



European Union  
Election Observation Mission

# **LESOTHO 2022**

**Final Report**



**National Assembly Elections**

7 October 2022



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*The Election Observation Mission is independent from the institutions of the European Union.  
The views and opinions expressed in this report are those of the authors and do not necessarily  
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## LIST OF ACRONYMS

AA	African Ark
ABC	All Basotho Convention
ABV	Alliance of All Basotho Victims
AD	Alliance of Democrats
ADR	Alternative Dispute Resolution
AU	African Union
BAP	Basotho Action Party
BCM	Basotho Covenant Movement
BCP	Basotho Congress Party
BDNP	Basotho Democratic National Party
BDRP	Broadcasting Disputes Resolution Panel
BEE	Basotho Economic Enrichment
BNP	Basotho National Party
BPP	Basotho Patriotic Party
BTLC	Basotholand Total Liberation Congress
CCL	Christian Council of Lesotho
CRPD	Convention on the Rights of Persons with Disability
CSO	Civil Society Organisation
DC	Democratic Congress
DPA	Development Party for All
DPL	Democratic Party of Lesotho
EA	Electoral Act
EISA	Electoral Institute for Sustainable Democracy in Africa
EMB	Election Management Body
EOM	Election Observation Mission
EU	European Union
FPTP	First-Past-The-Post
HOPE	Mphatlalatsane (Sesotho word for hope)
ICCPR	International Covenant on Civil and Political Rights
ID	Identification Document
IEC	Independent Electoral Commission
LCA	Lesotho Communications Authority
LCD	Lesotho Congress for Democracy
LCN	Lesotho Council of NGOs
LDF	Lesotho Defence Force
LENA	Lesotho News Agency
LGBTQ	Lesbian, Gay, Bisexual, Transgender, Queer
LMPS	Lesotho Mounted Police Service
LNBS	Lesotho National Broadcasting Services
LNFD	Lesotho National Federation of the Disabled

LPC	Lesotho People's Congress
LSL	Lesotho Loti (currency)
LTO	Long-Term Observer
LTV	Lesotho Television
MEC	Movement for Economic Change
MFP	Marema-tlou Freedom Party
MISA	Media Institute of Southern Africa
MMP	Mixed Member Proportional
MoHA	Ministry of Home Affairs
NA	National Assembly
NFD	National Federation of Disabled
NGO	Non-Governmental Organisation
NIP	National Independent Party
NRA	National Reform Authority
NSS	National Security Service
PEMMO	Principles for Election Management, Monitoring and Observation in the SADC Region
PFD	Popular Front for Democracy
PM	Prime Minister
PR	Proportional Representation
PS	Polling Station
RAD	Revolutionary Alliance for Democracy
RCL	Reformed Congress of Lesotho
RFP	Revolution for Prosperity
SACU	Southern African Customs Union
SADC	Southern African Development Community
SR	Socialist Revolutionaries Party
STO	Short-Term Observer
TEB	TSEPO EA BASOTHO
TRC	Transformation Resource Centre
UFC	United for Change
UNDP	United Nations Development Programme
UNHRC	United Nations Human Rights Committee
YES	Yearn for Economic Stability
YONA	Your Opportunity & Network Alliance

## **I. EXECUTIVE SUMMARY**

On the 7<sup>th</sup> of October 2022, the Kingdom of Lesotho held its 11<sup>th</sup> legislative polls to elect the 120 Members of its National Assembly. The Independent Electoral Commission (IEC) conducted overall a well organised election. Election preparations were, however, negatively affected by legal uncertainty and limited funding; the latter affecting especially the voter registration and education processes. While fundamental freedoms were largely respected, media were constrained by limited resources, interference in editorial independence, as well as by legislation not fully in line with the country's international and regional commitments for elections. A broad range of political parties competed in a peaceful campaign in an uneven playing field, mainly due to unregulated campaign finance lacking transparency and oversight. Voter turnout for these elections was 37.7 per cent, the lowest since the country's independence. Strengthening the representation of women, accessibility for persons with disabilities, and establishing a pluralistic, independent and effective Human Rights Commission remain important issues to be addressed.

Of the 120 National Assembly seats, 80 are elected in single member constituencies with a First-Past-the-Post (FPTP) system and 40 are elected with a compensatory Proportional Representation (PR) system. Out of the 65 political parties registered by the IEC, 56 contested the elections along with 23 independent candidates. The main contenders were the parties of the outgoing coalition Government, which consisted of the All Basotho Convention (ABC) party and the Democratic Congress (DC) party in an alignment with seven smaller parties, including the Movement for Economic Change (MEC), and the former governing Basotho National Party (BNP). On the opposition side, were among others, the Alliance of Democrats (AD) and the former governing party Lesotho Congress for Democracy (LCD). The emergence of a new party, the Revolution for Prosperity (RFP) in March 2022, founded by a wealthy businessman, resulted in a more vibrant and uneven competition.

Lesotho has acceded to all major international and regional Human Rights Conventions and Treaties. The legal framework, comprising the 1993 Constitution and the 2011 Electoral Act, remained unchanged since the 2017 elections. The Constitution contains provisions for the protection of fundamental rights and freedoms and against discrimination including freedom of expression, assembly, and association. The Parliament has not yet enacted the necessary legislation to implement some of those overarching provisions in defence of fundamental rights and freedoms. The outgoing Parliament did not manage to finalise a long-standing legal reform process, under the auspices of the Southern African Development Community (SADC) and with financial support from the European Union (EU). Despite constitutional provisions, a pluralistic, independent and effective Human Rights Commission has not yet been established.

Legal uncertainty few weeks before the elections posed challenges to the IEC, parties, candidates, and voters. Nevertheless, the IEC was able to conduct most of its activities according to the electoral calendar, notwithstanding the persistent financial shortcomings. However, its credibility was affected by announcing incorrectly calculated results for four PR seats. The performance of the election administrators at district and constituency level was largely professional and the staff were committed to the work regardless of the difficult situation.

Voter registration is active and compulsory and the IEC is responsible for compiling and maintaining the voter register. The accuracy of the voter register has been questioned by many interlocutors, pointing at the inclusion of names of deceased persons and reported data errors in the voter register. A late change in the constituency delimitation of 20 constituencies also posed a

challenge to registered voters whose constituency and polling stations changed. The EU EOM compared the numerical data from the voter register with the Lesotho Bureau of Statistics' projections 2022 of the 2016 census population, and with data from the Department of Identity and Civil Registration of the Ministry of Home Affairs and assessed that younger voters (18-29 years) appeared to be underrepresented in comparison to other age groups.

Voter education activities were reduced from the planned three months to three weeks due to reduced available funding. The IEC contracted 16 Civil Society Organisations (CSOs) to conduct voter education but contrary to past practice, CSOs involved in voter education activities were not eligible to be accredited as observers. Most interlocutors considered the voter education for these elections to be insufficient and inadequate.

Throughout the campaign and electoral process fundamental freedoms of association and assembly were respected. The campaign was peaceful, low key in the rural areas, and vibrant in the capital city, especially during the last weekend before election day. Unlimited campaign spending contributed to an uneven playing field among parties and candidates. The difference in visibility between the more popular parties and those with fewer resources was widely observed by the EU EOM.

The law does not provide for limits to campaign funding and campaign spending and only contributions to parties above LSL 200,000 (EUR 11,500) are to be notified to the IEC as oversight body. Contributions from outside the country are also not subject to public scrutiny. Limited financial and human resources constrained the IEC to effectively perform its financial oversight functions, which include investigative powers, seizing party accounts and interrogating any person for the inquiry. The limited scope of the IEC's scrutiny tasks regarding campaign finance left the biggest part of political contributions outside of its purview.

Interference into editorial independence of commercial radio stations, the most popular media, resulted in bias displayed in their election campaign news coverage. These violations of the law which stipulates balanced and impartial news coverage in state as well as commercial broadcasting, were not remedied by the Lesotho Communications Authority (LCA). The Lesotho National Broadcasting Services (LNBS), as part of the Ministry of Communications, lack institutional independence. Its Lesotho Television (LTV) provided a rather equitable news coverage, and free advertising time for contesting political parties, however, not for independent candidates.

Newspapers and LNBS media provided limited updated news online, leading citizens, especially younger generations, resorting to anonymous "news outlets" on social media networks, which are more actively publishing information content. The EU EOM monitored 41 anonymous media Facebook pages, which disseminated unverified and at times misleading content. With no fact-checking initiatives, there has been an increased risk of information manipulation on social media networks.

Women representation in the National Assembly increased slightly reaching 26 per cent. This was partly due to the pre-existing affirmative "zebra" (zip) system, intended to enhance women representation, by making it obligatory for parties to alternate women and men in the PR lists. For the first time a woman has been appointed Deputy Prime Minister.

