi Robinson vs AG, 2010*

⁸ The annual "Parliamentary Scorecard" ranks military MPs at the very bottom in terms of committee attendance and the tabling of parliamentary questions and private members bills.

⁹ *Brigadier Tumukunde vs. AG and EC, 2008*.

The Electoral Commission registered 242 formal complaints during the nomination and pre-election periods.¹⁰ Of those, 34 cases disputed candidates' academic qualifications, while 44 alleged that an aspirant had not resigned from public office as required by law. The Electoral Commission invited the EU EOM to observe public complaints hearings. Lacking judicial qualifications while sitting as a tribunal, Commissioners were vexed by complex questions of evidence and procedure, and they were subsequently frequently overruled on appeal by the National Council for Higher Education (NCHE) and the High Court. The Electoral Commission installed a central complaints desk, reachable through a toll-free number, and Returning Officers were instructed to convene over 400 local complaints tribunals, of which only seven were confirmed, comprised of party representatives, the Electoral Commission, the police, and the intelligence agencies.

Indictments on criminal charges require prior approval by the Director of Public Prosecutions (DPP) in Kampala. EU EOM observers have reported inconsistency in the DPP's authorization process, which can lead to a perception of partiality¹¹. While the police issued repeated warnings against election related rioting, neither the security forces, nor the Electoral Commission, nor other stakeholders undertook any effort to educate the public about electoral offences and the criminal sanctions they attract. Such failure is prone to instil a sense of impunity, and to encourage the breach of electoral law.

ELECTORAL SYSTEM

The presidential election system considers the national territory to constitute a single constituency. According to the Constitution, to be elected, a presidential candidate requires more than 50 per cent of the valid votes cast.¹² Where no candidate obtains this percentage, a second election shall be held between the two strongest candidates, within thirty days of the declaration of the results.

Parliamentary elections concern three broad categories of representatives, each with their own constituencies. These are: 238 MPs directly elected to represent each electoral constituency; 112 women MPs directly elected to represent each administrative district; and 25 MPs elected by four different kinds of electoral colleges, in accordance with the systems devised for each of the Special Interest Groups (SIG), namely youth, workers and persons with disabilities, each of whom elect five MPs, and the Ugandan People's Defence Force, which elects 10 MPs. Parliament will thus be composed of 375 MPs. Indirectly elected Parliamentary seats fail to adhere to the standard of equality of the vote and by their nature tend to have a lesser degree of scrutiny and transparency. With regard to seats for workers and persons with disabilities, trade unions and the National Union of Disabled Persons effectively administer elections until the last in a series of internal elections, when the Electoral Commission hosts the election of these SIG MPs. Where they exist, regulations concerning Special Interest Group elections are poorly publicised.

Seats reserved for the military raise further conflicts of interest related to the separation of powers, since army MPs remain on active duty, and are thus not accountable to constituents, but exclusively to the President in his role as Commander-in-Chief.

¹⁰ According to statistics provided by the Electoral Commission on 10 February 2011.

¹¹ While an opposition candidate accused of defacement of posters was held in preventive detention for 22 days (in Abim), a supporter of the incumbent was not arrested or prosecuted (in Jinja).

¹² Article 103(4) of the Constitution

There are 238 constituencies, an increase of 23 since the 2006 election. The increase appears to be as a result of an increase in administrative districts by Parliament, from 69 to the current figure of 112.

The Electoral Commission is constitutionally mandated to demarcate constituencies,¹³ and in doing so, to ensure that each county, has at least one Member of Parliament.¹⁴ The Constitution also provides for equality of the vote in its stipulation that, as far as possible, the number of inhabitants in each constituency should be equal to the population quota.¹⁵ Thus, although the Electoral Commission's delimitation of constituencies is largely dependent on the creation of administrative districts, it still has a duty to ensure equality of the vote and could have done so by initiating the creation of further constituencies. Instead, it has opted to apply only the requirement that each administrative county be represented in Parliament. In addition, there is no indication that the Electoral Commission issued a formal demarcation of the new constituencies. Lastly, nothing in the current legal framework recognises that, in practice, administrative districts also function as electoral constituencies since 112 women MPs are elected on that basis. In that respect, the same considerations should apply.

In practice, equality of the vote is not respected. While the average number of voters per constituency is 58,630, numbers for individual constituencies range from 7,318 voters (in Moroto, North-East) to 228,440 in Kampala, a ratio of 30:1. Equality of the vote is disregarded to an even greater extent in the districts from which women's reserved seats are elected. In districts, the average number of voters is 124,590 but the numbers of registered voters range from 21,039 in Amudat (again, in Moroto) to 1.18 million in Kampala, a ratio of 56:1.

ELECTION ADMINISTRATION

The Ugandan Electoral Commission, as established in the Constitution and the Electoral Commission Act 1997, is mandated to organise and supervise all elections and referenda. This includes determining constituency delimitations, managing voter registration and determining, publishing and declaring election results, as well as hearing complaints. The Constitution provides for the independence of the Electoral Commission, stating that it will, 'in the performance of its functions, not be subject to the direction or control of any person or authority.' However, the Electoral Commission does not enjoy widespread confidence, with opposition parties in particular consistently expressing profound mistrust. Perceptions of the Electoral Commission's independence are not assisted by the appointments system, according to which Commissioners are appointed by the President and approved by Parliament. In the current context this has not allowed for consultation with political parties or civil society members who are not aligned with the government. The current seven-member Commission was appointed in 2009, with almost no changes to the composition of the Commission which oversaw the 2006 elections. In consultation with the Public Services Commission, the Commission in turn appoints a Secretary.

¹³ Article 61 (c) of the Constitution

¹⁴ Article 63 (2) of the Constitution

¹⁵ Article 63 (3) of the Constitution. The population quota is the number obtained by dividing the number of inhabitants of Uganda by the number of constituencies into which Uganda is to be divided.

The Electoral Commission appoints Returning Officers for each administrative district or county, who are responsible for one district election and as many constituency elections as are contained within the district boundaries. The tasks of Returning Officers include determining the number and location of polling stations within their district, as well as appointing polling station staff. Returning Officers (ROs) have also appointed 'supervisors' at sub-county and parish levels, who act as a liaison between ROs and polling station staff. Supervisors' roles are logistically justified but their position and manner of recruitment is not set out in law. This is inconsistent with their involvement with key elements of the process, not least in their management of the distribution of sensitive materials and the collection of results from polling stations. EU EOM observers in the field found that while some ROs and supervisors were both technically competent and impartial, others were overwhelmed or biased towards the incumbency.

The Electoral Commission devised its Election Roadmap several years in advance and generally abided by its timetable. However it succumbed to the considerable pressure of having to prepare presidential and direct parliamentary elections, at the same time as administering several stages of nationwide polling for SIG youth elections, as well as preparing for upcoming local elections. Youth elections took a particular toll, delaying the completion of training for polling staff until just two days before the general elections.¹⁶ The distribution of sensitive materials from Kampala only began on 14 February, and events on Election Day indicate that this was too late. The Electoral Commission did not take a sufficiently pro-active and consistent approach to transparency, releasing information to stakeholders in an irregular and incomplete fashion. While the Electoral Commission sought to communicate regularly to the public and other stakeholders, brief press statements could not compensate for the lack of documented procedural detail. There were exceptions to this trend, but not enough to instil widespread confidence in the administration of the process. Exceptions included the timely publication of complete lists of constituencies and polling stations.

In line with the June 2010 amendment to the Presidential and Parliamentary Electoral Laws, political representatives were for the first time able to observe the printing of ballots (in the UK), as well as to attend packing and distribution of sensitive materials. However, timetables for materials' distribution were often not provided, in many cases making party agents' rights to attend somewhat theoretical. Although another amendment provides for the public display of polling station staff nominations 10 days before polling,¹⁷ in most districts observed this was not carried out in time.¹⁸ Training of polling station staff was also delayed, concluding one week later than planned, just two days before polling.

VOTER REGISTRATION

Eligibility requirements for voter registration are consistent with the principle of universal suffrage and there are no unreasonable restrictions.

¹⁶ The first stage of youth elections was held in the 57,364 villages of Uganda on 31 January. Severely flawed in terms of basic procedural requirements, with extremely low turn-out and a high rate of unopposed seats, these elections were also frequently cited by election workers in the field as the cause of delays in preparations for the general elections.

¹⁷ Previously this display was required only one week before polling.

¹⁸ The delay was partly due to recruitment delays, in turn attributed to a few days' delay for the first youth elections.

The final National Voter Register for the 2011 elections lists 13,954,129 voters, an increase of 33% since 2006, when some 10.5 million voters were registered. A general update of the voter register took place from 3 May to 18 June 2010, new registrants were given a receipt of their registration, and from 11 to 31 August revised lists were put on public display, during which time challenges could be filed with parish tribunals. Thereafter, the Electoral Commission began identifying and deleting duplicate entries, as a result of which 1 million entries were expunged. Although most entries include photographs of voters, an uncertain number do not, apparently for technical reasons.¹⁹ It is unfortunate that since the Voter Register closed in June 2010, citizens who turned 18 in the following eight months have been unable to register. In addition, there were numerous reports that the display exercise only enabled citizens to check their own entries, rather than scrutinize the register for incorrect entries.

The Voter Register has been vehemently criticised by opposition parties, who have insisted that it is bloated with fraudulent entries.²⁰ On 17 November 2010, the Electoral Commission issued electronic copies of the Voter Register to political parties with presidential candidates and on 31 January 2011 it provided printed copies including photographs. Nonetheless, in a context of extreme mistrust, a number of factors led opposition parties to contend that the voter registration process was not carried out in good faith and the Electoral Commission did not adequately address these concerns. On the contrary, the Electoral Commission's decision not to issue voter cards to some 4 million newly registered voters compounded suspicions that the voter register was not accurate, inclusive and reliable and that there were inadequate safeguards against fraud. In the absence of any documentation, confirmation of a voter's identity on polling day was dependent on the agreement of polling staff, with possible consultation of party agents or local people. While such approaches may have value in isolated cases of doubt, it is not an adequately secure or objective method to rely on systematically.