The election dispute resolution system comprehensively covers all aspects of the election process. Nevertheless, the provisions of the law fall short of specific procedures, deadlines, criteria for nomination of members of the Electoral Tribunal, as well as a second level of redress. As a result, it lacked transparency of operations and effective timelines.

The EU EOM observed polling in all 80 constituencies within the 10 districts of Lesotho. Election day was well organised and conducted in a peaceful atmosphere. Opening and voting were professionally managed by the IEC staff but the polling station locations were in many cases not accessible for voters with reduced mobility. The counting process was evaluated as very good with some minor procedural mistakes, which did not impact the results. Tabulation was conducted manually at the constituency level. The EU EOM observed in total the voting process in 302 polling stations. Party and candidates' agents were present in 89 per cent of the observed polling stations. Citizen-led election observers were only present in 15 per cent of the cases.

The IEC announced results from 8 to 10 October. The RFP obtained a relative majority of 56 seats, and together with the Movement for Economic Change and the Alliance of Democrats announced a coalition Government on 11 October. Two weeks after election day the IEC submitted an urgent application to the High Court requesting the re-allocation of four officially announced and gazetted PR seats. The IEC declared that a modification was necessary following its own detection of the wrongly calculated PR seat allocation.

### **Priority Recommendations**

The EU EOM has made 21 recommendations for improving the way elections are organised, managed, and conducted in Lesotho. They include seven priority recommendations:

- Strengthen the implementation of continuous civic education including in educational institutions, and timely voter education campaigns, both offline and online, with a specific focus on youth, women, and persons with disabilities.
- Improve the accuracy and inclusiveness of the voter register.
- For the IEC to provide secondary legislation by formalising and publishing decisions and rules of procedures of the electoral processes.
- Provide the IEC with budgetary independence through direct and timely access to funds approved in the national budget, with strengthened transparency and accountability requirements.
- Enable the IEC to effectively perform its oversight tasks and extend them to all political parties' expenses and received donations to ensure effective transparency of party and campaign finance.
- Introduce reasonable limitations on political campaign expenditures and prohibition of use of state resources in order to create a level playing field among contestants.
- Strengthen the independence of the Lesotho Communications Authority (LCA) by modifying the appointment mechanism in line with regional and international commitments.



## **II. INTRODUCTION**

Following an invitation by the Government of the Kingdom of Lesotho, the European Union (EU) deployed its first ever Election Observation Mission (EOM) to Lesotho to observe the 7 October 2022 National Assembly elections. The EU EOM was present in the country from 27 August to 30 October 2022, conducted over 600 meetings with stakeholders, including with 23 of 65 registered political parties. The mission’s mandate was to observe all aspects of the electoral process and assess the extent to which the elections complied with regional and international commitments for elections, as well as with national legislation.

The EU EOM is independent in its findings and conclusions under the leadership of the Chief Observer, Ignazio Corrao, Member of the European Parliament. The mission followed an established methodology and adhered to the “Declaration of Principles for International Election Observation”, endorsed under United Nations auspices in October 2005, now espoused by over 50 organisations.

The EU EOM comprised a core team of 10 experts based in Maseru and 22 Long-Term Observers (LTOs) deployed to all ten districts of Lesotho. On election day, the Mission fielded 87 international observers to monitor polling, counting and collation of results. The Mission deployed observers from all 27 EU Member States as well as from Norway and Switzerland, including 30 Short-Term Observers (STOs), 12 locally recruited STOs, and a five-Member Delegation from the European Parliament. More than 100 Basotho staff members, directly or indirectly recruited, joined and supported the EU EOM.

## **III. POLITICAL CONTEXT**

On 7 October 2022, the Kingdom of Lesotho held its 11<sup>th</sup> legislative polls to elect the 120 members of its National Assembly. The Parliament is composed of the National Assembly, elected every five years following a mixed member proportional (MMP) electoral system, and the Senate, composed of 22 Principal Chiefs and 11 Senators appointed by the King<sup>1</sup> on advice of the Council of State.<sup>2</sup> Of the 120 National Assembly seats, 80 are elected in single member constituencies with a First-Past-the-Post (FPTP) system and 40 are elected with a compensatory Proportional Representation (PR) system.<sup>3</sup>

Lesotho experienced several disputed election outcomes in the past. Since 1993, the country held seven competitive elections, five of which have been followed by episodes requiring regional diplomacy or military intervention by the Southern African Development Community (SADC). Frequent Government changes, floor crossing and snap elections have led to electoral fatigue resulting in a steady decrease in voter turnout since 2012, as well as a deep distrust in elected institutions. According to an Afrobarometer survey of 2022,<sup>4</sup> 53.7 per cent of Basotho were not satisfied with the way democracy works in Lesotho. The outgoing Parliament had not managed to

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<sup>1</sup> The 11 appointed members of the Senate are nominated by the King after the first sitting of the newly elected National Assembly.

<sup>2</sup> The Council of State is composed of the Prime Minister, the Speaker of the National Assembly, two judges or former judges of the High Court or Court of Appeal, the Attorney General, Commander of the Defence Force, Commissioner of Police, two Principal Chiefs and two members of the National Assembly appointed by the Speaker.

<sup>3</sup> The compensatory PR system follows a traditional PR system based on the calculation of an electoral quota and the attribution of seats proportional to the number of votes gathered nationally.

<sup>4</sup> [https://www.afrobarometer.org/wp-content/uploads/2022/08/Les\\_R9-AB-Summary-of-Results\\_25Aug22.pdf](https://www.afrobarometer.org/wp-content/uploads/2022/08/Les_R9-AB-Summary-of-Results_25Aug22.pdf)

finalise a long-standing legal reform process, under the auspices of SADC and with the financial support of the European Union.

Party allegiance is very volatile, and a continuous proliferation of political parties has contributed to a further fragmentation of the political landscape. Out of the 65 political parties registered by the IEC, 56 participated in these elections. The main contenders were the parties of the outgoing coalition Government, which consisted of the All Basotho Convention (ABC) party and the Democratic Congress (DC) party, in an alignment with seven smaller parties: Movement for Economic Change (MEC), the former ruling party Basotho National Party (BNP), Popular Front for Democracy (PFD), Basotho Congress Party (BCP), Reformed Congress of Lesotho (RCL), National Independent Party (NIP), and Marematlou Freedom Party (MFP). On the opposition side, were among others, the Alliance of Democrats (AD) as the official opposition party in the outgoing National Assembly and the former governing party Lesotho Congress for Democracy (LCD).

Parties have been personality based with volatile allegiance in the past, and frequent floor crossing by members. This has resulted in new political parties formed by Members in the National Assembly. This was the case for the Basotho Action Party (BAP), which broke away from ABC in April 2021 and was running in 2022 for the first time. The emergence of a new party, the Revolution for Prosperity (RFP) in March 2022, founded by a wealthy businessman, was considered by established political parties as a threat to their power.

These elections were held in a context where the State has been experiencing financial difficulties, evidenced by delays in paying civil servants, and borrowing by the State for their salaries in September 2022.

#### IV. LEGAL FRAMEWORK

*Uncertainty regarding the applicable legal framework in the lead-up to elections, as well as pending court cases regarding candidates' nomination, affected the electoral preparation.*

##### **International and Regional Principles and Commitments**

Lesotho is party to the following key international and regional Conventions and Treaties: African Charter on Democracy, Elections and Governance, 1981 African Charter on Human and Peoples' Rights (Banjul Charter; 2010); Treaty of the Southern African Development Community (SADC; 1992); International Covenant on Civil and Political Rights (ICCPR; 1992) with the exception of the second optional Protocol; International Convention on the Elimination of Racial Discrimination (ICERD; 1971); Convention on Elimination of all forms of Discrimination Against Women (CEDAW; 1995); Convention on the Rights of Persons with Disability (CRPD; 2008); UN Convention Anti Corruption (UNCAC; 2005). In addition, Lesotho is also party to the SADC Principles and Guidelines Governing Democratic Elections (2015), and the Beijing Declaration and Platform for Action (1995).<sup>5</sup>

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<sup>5</sup> Lesotho is also party to the following other regional commitments: the 2001 SADC Norms and Standards for Elections in the SADC Region, the 2003 PEMMO Principles for Election Management, Monitoring and Observation in the SADC Region, the 2016 SADC Protocol on Gender and Development, the 2008 SADC Protocol on Gender and Development, and the 1997 SADC Declaration on Gender and Development.