CANDIDATE NOMINATION

The criteria for standing as a presidential candidate largely satisfy Uganda's international obligations.²¹ The Constitution provides that a person qualifies for election as President if he or she is a citizen of Uganda by birth and not less than thirty-five, nor more than seventy-five years of age. Presidential candidates must also meet MP eligibility requirements.

A person is qualified to stand as an MP if he or she is a citizen of Uganda and registered to vote. Public servants intending to stand for Parliament must resign from office ninety days prior to

¹⁹ The Electoral Commission has not provided a figure of how many entries lack photographs, although estimates of 50,000 and 90,000 have been cited.

²⁰ Documentation submitted by the FDC and UPC in the case of *Bossa vs. Attorney General* sought to prove as much, by comparing projected population figures for 2010 (the last census in Uganda was carried out in 2002) with the number of registered voters in each district, finding that in some eight districts – mostly in the Central Region – there were more registered voters than the total projected population. In a further 32 districts, the number of voters exceeded 60% of the projected population, unrealistic given the proportion of under-18 year-olds in the population. The solidity of this claim rests upon the reliability of the population projection.

²¹ Article 25 of the ICCPR stipulates citizens' freedom to participate in the conduct of public affairs, directly or indirectly, without unreasonable distinction.

nomination, a much litigated point of contention. Candidates must also show that they have attained Advanced Level education or its equivalent. As in 2006, appeals disputing the academic qualifications of candidates have flooded the courts. The requirement excludes the majority of Ugandan citizens from passive suffrage, and necessitates the Electoral Commission and the National Commission for Higher Education to exercise discretion in recognising or denying equivalent diplomas. The academic prerequisite also risks perception of discrimination. It has led to the falsification of diplomas, and it has further aggravated the personalization of campaigns, distracting the attention of voters and the media from substantive policy issues.

Candidates can either run on a party ticket or as independents. In a recent nomination challenge, the Supreme Court upheld the right of seventy-seven sitting MPs to stand for the elections, although they had violated the Constitution by switching party affiliation upon nomination for the 2011 election without vacating their seats²². Nevertheless, the relevant provision in the Constitution could jeopardize the security of tenure of elected Members of Parliament, if they were expelled from their political party.

Presidential nominations must be supported by not less than one hundred voters in each of at least two-thirds of all the districts in Uganda, which amounts to a minimum of 7,500 registered voters. The law requires a non-refundable fee of roughly €2,700. Parliamentary candidates are required to submit ten eligible support signatures and a relatively small fee.

Candidate nominations for President took place on 25 and 26 October 2011. The Electoral Commission registered eight candidates. The nomination days for parliamentary candidates took place on 25 and 26 November 2010.

CAMPAIGN ENVIRONMENT

The presidential election campaign began on 18 October 2010 and the parliamentary election campaigns on 16 December 2010, providing ample time for the eight registered presidential candidates to conduct campaign activities and disseminate their messages throughout all 112 districts of Uganda. The campaign activities of the presidential candidates dominated the electoral campaign attracting the participation of large numbers of supporters. Parliamentary candidates' campaign strategies focused on smaller scale activities such as door-to-door campaigning and neighbourhood meetings. EU EOM observers reported a more competitive landscape compared with the previous elections in 2006. In several constituencies the major challenge to the National Resistance Movement (NRM) candidates came from candidates who had lost in the NRM primaries and decided to contest the elections as independents²³.

The adherence by presidential candidates to the campaign schedule adopted by the Electoral Commission combined with an improved performance of the Uganda Police Force in the execution of their duties were major factors contributing to the relative calm and peacefulness of the campaign.

²² Article 83 (g), (h) of the Constitution, *George Owor v William Okecho*, 2010

²³ There are 45 National Resistance Movement (NRM) MPs who lost in the party's primaries and ran as independent candidates for the parliamentary elections. Many of these MPs are former ministers and senior NRM members.

The campaign environment became more intense as Election Day approached. Tension increased when police arrested and detained several NGO activists as well as opposition politicians and political party activists.²⁴ Opposition political parties accused the police of partisan behaviour in the conduct of their duties²⁵. The main opposition party, FDC, continuously reiterated its aim to “protect its vote” on Election Day, stating that it would not address its complaints through the courts in case of election fraud and, after the election, announcing that, “This time we are not going to court. Our court is the people”.

Several activists of the Citizens’ Coalition for Electoral Democracy in Uganda (CCEDU) were arrested by police while distributing a leaflet asking voters not to vote for “any MP or leader involved in corruption” and demanding that all MPs return US\$ 20 million deposited into their bank accounts.²⁶ This money was paid to all MPs shortly after Parliament approved the Supplementary Budget,²⁷ ostensibly to facilitate MPs’ monitoring of government programmes in their constituencies, and the payment was widely criticized by civil society and opposition representatives. Fewer than 20 MPs, mostly from opposition parties,²⁸ returned the money. The distribution of the leaflets was part of a nationwide anti-corruption awareness campaign.

Three Democratic Party (DP) activists were imprisoned on charges of terrorism. The DP accused the government of targeting the party’s finances as one of those arrested, Ms. Annet Namwanga, was responsible for arranging financial resources from abroad. The police accused her of raising funds to overthrow the government. She was arrested and detained incommunicado for 16 days. After DP lawyers secured her release, the police brought new charges of terrorism against her and she was re-arrested.

There were continuous widespread concerns among various election stakeholders²⁹ related to the possibility of election-related violence during Election Day. Some political parties were allegedly creating vigilante groups in the run-up to Election Day consisting of young political party activists

²⁴ An FDC party agent was arrested for putting up posters at the time president Museveni’s rally was taking place in the agent’s town. Seven Democratic Party (DP) supporters (but no NRM supporters) were arrested in Masaka town after a clash between NRM and DP at the rally of a DP candidate for Parliament. The DP woman councillor in Rubaga South, Aisha Nakalabya, was arrested and charged with “incitement to violence” after a clash between DP and NRM supporters. She was released after 24 hours and none of the NRM activists involved was arrested.

²⁵ Seven DP supporters (but no NRM supporters) were arrested in Masaka town after clash between the NRM and the DP at the rally of the DP candidate for Parliament. The DP woman councillor in Rubaga South, Aisha Nakalabya, was arrested and charged with “incitement to violence” after a clash between DP and NRM supporters. She was released after 24 hours and none of the NRM activists involved was arrested.

²⁶ Eleven activists were detained by police in Kampala; in Lira the Executive Director was taken into custody for having read over Rhino FM radio the statement by leaders of civil society in Uganda entitled “ Abuse of Taxpayer Money and Wastage of Public funds by the Government of Uganda”.

²⁷ Unlike previous fiscal years a Supplementary budget of US\$ 602 billion was approved in January during the election period.

²⁸ The FDC has ordered its MPs to return the money or face disciplinary action.

²⁹ The EC Chairman stated at the General Stakeholder Briefing that, “the Commission is concerned about the possibility of disrupting the campaign period and reports have been received that certain political parties have organized militia groups with the pretext of guarding their votes”. Furthermore the Commission warned illegal vigilante and militia brigades and their leaders not to interfere with the election process. Brigades and their leadership who were warned by the EC are Kikankane, Blue Cobra, Red Brigade, Black Mamba, Bamboo Youth Brigade, Kibooko Squad, 3K Brigade, Mwoyo Gwagwanga, and Black Brigade.

and mobilizers whose role “was to protect the party’s vote”.³⁰ It was feared that such groups could become involved in intimidation of voters and in other violent activities during Election Day.

During the election campaign the police recruited and trained new officers. The Inspector General of Police (IGP) stated several reasons³¹ for increasing the police presence³² over the Election Day period. The police continued training special police constables and community groups known as “crime preventers” (CPs) across the country. The process of recruitment and training³³ lacked sufficient transparency and was viewed by most interlocutors as an attempt to intimidate opposition supporters and increase support for the ruling party among the younger element of the population. The CPs were recruited by local council NRM dominated structures and there were reports from EU EOM observers of CPs being observed campaigning at rallies of the ruling party³⁴.

Generally it is difficult to draw a line between government and the ruling party at local level. The vast majority of elected local councillors³⁵ are NRM members. The local council elections at the village/cell (LC1) and parish/ward level (LC2) were last held in 2001, and almost all local leaders were elected during the movement system and are members of, or associated with, the NRM. The Resident District Commissioners, who are directly appointed by the president, have significant powers and were often actively involved in the incumbent’s campaign.³⁶

As was the case during the 2006 presidential elections, the incumbent President enjoyed a significant advantage over all other candidates³⁷ as the law³⁸ exempts the incumbent from the prohibition of the use of public resources. Legislation allows the President to continue using government facilities³⁹ which are normally utilised by, or attached to, his office. During the election campaign Parliament approved a supplementary budget of 602 Billion Ugandan Shillings (US\$), of which a significant

³⁰ The opposition political parties argued that there was a need “to protect their vote” by people who would not be intimidated by ruling party structures and would stay in the area close to the polling station to await the announcement of PS results.

³¹ Among these were the necessity to ensure a safe and secure environment during the elections, protection of election officials, threats related to terrorism, and the possibility of disorder created by various vigilante groups associated with political parties and individual politicians.

³² The incumbent NRM youth MP Mr. Joseph Muyomba (running as an independent) informed EU EOM observers that he was organizing a brigade of youth vigilantes to prevent distribution of money and gifts by other political candidates in Bukoto Mid-west district.

³³ The training concentrated on military drills with little or no training on human rights, elections and crime prevention.

³⁴ At President Museveni’s rally in Ssembabule, EU EOM observers report that, “security on the rally was upheld by crime preventers wearing NRM colours”. LTOs interviewed the unarmed young men surrounding the venue and they stated that they went through the crime preventers training in the district.

³⁵ There were only elections of Local Councils at the district (LC5), county (LC4) and sub-county level (LC3) in 2006.

³⁶ In Butambala the RDC was one of the main speakers at the NRM rally in Kibibi town. In Lira district EU EOM observers received reports of the RDC and DPC openly campaigning in favour of the NRM.

³⁷ All presidential candidates received US\$ 20 million as a campaign contribution plus a car and security personnel.

³⁸ The 2005 Presidential Act regulates the use of state resources.