### **Constitutional Human Rights**

The 1993 Constitution contains provisions for the protection of fundamental rights and freedoms and against discrimination, including freedom of expression, assembly, and association. However, the Parliament has not been enacting the necessary legislation to implement and further develop those overarching provisions in defence of fundamental rights and freedoms. Although provided by the Constitution, and as advocated by the 2020 Report of the Universal Periodic Review, third cycle,<sup>6</sup> a pluralistic, independent and effective Human Rights Commission has not yet been established.<sup>7</sup>

### **Electoral Legislation**

The legal framework for the National Assembly elections comprises the 1993 Constitution of Lesotho and the 2011 National Assembly Electoral Act (No.14, in short, the Electoral Act).<sup>8</sup> Despite being entrusted by the Constitution and the Electoral Act with power to issue regulations to further interpret and regulate the electoral process, the IEC has not issued any regulations.<sup>9</sup>

### **Constitutional and Electoral Reform**

Following two landmark decisions, respectively by the High Court and the Court of Appeal, annulling the constitutional and electoral reform, the elections were held according to the 2011 Electoral Act with no amendments introduced. On 13 July, the Parliament had been dissolved. At that time, it had not yet finalised a long-standing legal reform process, under the auspices of SADC and with financial support from the European Union.<sup>10</sup> In order to complete the approval of the legal reform documents, including amendments to the Electoral Act, the Prime Minister declared a state of emergency on 16 August based on the danger of political instability caused by the failure of the Parliament to finalise the reform process. Subsequently, on 23 August, the King reconvened the Parliament for the dates of 24 to 29 August 2022.

By 29 August, the Parliament approved the so-called Omnibus Bill, which, after being assented to by the King, was gazetted on 31 August as the 10<sup>th</sup> Amendment Act and the 2022 Amended Electoral Act.<sup>11</sup> Both, the declaration of the state of emergency and the recalling of the Parliament

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<sup>6</sup> <https://www.ohchr.org/en/hr-bodies/upr/ls-index>

<sup>7</sup> Principles relating to the Status of National Institutions (The Paris Principles) adopted by UN General Assembly resolution 48/134 of 20 December 1993, which contains all the characteristics and the mandates of Human Rights Commissions such as independence and broad mandate to promote and protect human rights.

<sup>8</sup> The 1993 Constitution was amended 10 times, specifically in 1996, 1997, 1998, 2001, 2004, 2011 (twice), 2018 and 2020.

<sup>9</sup> 2018 SADC Model Law on Elections para. 25 (1)(2): Promulgation of electoral regulations operationalising the electoral law shall be the sole prerogative of the Election Management Body (EMB), which is the organiser and conductor of elections in line with the constitution. The regulations shall not be subject to approval or rejection by the Minister responsible for the administration of the Electoral Act, or any other Minister or executive.

<sup>10</sup> In April 2022, at the end of its mandate, the National Reform Authority (NRA), in charge of drafting a comprehensive constitutional amendment bill and related enabling legislation, submitted to the National Assembly, through the Ministry of Law and Justice, the so-called Omnibus Bill. On the 13 July, the Parliament had not yet finalised the approval of all 90 clauses contained in the NRA proposal and the enactment of the Amendment to the Electoral Act.

<sup>11</sup> Main issues of the 10<sup>th</sup> Amendment Act were related to the power of the Prime Minister (mandate limited to two terms); revision of the power of the King (abdication to be consulted with the Council of State), provision for coalition Government to be effected within working 21 days; provisions to enact legislation on affirmative action for marginalised groups including women and persons with disabilities; provision for enhancing transparency and meritocracy in the selection of the IEC members; establishment of an independent Human Rights and Anti-Corruption

were challenged in front of the High Court. The case was brought forward by the Media Institute of Southern Africa (MISA), the Law Society, and a media activist, challenging also the validity of the two Acts passed during the recalling, as being against the Constitution. On 12 September, the High Court ruled that, the state of emergency declared by the Prime Minister was null and void as “political instability” would not fall under the constitutional requirements for the declaration of a state of emergency. On 19 September, the Appeal Court upheld the High Court decision rejecting all claims and confirmed the unconstitutionality of the state of emergency, the recalling of Parliament, and the validity of the two documents enacted by the recalled Parliament.

Uncertainty regarding the applicable legislation few weeks before the elections posed challenges to the IEC, parties, candidates, and voters. Specifically, there was uncertainty regarding some key provisions such as the possible introduction of a double threshold for political parties of 0.4 and 0.5 per cent for the allocation of PR seats. Furthermore, by the time of submission of party lists for the compensatory PR seats, it was still unclear to political parties whether closed PR lists as in the last election would remain, or open PR lists without the affirmative “zebra” (zip) system would be introduced.

Stability and predictability of the laws is a key principle in international electoral practice. Uncertainty in the legal framework less than three weeks before the elections is against regional principles and good practices.<sup>12</sup>

***Recommendation: In order to promote certainty of the applicable legal framework, avoid enacting fundamental changes of the electoral legislation within six months before elections.***

Local government elections have been scheduled to be held in 2023.<sup>13</sup> The IEC indicated as possible election date 21 or 28 April 2023. The term of elected Councillors expired at the end of September 2022 but was extended accordingly until April 2023.

### **Constituency Delimitation**

On 13 April 2022, the IEC published the Constituency Delimitation Order containing a new revised delimitation. The DC challenged the drafting of new constituencies by the IEC in front of the High Court contending lack of respect of the constitutional timeline, which requires that a review should take place every eight to ten years. On 8 May, the High Court issued a decision stating that the IEC reviewed the boundaries within the prescribed period as it began the review as early as 2018, while the last review took place in 2010. Moreover, there was a period of one year and six months where the IEC had no Commissioners and thus was not fully operational.

The Court further stated that 20 out of 80 constituencies did not meet the constitutional requirement of the population quota variation of ten per cent, and ordered the IEC to redraft them. As a result, on 12 August 2022 the IEC issued a legal notice containing the new delimitation of the 20 constituencies. The late change in the constituency delimitation did not formally affect candidate

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Commission, abolishment of the Court of Appeal and substitution with the Supreme Court; Reform of the Public and the National Security Sector, among others.

<sup>12</sup> 2018 SADC Model Law on Elections para.5 (2): “Elections shall be conducted under clear and unambiguous laws, following a detailed due process as stipulated”.

<sup>13</sup> The IEC considered a joint date for National Assembly and Local Government elections and a combined election law, but abandoned both ideas as councils’ boundaries are not congruent with those of constituencies for National Assembly elections.

nomination, which only started on 29 August. However, it posed a challenge to registered voters, whose constituencies and polling stations changed, too close to elections, without receiving adequate and timely information (see section VI). Notwithstanding the Court decision, the change of constituency boundaries close to the elections is not in accordance with regional commitments and good practice.<sup>14</sup>

## V. ELECTORAL ADMINISTRATION

*The IEC conducted most of its activities according to the election calendar, however its credibility was affected by announcing incorrectly calculated results for four proportional representation seats.*

### Structure and Composition of the Election Administration

The IEC is an independent constitutional body with a vast range of responsibilities, including voter registration, constituency delimitation, party registration as well as including oversight of campaign expenditures. The IEC has three Commissioners, who were all appointed in December 2020. The Chief Electoral Officer as head of the Secretariat was appointed late in March 2022. The Commissioners and the Chief Electoral Officer are appointed by the King in accordance with the advice of the Council of State upon nomination by the political parties for a five years renewable term aiming to guarantee independence.<sup>15</sup> One of the Commissioners is a woman and the majority of IEC Secretariat staff are women.<sup>16</sup> Returning Officers were employed on time, one in each of the 80 constituencies, to manage the election process at constituency level. For these elections, the IEC established 3,149 polling stations with around 500 voters each. In the administration of the election, women represented 73 per cent of election day poll workers, 60 per cent of Area Managers and Returning Officers at constituency level, and 50 per cent of District Electoral Officers.

### Administration of the Elections

The IEC staff at central level, considered to be professional and experienced by electoral stakeholders, faced challenges in terms of legal uncertainty, infrastructure and financial autonomy. The IEC had no comprehensive public information strategy in place and provided the public with information posted exclusively on its Facebook page, mostly related to voter education messages and announcements. Meetings were informal and meeting minutes were not made public. Moreover, the IEC lacked procedures and a mechanism to formally determine and declare its decisions. While the IEC has the legal power to make regulations and interpretation into rules of procedures on various aspects of the election process, in practice they were neither formalised nor published, reducing the clarity and transparency of the IEC's work.

***Priority Recommendation: For the IEC to provide secondary legislation by formalising and publishing decisions and rules of procedures of the electoral processes.***

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<sup>14</sup> 2018 SADC Model Law on Elections para.5 (2); "Elections shall be conducted under clear and unambiguous laws, following a detailed due process as stipulated".

<sup>15</sup> The Chairperson or any other member of the Electoral Commission can be removed from office by the King, if the question of removal from office has been referred to an appointed tribunal and this tribunal has recommended to the King that the Chairperson ought to be removed from office for inability or misbehaviour.

<sup>16</sup> The IEC Secretariat had 49 staff members, 28 women and 21 men.