³⁹ As stated by the Minister for Public Service: the President may continue to use State House and state lodges, his usual transport facilities, his usual personal staff and their facilities, and his usual information and communication facilities as well as other unspecified usual facilities. The President announced at the beginning of last month the introduction of a special fleet of vehicles (45 vans and 45 trucks) to support his campaign around the country.

sum was assigned to the presidency⁴⁰. In addition, significant misuse of public resources by the incumbent was reported by EU EOM observers.⁴¹

The increase in campaign spending⁴² and “monetization” of the election was a major concern of the election. It was evident that NRM dominance and resources were much greater than those of the opposition⁴³. The Political Parties and Organisations Act⁴⁴ provides for the public funding of political parties. However, the Government did not allocate any public funds to political parties and this had a negative impact on the level playing field.

Widespread allegations of vote buying and bribery of voters were reported by all EU EOM observers deployed across Uganda. In many cases it was difficult to distinguish between bribing voters⁴⁵ and “facilitating” party supporters⁴⁶. It has been observed and reported that most NRM candidates use government projects such as the National Agricultural Advisory Services (NAADS) and the Northern Uganda Social Action Fund (NUSAF) as tools to press voters to adhere to the NRM should they wish to benefit from such projects.

The absolute lack of trust in the ability and competence of the Electoral Commission to conduct credible and transparent elections was consistently mentioned by opposition leaders. All major opposition parties accused the Electoral Commission of being partisan in favour of the ruling party and of being discredited by its failure to conduct credible and transparent elections in 2006. UPC and FDC filed a joint petition⁴⁷ at the Constitutional Court stating that “the elections beginning on 18 February will not be free and fair but shall be characterized by violence”. The UPC-organized petition known as the Blue Book, signed by 1.6 million Ugandans, called for free and fair elections

⁴⁰ State House and the President’s Office.

⁴¹ On the occasion of the 25th anniversary of the end of the “Bush War” President Museveni personally attended a celebration with an army parade in Masaka district. Although it was an official event the celebration was marked heavily by the NRM’s campaign messages. One third of the participants displayed the party’s symbols.

⁴² There are no limits on the amount of campaign spending.

⁴³ Each NRM parliamentary candidate received a minimum of USh 20 million. The same amount of money was provided to presidential candidates.

⁴⁴ All registered political parties are eligible for equal funding for elections and funding of the parties’ regular activities is provided only to parties represented in parliament.

⁴⁵ Supporters admitted to receiving money for participation at the rally of an independent candidate in Kabale District (USh 10,000); in Mbale, an independent candidate promised to handover to the community a tent and 30 plates prior to the election; in Erute South, at an NRM candidate’s rally, each of the parishes received USh 150,000 in a brown envelope for mobility and rent for a bus to attend the campaign.

⁴⁶ EU EOM observers in Mbale directly observed two RM rallies where money was given to supporters (notes of USh 1,000 together with a specimen ballot paper with a tick marked for the incumbent president). In Kapchorwa observers witnessed the delivery of 2,000 combine harvesters valued at USh 1 billion during the rally of the NRM MP candidate. In Masaka the NM summoned meetings of the NRM Entrepreneurs League at regional level where every district was represented by five entrepreneurs, each receiving USh 50,000 for mobilization of the voters in their district. The collective “defection” of around 2,000 FDC members to NRM. The celebration for those “defected” FDC members was organized by NRM supporters and with the support of tribal cultural leaders.

⁴⁷ The UPC/FDC petition questioned several important issues such as: why the total number of registered voters appeared to be higher than the projected number of eligible citizens of Uganda; why the National Voter Register included 50,000 voters without photographs; the order of the presidential candidates on the ballot, which did not conform to the proper alphabetical order and favoured Yoweri Museveni; the guidelines on the polling stations arrangements which did not allow party agents and candidate representatives to crosscheck the identification of voters; the massive deployment of armed security personnel throughout the country allegedly to intimidate voters, and the use by the NRM and the incumbent of public funds for campaign purposes.

and in particular for the establishment of a new Independent Electoral Commission and a new, clean and verifiable Voter Register.

MEDIA ENVIRONMENT

There were high levels of media coverage of candidates and parties standing for election, as well as election preparations, throughout the monitoring period.⁴⁸ However, some key media failed to provide equitable coverage for candidates and parties, generally to the disadvantage of the opposition. The Uganda Broadcasting Corporation (UBC), in particular, failed to fulfil its constitutional obligation as a state-owned broadcaster to treat each presidential candidate equally.⁴⁹ It also failed to treat parliamentary candidates in an equitable manner, showing a substantial bias towards the incumbent president and the ruling NRM party.⁵⁰ Coverage of President Museveni and the NRM by UBC Television amounted to nearly fourteen hours, compared with just 56 minutes devoted to the President's main challenger, Dr. Besigye, and the four political parties supporting his presidential bid. UBC Radio followed a similar pattern, allocating three times the amount of airtime to President Museveni and the NRM compared with that allocated to Dr. Besigye and the main opposition parties added together. UBC Radio also used an increasingly negative tone towards the opposition parties as Election Day approached⁵¹.