Despite the persistent financial shortcomings and legal uncertainty, the IEC was able to conduct most of its activities according to the electoral calendar. The budget allocated for this election was insufficient and did not take into consideration the significantly increased number of contestants. In addition, the IEC received its funding late in the process, in weekly instalments, which also impacted negatively on the election preparations, and made the implementation of the planned essential activities, such as voter education and the transportation of election materials, very difficult. After election day, the IEC informed about continued financial problems for pending payments of poll workers' salaries, party agent fees and suppliers of election materials.<sup>17</sup>

***Priority Recommendation: Provide the IEC with budgetary independence through direct and timely access to funds approved in the national budget, with strengthened transparency and accountability requirements.***

The performance of the election administrators at district and constituency level was assessed by EU EOM observers to be largely professional and staff were committed to the work, despite the challenging circumstances. Many interlocutors expressed general trust in local election administration, however some constituencies struggled with the difficult environment and long distances, lack of electricity and no access to the internet. Many Returning Officers had to work without basic office equipment and insufficient communication tools to liaise efficiently with stakeholders and IEC district offices.

Polling staff was recruited on time and EU EOM observers noted that the IEC demonstrated competence in delivering the training. However, many observed training sessions were conducted in overcrowded and inadequate locations, with insufficient training materials. In addition, the information provided during the training for the poll workers on the procedures related to the voting and assistance for persons with disabilities was considered insufficient by EU EOM interlocutors.

### **Voter Education**

The late allocation of funds to the IEC by the Government compromised the timely implementation of voter education outreach activities, which had to be reduced from three months to three weeks prior to election day. The IEC contracted 16 Civil Society Organisations (CSOs) to conduct voter education for different categories of voters, such as persons with disabilities, youth and women.<sup>18</sup> Most of the interlocutors considered voter education for these elections as insufficient and inadequate given the legal uncertainties and recent changes to some constituency boundaries.

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<sup>17</sup> The IEC prioritised the payments to polling officials directly contracted by IEC and the party agents who were recorded as being present at the polling stations. The IEC's payment was foreseen in November at the earliest. Payments to suppliers of election materials was expected to be conducted directly by the Ministry of Finance on behalf of the IEC. The IEC had requested an additional LSL 60 million (EUR 3,397,000) from the Government as contingency to face its financial obligations, but at the time of writing it had not been approved.

<sup>18</sup> Development for Peace Education, Disabled and HIV/AIDS Organization, Women and Law in Southern Africa, Monna ka Khomo, Lesotho National Council of Women, Christian, Council of Lesotho, Lesotho Association of Non-Formal Education, Lesotho Youth Federation, Bacha re Bacha Youth Forum, Migrant Workers Association of Lesotho, Patriotic Vision in Action, Transformation Resource Centre, Catholic Commission for Justice, Lesotho National Federation of Organisation of the Disabled (LNFOD), Campaign for Education Forum, Lesotho Federation of Women Lawyers.

*Priority recommendation: Strengthen the implementation of continuous civic education including in educational institutions, and timely voter education campaigns, both offline and online, with a specific focus on youth, women, and persons with disabilities.*

## VI. VOTER REGISTRATION

*Trust in the voter register was affected by a lack of a comprehensive approach to improve its accuracy.*

### **The Right to Vote**

All Basotho citizens of 18 years of age and above on the day of the election are eligible to vote; except those sentenced to death and those who committed certain electoral offences. In addition, persons declared to be of “unsound mind” by a Court cannot vote, which is at odds with the UN Convention on the Right of Persons with Disabilities (CRPD).<sup>19</sup>

*Recommendation: In line with international standards, revise the law to provide full political rights to persons with cognitive impairment and mental health status disabilities.*

### **Voter Registration Procedures**

Voter registration is active and compulsory, even if there is no legal obligation to vote. The IEC is responsible for compiling and maintaining the voter register. The initial intention to improve the voter register by creating a new one before the elections was not pursued due to financial constraints. Another option to link the voter register to the civil register was not followed as there was too little time for the large volume of data implied shortly before elections. The accuracy of the voter register had been questioned by many interlocutors referring to the inclusion of names of deceased persons and reported errors in data. The IEC proceeded to conduct the elections with the already existing voter register used in 2017, following consultations and agreement with political parties. In an effort to find an alternative solution to improve the accuracy of the voter register, the IEC extended the period for public scrutiny and corrections from 12 August to 30 September. For the period from July to September, the IEC reported a total of 377,965 corrections with 172,178 new registered voters and 49,628 deletions.

The IEC respected the legal obligation to publish the certified voter register and shared it with registered political parties 30 days ahead of the elections. The voter list contained 1,383,844 voters, 767,158 women and 616,868 men. Closer to election day, allegations of errors and inaccuracies in the voter register were expressed in the media. The IEC denied the allegations and threatened anyone spreading inaccurate information with civil action.

The EU EOM compared the numerical data from the voter register with the Lesotho Bureau of Statistics’ projections 2022 of the 2016 census population, and with data from the Department of Identity and Civil Registration of the Ministry of Home Affairs. The most relevant inconsistencies showed that younger voters (18-29 years) appeared to be underrepresented on the voter register in comparison to other age groups.

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<sup>19</sup> Articles 12 and 29 of the CRPD. Paragraph 9.4 of the 2013 CRPD Committee’s Communication No. 4/2011 provide that “an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualised assessment, constitutes discrimination on the basis of disability”.

The late constituency delimitation also negatively affected the voter registration and led to some voters being confused about the location of their polling station after being moved to another constituency. On election day, there were numerous reports by observers and in the media of voters' names not being found on voter lists. In certain cases voters were referred to the IEC and directed to another polling station, however, the IEC admitted that there were several cases when voters remained disenfranchised. The IEC was not in the position to quantify the problem.

***Priority Recommendation: Improve the accuracy and inclusiveness of the voter register.***

## VII. REGISTRATION OF CANDIDATES

***An inclusive candidate registration process with a large number of parties competing but lack of transparency in publication of PR candidate lists.***

### **Registration of Political Parties**

Party and candidate registration are governed by the Electoral Act respecting the rights of association and to stand for elections, in line with regional standards.<sup>20</sup> In order to contest an election, a political party must first register with the Registrar of Societies before registering with the IEC.<sup>21</sup> To register, parties must justify their support signatures of 500 registered voters, and submit a party constitution and a unique party symbol. Parties are open to all citizens without discrimination and voters can support more than one party. Independent candidates could also apply to the Director of elections in order to receive a symbol.

The IEC had to verify the 500 signatures upon registration of newly registered parties, and each year for existing parties, but in reality, it did not have the capacity. The registration of a new political party is gazetted by the IEC, which maintains a registrar of political parties available for public scrutiny. The IEC can deregister a party, which does no longer function or comply with its legal obligations after 30 days' notice. The party can appeal its deregistration to the High Court within 30 days. From 30 parties registered for the 2017 elections, the number has more than doubled in 2022 to 65.

### **Registration of Candidates**

The registration of candidates was organised in two phases: first for the 80 First-Past-The-Post (FPTP) seats and then for the 40 Proportional Representation (PR) seats. It unfolded in an orderly manner. Parties mostly used primaries, interviews, and centralised nominations by national executive committees to select their candidates. Parties could nominate the same candidates for FPTP and PR seats. Most parties also forwarded the name of the party leader in first position on the PR lists in order to benefit from the compensatory FPTP seat allocation, in case the party leader lost in his/her constituency.

Out of the 65 parties registered by the IEC, 2,360 candidates from 56 parties were registered for the FPTP seats. The IEC published the list of FPTP candidates on 9 September in its 80 constituency offices and provided candidates a three-day correction period to verify information, but no consolidated list was published online.

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<sup>20</sup> SADC PEMMO, Art. 4.3: "A registrar of political parties should be established and qualifications and disqualifications for registration should be clearly provided for by law".

<sup>21</sup> National Assembly Electoral Act, Art. 24.



Late Court decisions on the candidate registration process (see section XV) put further pressure on the election administration, leading to delays in the publication of the final candidate lists for the FPTP seats and to complications regarding the printing of ballots in three constituencies. The Courts' decisions on the state of emergency (see section IV) nullifying the electoral law reform reverted the requirement for the submission of candidate lists to the criteria of the old version of the electoral law during the week of submission of PR candidates. This change of rules only weeks before the elections is not in line with regional and international good practices.<sup>22</sup>

The IEC had not published the parties' candidate lists for the PR seats within the legal deadline on 5 October, instead, these lists were made public only after the elections on 10 October, when the IEC announced the PR election results. This reduced the transparency of the candidate registration process.

Due to the death of a candidate, the IEC only administered the PR election in the Stadium Area constituency of Maseru district. The IEC is planning to conduct the FPTP election in this constituency on 16 December.