Two presidential candidates, Kizza Besigye (FDC) and Olive Beti Kanya of the Uganda Federal Alliance (UFA), complained to the Electoral Commission's Complaints Liaison Committee about lack of equal coverage in the state-owned media.⁵² However, a lack of sanctioning powers seriously limited the Committee's ability to act as an effective regulatory body and its conciliation attempts failed. The independence of the Committee was questioned as it involved in its process the Media Centre, a statutory body established in 2006 by the government to manage media relations for the President's Office.

The government's dominance of state-owned radio, the only broadcasting network covering almost all areas of the country, was not balanced by private radio stations established outside the capital, which generally provided opposition candidates with very limited access, exacerbating the uneven playing field in favour of the incumbent president and the ruling NRM party. Many of these stations

⁴⁸ Commercial radio and television stations CBS, Simba FM, WBS and NTV and state-owned UBC Radio and UBC TV were monitored daily between 06.00 and 09.00 and between 17.00 and 00.00 from 23 January until 16 February. All editions of the privately owned *Daily Monitor* and the partially state-owned *New Vision* were monitored throughout the period.

⁴⁹ Article 67 of the Constitution: "All presidential candidates shall be given equal time and space on the state-owned media to present their programmes to the people."

⁵⁰ Section 22(1) of the Parliamentary Elections Act states that parliamentary candidates should not be denied "reasonable access" to the state media.

⁵¹ 14 per cent, 16 per cent, 38 per cent and 40 per cent of negative coverage for the Forum For Democratic Change (FDC), Democratic Party (DP), Uganda People's Congress (UPC), and Justice Forum (JEEMA) respectively.

⁵² The Complaints Liaison Committee is the conciliation body established to resolve media-related election complaints under the aegis of the Electoral Commission together with the two official media regulatory bodies, the Media Council and the Broadcasting Council. The Media Council was established by the Press and Journalist Statute 1995 as the body to regulate the practice of journalism. The Broadcasting Council was created by the Electronic Media Statute (1996) and mandated with the function of issuing licenses and regulating radio and television.

are owned by individuals politically affiliated to the NRM⁵³. There were consistent reports that a number of radio station owners refused or were reluctant to cover the activities of opposition parties for fear of retaliation by members of the NRM and local authorities⁵⁴. These reports also reveal that some editors-in-chief asked their journalists to avoid critical reports of NRM candidates and that many journalists submitted themselves to self-censorship.

Coverage of the election by Kampala-based privately owned broadcasters has varied depending on the broadcast language used by the media and the audience addressed. The commercial television station, NTV, broadcasting in English and targeting mainly the urban elite, provided balanced coverage between the incumbents and the opposition, with news generally delivered in a neutral tone. WBS, the main commercial competitor of NTV, showed a significant bias towards Kizza Besigye in the final week of the campaign, having previously provided balanced coverage. Election output from private radio stations broadcasting in Luganda, the language of the Baganda people, the largest of Uganda's ethnic groups, followed a different pattern. Simba FM showed a significant bias in favour of the incumbent president and the ruling party, while the popular Kingdom of Buganda-owned CBS dedicated the least amount of airtime to the elections of all the broadcasting media monitored by the EU EOM. This extreme caution could be due to the fact that CBS was one of three radio stations suspended from broadcasting by the government in September 2009. The government claimed that CBS had incited citizens to protest after violent clashes broke out in Kampala between supporters of the King of Buganda and government security forces. The station, which remained off air until October 2010, was verbally authorized to resume broadcasting, while the information ministry still retains its license.

The clampdown on FM radio stations without any legal process, coupled with new stricter legal proposals through the Press and Journalist (Amendment) Bill 2010, created an atmosphere of intimidation⁵⁵. This gives rise to concern about the ability of the media to exercise fully their fundamental right and freedom to report during the election campaign. Overall, coverage of the electoral campaign by private broadcast media was mainly descriptive in nature with the emphasis on the campaign itinerary and events rather than policy positions, with little critical reporting of the incumbents' record in office.

⁵³ Findings of a book published by the Eastern Africa Media Council showed that, as of 2008, 75 per cent of registered FM stations were owned by politicians, and 75 per cent of these were members of the ruling party.

⁵⁴ Weekly reports of the EU EOM Long Term Observers (LTOs) and the 126 "Media Access of the Political Parties Reports" submitted by LTOs to each local political leader they met. The Kampala-based Human Rights Network for Journalists has noted an increasing number of cases of journalists' harassment in the last week of the campaign. On 7 February, the owners of Radio Rhino and Voice of Lango, two Lira district-based radio stations, were summoned for interrogation by both the District Police Commander and the Resident District Commissioner for having hosted civil society activists seeking to expose and condemn allegations of government corruption. On 9 February soldiers belonging to the Army's Special Forces Group (SFG) allegedly assaulted a Daily Monitor journalist in Sembabule District as he attempted to take pictures of them stopping Lwemiyaga County MP Theodore Sekikubo from erecting a campaign poster. On 10 February, a Masaka-based NTV correspondent was detained by the SFG for filming a scuffle involving Rwemiyaga area Member of Parliament, Theodore Ssekikubo, ahead of President Museveni's campaign rally.