## VIII. CAMPAIGN ENVIRONMENT

*A peaceful campaign, vibrant in the capital and low key in the districts, unfolded in an uneven playing field caused by unlimited campaign spending and non-existent campaign finance oversight.*

### Election Campaign

The legal framework for campaigning overall grants freedoms of assembly and expression. The law requires political parties and candidates to abide by the Electoral Code of Conduct that prescribes a broad catalogue of rules for political parties and candidates to follow during the election period. In case of a breach of the Code, the IEC may issue a warning to a candidate, issue a fine, suspend a party's campaign for a limited period and even has the power to cancel a candidate's registration. The Electoral Code of Conduct prohibits contestants inter alia from "any action involving intimidation". Furthermore, contestants are prohibited from "publishing or repeating false, defamatory allegations concerning any person or political party in connection with the elections".

Campaigning was allowed from the day of the publication of the date of the elections (19 July 2022) until 24 hours before election day.<sup>23</sup> The official campaign lasted for more than 2.5 months, stretching the limited financial capacities of most political parties and independent candidates. Parties with financial resources started to campaign long before that, and the EU EOM identified cases of political parties campaigning on social media during the silence period.<sup>24</sup> Parties and candidates campaigning outside of the designated period were not sanctioned as infringement of campaign regulations are not subject to sanctions in the law. The High Court may only take orders

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<sup>22</sup> SADC model law on election, Art. 5 (2): "Elections shall be conducted under clear and unambiguous laws, following a detailed due process as stipulated" Modifying the electoral law close to the elections remove the clarity of the law. 2005 Venice Commission Interpretative Declaration on the Stability of Electoral Law: "Any reform of electoral legislation to be applied during an election should occur early enough for it to be really applicable to the election."

<sup>23</sup> National Assembly Election Act, Art. 60 (1).

<sup>24</sup> ABC and BAP; see also Section X.

directing compliance with the Electoral Act through an application made by a candidate, the IEC Director of elections or the Attorney General.<sup>25</sup>

***Recommendation: The IEC to enforce the interdiction of campaign activities outside of the legally framed campaign period.***

Fundamental freedoms of association and assembly were respected during the campaign. The campaign was peaceful and generally low key in rural areas, contrasting with the vibrant campaign run in the capital city, especially during the last weekend before election day. Parties were campaigning using mostly door to door canvassing and small meetings, coverage by major media was too expensive for most parties, and only those with access to resources could organise rallies. These elections were held in a context where the State was experiencing financial difficulties, evidenced by delays in paying civil servants, and borrowing by the State for their salaries in September 2022.

The RFP, founded in March 2022 by businessman-philanthropist Samuel Matekane, quickly appeared to be the strongest contender to ABC and DC. RFP's expensive campaigning funded by wealthy businessmen and the absence of spending limits made it the most visible contesting party followed by DC and ABC. Links between ABC and *famo*<sup>26</sup> music groups, which have grown into organised gangs, have been established and were not contested by its leader, whilst DC's proximity to the gangs was less ostentatious but strongly suspected by EU EOM interlocutors. Despite these alliances, the campaign remained peaceful and the EU EOM observed very little animosity and even a playful atmosphere among campaigning political parties. However, the RFP was sometimes the target of negative campaigning in rallies and verbal attacks from opposing politicians.

Most campaign messages concerned economic development, agriculture, salaries, education, water management, infrastructure and the fight against corruption. The EU EOM observed no specific measures taken by political parties to make campaign information accessible to voters with disabilities.

Some of the final rallies were held in Maseru two weeks before the end of the campaign because major venues had already been booked by the biggest parties for the last weekend before election. RFP organised the most visible final rally, displaying an aerial show of acrobatic planes and its leader's own planes parading in formation. The rally attracted a bigger crowd than the closing rallies of other parties.

Three political debates took place on 21, 22 and 28 September. In cooperation with LNBS the CSO Transformation Resource Centre (TRC), held the first and the last debate. Participating parties were selected by online vote. The debates were broadcast live on TV, by Radio Lesotho, commercial radio stations and Facebook. They provided a welcomed platform for contestants to address selected issues and to be challenged by voters.<sup>27</sup>

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<sup>25</sup> Electoral Act, Art. 187.

<sup>26</sup> The *famo* traditional Basotho music genre was born more than a century ago from poems composed by Basotho mine workers during their journeys to South African mines. Rivalry between music groups turned into violent confrontations and gangsters' practices with their involvement in illegal mining in South Africa.

<sup>27</sup> The first debate included African Ark (AA), ABC, AD, BAP, BNP, Basotho Patriotic Part (BPP), DC, LCD, RFP, and Yearn for Economic Stability (YES). The second debate organised by the University took place on 22 September and seven political parties participated: ABC, AD, BAP, DC, LCD, and RFP. The third debate included BNP, ABC,

## Campaign Finance

Political party and campaign financing is regulated by the Electoral Act which sets rules for public financing and private contributions to political parties. The legislation also determines the rules for political and campaign finance oversight, reporting and sanctions.

Party funding is distributed annually on the basis of the number of seats a party holds in the National Assembly. Each party receives LSL 20,000 (EUR 1,250) per seat per year, and a lump sum to be divided equally between the parties represented in the National Assembly. In line with regional standards,<sup>28</sup> beneficiaries of party funding should provide the IEC with a financial statement within three months of the end of each fiscal year. For the fiscal year 2022/23, only two parties received party funding as the other 12 did not report on the funds previously received.

For these elections, campaign funding was allocated by the IEC in proportion to the last parliamentary election results, or in proportion to the 500 subscribed members required to form a party. In 2022, LSL 4 million (EUR 220,572) were distributed at the very end of the campaign period: 80 per cent was disbursed on the basis of the number of votes received in the last election and 20 per cent based on the 500 members for first time competitors. Independent candidates were not entitled to public campaign funding, which is not in line with regional standards.<sup>29</sup> Furthermore, the funds provided for campaigning must be “only used to defray expenses incurred in contesting elections” and parties have a reporting obligation to the IEC within six months after the declaration of election results.

Along with the public funding, political parties are allowed to raise donations from any person and organisation, without disclosing their origin, which is not fully in line with regional standards.<sup>30</sup> Foreign donations for campaign purposes are permitted by law. There is no limit to private donations, however, there is a legal requirement for political parties and independent candidates to declare any donation exceeding LSL 200,000 (EUR 11,500), but in practice no declaration had been made since 2012.

The IEC is the oversight body for campaign and party finance, in addition to its core election management tasks. The legislation stipulates that a party found in breach of campaign funding regulations can be banned from funding allocated by the IEC in further elections and have its candidate or party official sentenced to a maximum of 12 months imprisonment and/or a fine of LSL 10,000 (EUR 553).<sup>31</sup> In practice, the IEC did not have the capacity to investigate and eventually administer sanctions directly. The IEC oversees only funds provided from the consolidated budget for political and campaign finance, but not any outside contributions, as these are not subject to public scrutiny. Detailed reporting on party spending is not required to be submitted to the IEC and is therefore not accessible for public scrutiny.

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BAP and ABC party leaders. Each attending leader presented selected points of their programme. A strong dynamic of “RPF against all others” was obvious during all three national debates.

<sup>28</sup> SADC PEMMO Art. 4.10: “The EMB should be responsible for regulating the use of these public funds and beneficiaries of the funds must provide verifiable accounts to the EMB.”

<sup>29</sup> SADC PEMMO Art. 4.10: “Public funding should be extended to all parties (and independent candidates) contesting elections who can demonstrate a track record of support in the most recently held elections, based, for example, on their share of the popular vote.”

<sup>30</sup> SADC PEMMO Art. 4.10: “Consideration should be given to the establishment of rules governing the disclosure of all sources of funding of political parties.”

<sup>31</sup> National Assembly Electoral Act, 2011 Art. 72 (11).

The law also provides the IEC with wide investigative powers, including inquiring into the management of allocated funds, entering offices of political parties, seizing books, accounts and documents, and interrogating any person if considered necessary for the needs of inquiry. However, the IEC is limited in the scope of its scrutiny as it can only investigate the use of funds it provided for campaign purposes. It also lacks financial and human resources to carry out these tasks, as it would require a lot of personnel to audit the funds provided to 56 political parties that contested the 2022 elections. The IEC's limited resources undermined its capacity to perform its financial oversight functions. Moreover, the narrow scope of its scrutiny tasks left the biggest part of political contributions outside of its purview.