⁵⁵ Uganda is ranked 96th on the Paris-based NGO Reporters without Borders' Press Freedom Index (2010), a fall of 10 places from 2009. US-based NGO Freedom House's annual survey of media freedom (2009), notes that "in the last five years Uganda has experienced one of the most dramatic declines in press freedom comparatively, with its global ranking declining from 98th place to 109th place worldwide". Kampala-based Human Rights Network for Journalists' index report (2010) indicates that "the media in Uganda is consistently under attack" and is "concerned about the declining safety and security environment for journalists in Uganda, and the growing overall threat to freedom of expression in the country"

The Daily Monitor, Uganda's largest circulation newspaper, provided reasonably critical coverage of the candidates and their platforms. Yoweri Museveni received more space than Kizza Besigye (25,561cm² against 20,598cm²), but coverage of the incumbent president was more critical than that of his main rival (19 per cent negative tone for President Museveni, 8 per cent for Dr. Besigye). The partially state-owned New Vision did not demonstrate the same willingness to provide Ugandan citizens with the variety of information they needed to make an informed decision on Election Day. The second largest Ugandan newspaper in terms of circulation provided 76,266cm² coverage to President Museveni, of which 34 per cent was positive in tone, compared with 12,841cm² provided to Dr. Besigye. New Vision had shown a significant degree of editorial independence in recent years, but during the election campaign it appeared to adopt the position of being a government newspaper.

WOMEN'S PARTICIPATION

The level of political participation by women is relatively high⁵⁶ due to constitutional provisions for affirmative action. The Constitution provides for one woman representative in Parliament for each district and further Local Government Acts provide for one third of seats on each local council to be reserved for women.

As in 2006, there was one female candidate for president. Compared with the previous parliamentary elections in 2006 there has been an increase in the number of districts and the number of reserved seats for women therefore also increased from 69 to 112. In addition there was a slight increase⁵⁷ in the number of women contesting the non-affirmative action seats.

However, women represented only 3.6 per cent of the total number of candidates⁵⁸ running for the regular constituency seats. One of the main reasons for this is that, across the political spectrum, the political parties do not provide equal opportunities for women to represent parties in leadership positions. Generally women candidates were low-key parliamentary contestants compared with their male counterparts. Very few women were able to campaign individually and rather participated at the campaign activities of male party members running for the non-affirmative seats in the constituency or constituencies in their district.

A quarter of Presiding Officers and party agents were women and on Election Day just under half of polling assistants were women.

CIVIL SOCIETY, VOTER EDUCATION AND DOMESTIC OBSERVATION

The Electoral Commission carried out a voter education programme for each stage of the electoral process, from voter registration and display to nominations and the run-up to polling. This was largely carried out by contracting private companies and the programme's reach and effectiveness remains unclear. The Electoral Commission also launched a project enabling voters to send low-cost

⁵⁶ According to a DEMGroup study Uganda ranks 23rd out of 188 countries in the world for the percentage of women members of Parliament.

⁵⁷ In the 2006 elections 28 women contested 215 constituency seats compared with 46 women contesting 238 constituency seats in the 2011 elections.

⁵⁸ There are 46 women out of 1270 candidates.

text messages to check where they should vote and this was reported to be useful for those who were aware of it.

Ugandan civil society showed itself to be vibrant and committed to supporting the democratic process. Although not all of the 71 organisations accredited by the Electoral Commission to carry out voter education did so, some were particularly active, notably the Citizens' Coalition for Electoral Democracy in Uganda (CCEDU), a consortium of civil society groups. The CCEDU implemented a range of activities, from the 'Honour Your Vote' programme encouraging free choice on the basis of issues, to the Citizen's Manifesto, a collection of topics raised as priorities for citizens.

The Electoral Commission accredited 39 domestic observation missions, of which two stand out as long-term and sizable. Democracy Monitoring Group (DEMG) is a consortium of four civil society organizations⁵⁹ which deployed 22 regional coordinators in May 2010, followed in September by observers for each constituency. DEMG observed all the key stages of the electoral process and issued a number of reports. DEMG planned to deploy a further 5,000-6,000 observers to polling stations across Uganda. The other principal domestic observation group, 'Citizens Elections Watch IT' (CEW-IT), also deployed long-term observers and intended to deploy around 5,000 observers to 22 districts in an arc running from the west to the north and north east.⁶⁰ CEW-IT managed a web-based platform enabling observers and members of the public to post observations. DEMG observers were present in 25 per cent of polling stations observed by the EU EOM, while CEW-IT members were observed in 19 per cent of cases.

The Inter-Religious Council of Uganda deployed some 220 observers and created a 'National Task Force for Peace and Conflict Transformation', a body designed to mediate conflict during and after the election period. In addition, the Human Rights Network (HURINET) deployed some 100 observers.

Following accreditation of organisations, the Electoral Commission required individual domestic election observers to present themselves to Returning Officers in their district, to confirm their identity, followed by security screening carried out by the police. This requirement constituted an unexpected cost and administrative hurdle for domestic EOMs and in some cases had still not been resolved by Election Day which negatively affected their ability to deploy their intended numbers of observers. The security procedure appeared quite inconsistent with the approach to party representatives, who did not need to register with the Electoral Commission at all, despite having access to the same locations and processes. DEMG denounced the Internal Security Organisation (ISO), stating that ISO personnel had questioned DEMG observers on their political affiliations and in other cases had demanded payment before issuing accreditations.