***Priority Recommendation: Enable the IEC to effectively perform its oversight tasks and extend them to all political parties' expenses and received donations to ensure the effective transparency of party and campaign finance.***

The campaign was characterised by the significant difference in financial resource between RFP and its competitors. Most political parties financed themselves through membership fees of LSL 1 to 2 (60 cents to 1,10 EUR) per person per year. Revenues from donations to traditional parties severely plummeted as business owners redirected their support to RFP in 2022. Most candidates were counting on the free airtime to get their messages to voters and used door to door canvassing because of lack of resources, while parties previously in power were running expensive rallies, providing transportation, food and t-shirts to attendees. The limited funds provided by the IEC did not level the playing field between parties with unequal financial resources, especially small political parties and independent candidates. This benefited RFP, as the party had substantial funds and transportation means to implement a broad and expensive election campaign, with its leader using helicopters to move around the country. The EU EOM also observed several instances of the use of government vehicles for campaigning, which is legal for Ministers and "other officials" but contrary to regional good practice.<sup>32</sup>

There are no limits on campaign expenditures for parties and no requirements to report such expenditures in a timely manner, making political contributions and expenditures non-transparent to the public. This leaves a crucial component of political party activity without proper institutional oversight and public accountability.

***Priority recommendation: Introduce reasonable limitations on political campaign expenditures and prohibition of use of state resources in order to create a level playing field among contestants.***

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<sup>32</sup> SADC PEMMO Art. 4.7: "The use of public resources for political campaigns and political party activities should generally be avoided".

## IX. MEDIA

*Lesotho Television (LTV) provided a rather equitable news coverage, and free advertising time for contesting political parties, however, not for independent candidates.*

### The Media Environment

Access to information is constrained by just half of the population having access to electricity.<sup>33</sup> Radio Lesotho has the widest geographical coverage, while Lesotho Television (LTV), founded in 1988, remains the only TV station in the country. Both are part of the Lesotho National Broadcasting Services (LNBS), which in addition run Ultimate FM Radio and the Lesotho News Agency (LENA). Moreover, 18 commercial and 6 community radio stations are licensed by the Lesotho Communications Authority (LCA) and some 10 newspapers are published weekly with a poor online presence.<sup>34</sup> Contrary to Lesotho's international and regional commitments, the LNBS is part of the Ministry of Communication, Science and Technology.<sup>35</sup>

*Recommendation: Transform the LNBS into an independent public service media with independent management, financing, and oversight.*

In a limited advertising market, the commercial media outlets, in particular broadcasters, lack financial sustainability. According to EU EOM interlocutors, none of the radio stations are considered to be self-sustainable. The dependence on external sources of financing undermines editorial autonomy and one of media's purposes, namely holding political power accountable. EU EOM interlocutors reported interference into editorial independence by media owners, who are at times political actors. In general, there is a lack of transparency of information on media's sources of financing and their beneficial owners, who are the individuals controlling media outlets.<sup>36</sup>

Although the overall size of the advertising market is not known, and the allocation of Government advertising is not transparent, many EU EOM interlocutors considered the State to be a major advertiser. They also reported that the allocation of public advertisements was used in the past to

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<sup>33</sup> According to the Lesotho Electricity Company, 45.8 per cent of households are connected to the electricity grid. In addition, the latest *State of ICT in Lesotho* report of 2019 by the Lesotho Communications Authority (LCA) (not published) indicates 49.4 per cent of households owning a radio and 30 per cent a television set.

<sup>34</sup> Community radio stations, initially set up with support of the Media Institute of Southern Africa (MISA) Lesotho, the Open Society Initiative for Southern Africa and the UNESCO, are respectively located in the Mafeteng, Quthing, Qacha's Nek, Botha Buthe and Thaba Tseka District. Dope FM operates as the National University Community Radio.

<sup>35</sup> The 2001 African Charter on Broadcasting in Part II 1. stipulates that "all State and government controlled broadcasters should be transformed into public service broadcasters, that are accountable to all strata of the people as represented by an independent board, and that serve the overall public interest, avoiding one-sided reporting and programming in regard to religion, political belief, culture, race and gender." See also Paragraph 39 of the 2011 UNHRC General Comment No. 34 to the ICCPR and Principle 13 of the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa. The National Media Policy, adopted in Parliament on 29 November 2021, stipulates that "media that is in state ownership shall be transformed into viable and sustainable media in partially private hands with state still owning some proportion of it or wholly into private hands, depending on the economic situation at the time as well as best practices learned from other countries."

<sup>36</sup> Principles 12.3 and 14.2 of the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa require respectively media owners to guarantee editorial independence and a full disclosure of media ownership to the public.

undermine the editorial independence of media and to silence criticism.<sup>37</sup> In addition, insufficient wages and low level of professional training render journalists accepting payment in return for favourable coverage. Paid-for-coverage, not recognisable as such, is widespread. Thus, the public perceives radio stations, which are the most popular media, to be aligned with political parties. Newspapers provide more fact-checked news and in-depth information, however, delayed.

### **The Right to Freedom of Expression and the Media Legal Framework**

The Constitution provides for freedom of expression and access to information. However, the guarantee is unduly limited due to permissible grounds of limitations included in the Constitution. While the only specified grounds in the ICCPR are “the rights or reputations of others, national security or public order or public health or morals”, the Constitution permits limitations inter alia “for the purpose of imposing restrictions upon public officers”. In addition, the Constitution allows for restrictions of “fundamental human rights and freedoms” in the “public interest”, contrary to international and regional standards.<sup>38</sup>

In line with international and regional commitments, the Constitutional Court declared on 18 May 2018 criminal defamation unconstitutional.<sup>39</sup> However, other Acts still include criminal defamation provisions. On 17 September 2022, the IEC reminded on Facebook of Section 169 of the Electoral Act providing for a fine of LSL 1,000 (59 Euros) and/or imprisonment of 12 months for “misleading” information on the manner of voting or for a false statement on the withdrawal of a candidate or his/her character. Furthermore, provisions on sedition in the same Act remain in violation of the country’s international and regional commitments.<sup>40</sup>

***Recommendation: Bring the legal framework, including the Constitution, the Criminal Code Act and the Electoral Act, in line with the country’s international and regional commitments on freedom of expression by removing all provisions on criminalising defamation.***

The 2012 Communications Act regulates the Lesotho Communications Authority (LCA), the broadcasting regulator, and establishes the Broadcasting Disputes Resolution Panel (BDRP). The independence of both is undermined by the appointment of the LCA’s governing Board members and the BDRP’s members by the Minister for Communications, Science and Technology. International and regional commitments on freedom of expression require the appointment process for members of a public broadcast regulatory body to be independent and adequately protected against “interference of a political, commercial or other nature”. The process should be open, transparent and involve the participation of relevant stakeholders.<sup>41</sup>

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<sup>37</sup> Principle 24.2 of the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa stipulates that “states shall ensure that the allocation of funds for public advertising is transparent and subject to public accountability, and they shall not abuse their power over the placement of public advertising.”

<sup>38</sup> The 2011 UNHRC General Comment No. 34 to the ICCPR, in Paragraph 22, states that restrictions on the right to freedom of expression are not allowed on grounds not specified in Paragraph 19.3 of the ICCPR. Furthermore, they must be “provided by law” and they must conform to the strict tests of necessity and proportionality. The same is stipulated in Principle 9 of the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa.

<sup>39</sup> See the [Judgment](#).

<sup>40</sup> The 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa, in Principle 22, calls upon States to repeal laws that criminalise sedition, insult and publication of false news.

<sup>41</sup> See Paragraph 39 of the 2011 UNHRC General Comment No. 34 to the ICCPR and Principle 17 of the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa.

***Priority Recommendation: Strengthen the independence of the LCA by modifying the appointment mechanism in line with regional and international commitments.***

### **The Coverage of the Election Campaign and EU EOM Media Monitoring Findings**

The 2022 Broadcasting Code, developed by the BDRP, stipulates “accurate, balanced, credible, impartial and fair” news coverage in state and commercial broadcasting, and provides the right to sell advertising time under equal conditions. The LCA and BDRP are tasked with the implementation of these provisions, which during elections are supplemented by the Electoral Act granting contesting political parties news coverage in state owned media and free of charge advertising on state broadcasters. However, independent candidates are not entitled to free airtime or news coverage by law. The BDRP’s current members’ term expired without timely nomination of new members at the end of August 2022.<sup>42</sup> Furthermore, no monitoring reports were published, nor decisions taken on the implementation of the law by the LCA during the election period. No campaign related complaints were filed.