POLLING

⁵⁹ The members of DEMG are the Uganda Joint Christian Council (UJCC), Action for Development (ACFODE), Transparency International Uganda (TIU), and the Centre for Democratic Governance (CDG).

⁶⁰ CEW-IT members are the Rwenzori Consortium for Civic Competence (RWECO), working in the Rwenzori region; the Public Affairs Centre (PAC), working in the Teso region; CEFORD, working in the West Nile region; and ACORD, working in Gulu.

EU EOM observers rated opening procedures as good or very good in two-thirds of cases observed, and poor or very poor in one-third of cases. There were protracted delays in the opening of 80 per cent of polling stations observed, largely due to materials not having been delivered in time, with some cases of insufficient polling staff. These delays affected urban and rural polling stations alike, raising concerns about how polling day would unfold.

Despite significant organisational difficulties, opening procedures were largely peaceful where observed. Opening procedures were not consistently respected: while the requirement to display empty ballot boxes was fulfilled in almost all observed cases, in 35 per cent of cases observed Presiding Officers did not complete the receipt of materials part of the Official Record Book, which would have included a record of the number of ballots received.

Voting procedures were assessed as poor or very poor in 30 per cent of cases.

For the most part, there were no campaign materials inside the perimeter of polling stations, nor any obvious intimidation. Party agents were present in all cases observed, with the NRM and FDC ubiquitous and the DP and UPC present in around one-third of polling stations observed. NRM agents were present in the greatest numbers, averaging more than four per polling station.⁶¹

Problems with the delivery of materials had an impact throughout polling day, with 12 per cent of polling stations observed recording a lack of some essential materials, most often seals for ballot boxes and forms which polling staff were required to complete. These were missing in 5 per cent of all stations observed. Of significant concern, in more than half of polling stations observed during the day, the number of ballots received had not been recorded and in nearly one-third of cases ballot boxes were not properly sealed. In some 13 per cent of cases, voters' names were not marked in the register to show that they had voted.

In line with the legal requirement granting them such access, party agents could easily view and follow the voter register in 91 per cent of cases observed. This was primarily due to the fact that they had their own copies of the voter list rather than overseeing the list held by the Presiding Officer.

The voting basins were not effective for ensuring secrecy of the vote, especially where ballots were at least as long as the basins' diameter.

Polling staff only instructed voters on the two valid methods of marking ballots in 30 per cent of cases, which is unfortunate given the law's restrictive interpretation of a valid ballot.⁶²

Of significant concern was the high rate of people finding that they were not on the register at the polling station where they presented themselves. This was observed in nearly 60 per cent of stations visited by the EU EOM. In all cases it would have been helpful to post a copy of the voter list at each polling station to ensure people did not have to queue before finding themselves turned away, while more effective voter information would also have been useful. In a small number of cases (2 per cent), people were observed being allowed to vote despite not being on the voter register, while others were denied the right to vote despite being on the register (also observed in 2 per cent of

⁶¹ The law allows for two agents per candidate, which in this instance meant six agents per party at each polling station.

⁶² Only a tick or a thumbprint are legally acceptable marks for a valid ballot.

cases). In 5 per cent of polling stations observed voters found that someone had already voted in their name, and in all such cases the Presiding Officer dealt with this according to procedures, namely completing a form attesting to the second arrival's identity and allowing them to vote. EU EOM observers were granted access to all required documentation in the vast majority of cases.

EU EOM observers assessed the closing and counting procedures to be poor or very poor in over a third of cases. In about a quarter of cases, people queuing at 17.00 were not allowed to vote, despite this being provided for by law.

COUNTING AND TALLYING

In more than half of cases observed, the number of votes cast was not determined by counting the marks in the voter register, and in just under half of cases there was no adequate reconciliation of all used and unused ballots. In just over a quarter of polling stations observed, the number of ballots cast did not equal the number of people who had voted.

The definition of a valid vote was determined in a consistent manner, but in over a third of polling stations observed, ballots with clear voter intention were considered invalid due to the use of marks other than a tick or thumbprint. This requirement gives insufficient priority to voter intention and the rate of ballots considered invalid indicates that there was insufficient education of voters.

In just under 20 per cent of polling stations observed, the Presiding Officer did not complete the Accountability of Ballots Form for each election and in 17 per cent of cases observed, Declaration of Results Forms had been signed by party agents before they were completed. In over 80 per cent of cases the results forms were not physically posted at the polling station as required by law.

The National Tally Centre (NTC) has been open to duly accredited observers, party agents and press, and has facilitated access to results for the presidential election as they arrive through the Electronic Results Transmission and Dissemination System (ETRDS). The Electoral Commission is to be congratulated on ensuring that the ETRDS system displays individual polling station results, enabling NTC visitors to cross-check polling station result forms. The EU EOM understands that the same service will be made available on the Electoral Commission website, so that the results will continue to be publicly available after the closure of the National Tally Centre.

The EU EOM wishes to express its appreciation to the Government of the Republic of Uganda and the Electoral Commission of Uganda for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Union in Uganda and to the International Organisation for Migration (IOM) for their support throughout.