***Recommendation: Improve the LCA’s capacity to monitor and implement the Broadcasting Code content provisions on “accurate, balanced, credible, impartial and fair” news coverage in state and commercial broadcasting by legally defining the monitoring and implementing process and the timely publication of monitoring reports.***

In line with the Electoral Act, the IEC allocated 1.5 hours of free airtime on State TV and radio to each contesting political party in alphabetical order, broadcast from 10 September to 5 October 2022. No contestant challenged the allocation of free airtime, although the allocation of slots in prime time TV broadcasting could be considered an advantage. According to EU EOM media monitoring findings, the LTV devoted 30, 17, 9, 9 and 7 per cent of its prime-time coverage to the ABC, RFP, DC, BAP, and LCD respectively, while 12 other parties and one independent candidate received less coverage. All news was broadcast in either a positive or a neutral tone. Commercial radio stations displayed clear bias in their news coverage, while the overall amount of news was limited. Less than 10 per cent of programme content on monitored commercial radio stations was devoted to news comparing to more than 60 per cent to discussion programmes. MoAfrika FM devoted 60 per cent to the DC, while the RFP, independent candidates and the ABC received 16, 7 and 4 per cent respectively. 33 per cent of RFP’s coverage was in a negative tone. In addition, in the post-election days, MoAfrika FM displayed increasingly biased and polarising news coverage.<sup>43</sup> People’s Choice FM devoted 25 per cent to the ABC and DC respectively, and 22 per cent to the MEC. However, 70 per cent of the DC coverage and 41 per cent of the MEC coverage was in a negative tone. Ts’enolo FM devoted 30, 24, 22 and 20 per cent of its news coverage to the MEC, ABC, BAP, and DC respectively, 31 per cent of the DC and 49 per cent of the MEC coverage was in a negative tone. According to qualitative monitoring findings and LTO reports on

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<sup>42</sup> The Minister for Communications, Science and Technology stated that he wanted to appoint members to fill the vacancies but was advised by the LCA to follow the procedure to advertise vacancies after the expiration of mandates. New members were appointed on 6 October 2022.

<sup>43</sup> 1) On 18 and 19 October, MoAfrika FM covered in its news a Facebook post which threatened elected RFP members in case they crossed the floor in the upcoming National Assembly to the DC, their own and their families’ lives would be in danger. The Facebook post including a picture of a hand-gun was posted by a member of a public Facebook group called “Revolution for Prosperity”. 2) On 21 October, listeners were called to “vote” for the resignation of IEC Commissioners and for the outgoing Government to conduct fresh elections. 3) A tweet by the MoAfrika FM owner on 24 October, comparing the miscalculation of PR seats by the IEC resulting in the same events as in 1998 when a non-acceptance of results ended in major violence, sparked outrage among commentators. High-profile personalities, including an Ambassador of Lesotho, a former Minister and a former LCA Chairperson, called it a dangerous incitement.

community radio stations, overall, these significantly contributed to voters' information on local level by providing discussion programmes with candidates and voter education. The community radio in Qacha's Nek and Quthing provided information in Isixhosa, Sephuthi, Sesotho and English language. All community radios were reported to lack resources and need to expand capacity to geographically cover the entire district.

## X. SOCIAL MEDIA AND DIGITAL RIGHTS

*Respectful and calm social media campaign with no fact-checking initiatives, and at times misleading information on 41 monitored anonymous social media pages.*

### Social Media Environment

The internet penetration in Lesotho is limited to 52 per cent of the total population,<sup>44</sup> mostly in urban areas. Many rural areas do not have access to electricity and to the internet, which limits people's right to freedom of expression and access to information online.<sup>45</sup> Mobile broadband coverage provides the primary means for people to get online.<sup>46</sup> Over 96 per cent of social media users access the platforms through their mobile devices. Overall, the level of digital and social media literacy is low, with less than 30 per cent of the total population using social media networks.<sup>47</sup>

Facebook is the most widely used platform with 509,000 users and was the most popular platform for political parties to campaign. Instagram and YouTube, although used, were not as popular. With only 23,000 users, Twitter was used by a small group of political parties, candidates and online influencers. Out of the 65 political parties registered with the IEC, only three had active websites (BAP, MEC and RFP). As reported to the EU EOM, political actors and institutions such as the IEC relied on WhatsApp groups<sup>48</sup> to disseminate at times official information while their websites were not updated regularly.<sup>49</sup> Facebook was the main platform for the IEC to communicate messages, mainly announcements on voter education and information both in Sesotho and in English.<sup>50</sup> CSOs also relied on Facebook to share photos of their trainings and workshops on voter education, although key information such as the dates and places were missing at times. TRC broadcast two national debates through its Facebook page.<sup>51</sup>

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<sup>44</sup> [Datareportal](#), January 2022.

<sup>45</sup> 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa. Principle 37 Access to the internet: "States shall recognise that universal, equitable, affordable and meaningful access to the internet is necessary for the realisation of freedom of expression, access to information and the exercise of other human rights."

<sup>46</sup> [GSMA Mobile Connectivity Index 2021](#).

<sup>47</sup> [Datareportal](#), January 2022.

<sup>48</sup> The EU EOM does not monitor messaging apps such as WhatsApp for data privacy protection reasons.

<sup>49</sup> African Commission on Human and Peoples' Rights. Guidelines on access to information and elections in Africa. Proactive Disclosure: "Relevant electoral stakeholders are obliged to publish key information of public interest about their structure, functions, powers, decision making processes, decisions, revenue and expenditure in relation to the electoral process."

<sup>50</sup> From 29 August until 18 October, IEC published 44 posts of which 64 per cent were on voter education and information. See Section XX – Annex 4 - Social Media Monitoring Findings.

<sup>51</sup> Transformation Resource Center, Bacha re Bacha, Patriot Vision in Action, Migrant Workers Association were the most active CSOs on Facebook sharing voter education content.



According to a recent study on freedom of expression in Lesotho,<sup>52</sup> the youth and groups such as the LGBTQ community consume information mainly on social media platforms. Younger generations see social media as a space to voice their opinions freely, particularly on Facebook groups. Interlocutors expressed the need for higher levels of digital and social media literacy.<sup>53</sup>

Two weeks before the elections, the IEC co-hosted a training workshop with Facebook Meta aimed at press officers from political parties on how to best use the social media platform for campaigning.<sup>54</sup> The EU EOM was not invited to observe and the workshop was not held early enough for any meaningful impact on the campaign.

### Legal Framework for Digital Rights

The Constitution protects freedom of expression, including freedom to receive ideas and information without interference.<sup>55</sup> However, access to information online remained a challenge as the country lacks appropriate legislation. The 2000 Access and Receipt of Information Bill was still pending at the time of writing.<sup>56</sup> Interlocutors expressed concerns regarding the difficulty to access public information online as websites of public institutions were not updated regularly. CSOs have been advocating for the enactment of appropriate legislation in line with the African Union Model Law on Access to Information to help improve the amount of information that public institutions such as the IEC are requested to make public, including online.

The 2012 Communications Act establishes that “audio, video or any content distributed through the internet may be licensed or regulated as broadcasting”, contrary to international and regional commitments.<sup>57</sup> This could include content distributed on social media. In 2020, the LCA proposed that individuals with more than 100 followers on social media networks had to register with them to obtain an internet broadcasting permit. However, the legislation was criticised by civil society, which saw it as an instrument to control and limit freedom of expression online.

The Election Act does not contain specific provisions for online campaigning nor for violations on social media networks. The silence period of 24 hours prior to election day was not respected by some political parties on Facebook, such as the ABC, MEC, BNP, LCD, and Your Opportunity & Network Alliance (YONA). BAP posted a video interview with its leader promoting political messages, which was later removed.

The Constitution protects the right to privacy and the 2011 Data Protection Act sets out requirements for data protection in an attempt to bring Lesotho’s legal framework in compliance with the SADC data protection standards. However, the Data Protection Commission foreseen in

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52 IEA Lesotho Report Freedom of Expression in Lesotho, November 2021.

53 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa. Principle 37. Access to the internet: “States shall adopt measures to provide universal access to the internet including by: (e) facilitating digital literacy skills for inclusive and autonomous use.”

54 A hybrid workshop with virtual participation of Meta representatives and press officers from political parties attending in person in Maseru was held on 20 September.

55 Lesotho Constitution. Freedom of expression (Art. 14): “1. Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of, freedom of expression, including freedom to receive ideas and information without interference [...]”

56 Lesotho Access and Receipt of Information Bill 2020.

57 See 2021 UN, OSCE, OAS, ACHPR Joint Declaration on Politicians and Public Officials and Freedom of Expression. Media Independence and Diversity: “States should limit any requirements for media outlets to register and/or obtain a licence to what is necessary to ensure the appropriate operation of the media sector concerned [...]”

the Act has yet to be established. The absence of an oversight body resulted in the legislation not being enforced. The Commission, if appointed, will have less enforcement power than analogous bodies in other African countries, including the lack of ability to impose fines on entities that violate the Act. Moreover, the law does not explicitly state that the Commission is independent, which leaves the door open for undue influence.<sup>58</sup>

The 2021 Communications Regulations,<sup>59</sup> requires individuals to register their SIM cards to be stored in a central database. Some initial provisions that violated fundamental rights and privacy rights were removed, such as the collection of biometric data and the accessing of the personal data without a Court order. Still, interlocutors voiced concerns over the protection of their personal information since the lack of a Data Protection Commission might result in abusive practices by the data collectors and processors.

A proposal for a Computer Crime and Cyber Security Bill was approved by the Parliament but was awaiting royal assent when the Parliament was dissolved in July 2022. As a result, the Bill is no longer standing. However, CSOs claim they were not consulted on the draft and that the Bill contained provisions threatening fundamental rights.<sup>60</sup>

***Recommendation: Reinforce and implement provisions of existing data protection legislation, including the establishment of an independent Data Protection Commission, to guarantee fully citizens’ right to privacy of their personal data online, especially during elections.***

### **Social Media Monitoring Findings**

The EU EOM identified 151 pages and 126 groups on Facebook linked to the 65 political parties registered with the IEC, of which only a few were managed directly by the parties. None of the social media accounts of political parties, candidates or state institutions displayed the blue verification badge marking their accounts as authentic. This limited voters’ ability to identify official sources of information and make well-informed decisions.

The tone of political actors’ online campaign was overall respectful and calm. From 29 August until 12 October 2022, the EU EOM analysed over 1,447 posts and 278 tweets of political parties, candidates, non-electoral contestants Facebook pages and groups, which contained mostly messages in positive and neutral tone.<sup>61</sup> During this period, the seven more prominent political parties with presence in the outgoing Parliament<sup>62</sup> and RFP published a total of 1,300 posts on their official Facebook pages and 400 tweets. MEC was the most active political party sharing posts on Facebook (487), followed by DC (189), BAP (175) and RFP (162). RFP used Facebook Live (99) and Twitter the most (178). Top content shared by the parties were photos and videos featuring rallies (55 per cent), announcements of upcoming events (10 per cent) and other

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<sup>58</sup> SADC Data Protection Model Law HIPSSA. III Data Protection Authority: “An independent and administrative authority called the Protection Authority or Authority is established and will have oversight and control of this Model Law and the respective rights of privacy in the national territory. This implies a decision-making power independent of any direct or indirect external influence on the Authority.”

<sup>59</sup> The Communications (Subscriber Identity Module Registration) Regulations, 2021.

<sup>60</sup> Provision 43 on Publication of false information provides imprisonment for up to five years for publication of false information.

<sup>61</sup> See Section XX – Annex 4 – Social Media Monitoring Findings.

<sup>62</sup> ABC, AD, BAP, BNP, DC, LCD, MEC. See Section XX – Annex 4 – Social Media Monitoring Findings.

campaign messages.<sup>63</sup> Overall, there were no clearly defined strategies for the political campaign online and hashtags were not used consistently by the parties. MEC and RFP gave bigger importance to their social media campaign as a means of strategically targeting the youth.

In the post-election period, RFP became the most active political party on both Facebook and Twitter, which became also more relevant as online influencers and electoral contestants started using it more. Despite the overall positive tone online, the Mission identified instances of derogatory language, particularly against RFP and its leaders, in non-electoral contestant groups and anonymous media pages on Facebook.<sup>64</sup>

The limited number of daily newspapers and official media outlets has led to citizens, especially younger generations, resorting to anonymous, improvised “news outlets” on social media which are more active publishing information. Although behind some of these pages were journalism students with a genuine effort to produce unbiased information, the danger was that they were anonymous and could not be held accountable, if they published information that misled voters.<sup>65</sup> The EU EOM monitored 41 anonymous media Facebook pages, which disseminated unverified and at times misleading content.<sup>66</sup>

There were no fact-checking initiatives in Lesotho, which left the door open for information manipulation on social media. To prevent falsehoods from spreading, the IEC published on its Facebook page a screenshot of the Electoral Act (S.169), which foresees imprisonment for disseminating misleading information or false statements.<sup>67</sup> Similarly, one week before election day an anonymous video questioning the integrity of the IEC circulated in closed WhatsApp groups which prompted an official statement by the IEC urging the public “to seek knowledge before posting any misinformation to avoid criminal and civil liability”. No formal cooperation was established between the Government, the IEC, social media platforms and CSOs to develop efficient collaborative mechanisms to tackle information manipulation online, particularly during the elections.<sup>68</sup> Despite repeated requests by the EU EOM, Facebook Meta did not provide any information on measures taken during Lesotho’s elections.

***Recommendation: Support independent fact-checking initiatives that can help tackle online information manipulation and enhance digital and social media literacy.***

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<sup>63</sup> The EU EOM analysed 327 posts and 278 tweets published by the eight political parties. See Section XX – Annex 4 – Social Media Monitoring Findings.

<sup>64</sup> The EU EOM Mission analysed 300 posts from 123 public Facebook groups. Some 112 contained negative content mostly targeting RFP (71 per cent). Some 24 per cent of these posts included derogatory language mainly discrediting RFP (81 per cent). In addition, the EU EOM analysed 202 election-related posts of anonymous media pages on Facebook with 38 per cent containing negative campaigning targeting RFP (34 per cent). See Section XX – Annex 4 – Social Media Monitoring Findings.

<sup>65</sup> [Investigating social media role in Crisis Communication. Case of Hoatiti News. August 2021.](#)

<sup>66</sup> On election day, these pages published 81 posts giving election results before the official results were announced by the IEC, resulting in 11 posts (14 per cent) being inaccurate. See Social Media Monitoring Annex.

<sup>67</sup> 2021 UN, OSCE, OAS, ACHPR Joint Declaration on Politicians and Public Officials and Freedom of Expression (2): “States should repeal or refrain from adopting general prohibitions on the dissemination of inaccurate information, such as false news or “fake news” laws [...]”

<sup>68</sup> UN, OAS, OSCE Joint Declaration on Freedom of Expression and Elections in the Digital Age 2020 (1c): “States should consider supporting positive measures to address online disinformation, such as the promotion of independent fact-checking mechanisms and public education campaigns, while avoiding adopting rules criminalising disinformation.”

In March 2022, Facebook Meta included Lesotho in its Facebook Ad Library enabling more transparency of online political advertising. The Mission identified 10 ads supporting political parties, with only YONA advertising from its page. The EU EOM could not systematically track the political ads spending on Facebook since political parties advertised their programmes in the form of paid posts published by anonymous media pages.<sup>69</sup>

## XI. PARTICIPATION OF WOMEN

*A slight increase in women representation in Parliament, partly due to the affirmative “zebra” (zip) system for parties’ PR candidate lists.*

Women represent 50.6 per cent of the population of Lesotho, however only 23.3 percent of the outgoing National Assemblies’ MPs were women falling short of SADC’s equality commitment.<sup>70</sup> Most women candidates had difficulties to pass the parties’ internal selection processes to become candidates. A total of 837 women were nominated for FPTP seats, accounting for 35.5 per cent of candidates. Among the 48 parties’ PR lists, only 6 lists had a woman in first position. A total of 11 parties were led by a woman but only 7 of them submitted their PR lists with a woman ranked first.

The 31 women elected (26 per cent) constitute a slight increase from the 29 women in the outgoing National Assembly.<sup>71</sup> Twelve women and 67 men were elected in the 79 FPTP seats. The affirmative “zebra” (zip) system intending to enhance women representation for PR candidate lists resulted in a better representation of women in the National Assembly, with 19 women elected along 21 men, but still remains below regional objectives. Women are still strongly underrepresented in political parties’ top decision-making bodies.

***Recommendation: While maintaining the “zebra” system, provide for positive incentives for greater inclusion of women in political parties’ top decision-making bodies.***

Outside of elected positions, a number of women occupy high level appointed posts in the country’s institutions, like the Auditor General, Director of Public Prosecution, and the Deputy Commissioner of Police. The outgoing Government had 34 ministers out of which 7 were women. With the new Government a woman was appointed Deputy Prime Minister for the first time, and three out of 15 Cabinet Members are women.

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<sup>69</sup> Facebook Ad Library: YONA official page (2). Other ads were published by unofficial party and community pages in support of RFP (1), MEC (2) and DC (5). See Section XX – Annex 4 – Social Media Monitoring Findings.

<sup>70</sup> SADC Agreement Amending the SADC Protocol on Gender and Development 31 August 2016, Art. 9: “State Parties shall endeavour to ensure equal and effective representation of women in decision-making positions in the political, public and private sectors including through the use of special measures as provided for in Article 5.”

<sup>71</sup> On 25 October, the deputy leader of MEC, Ms. Tsepang Mosena was elected Deputy Speaker of the National Assembly. As she resigned from her MP position the number of women in the NA reduced to 30.

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

***One candidate with disabilities elected but limited accessibility to polling locations, adapted voter education and campaign material.***

The Government had not established the independent Persons with Disability Advisory Council as foreseen in the 2021 Persons with Disability Act, which was passed to domesticate the UN Convention for the Right of Persons with Disabilities (CRPD).

By law, a political party registered with the IEC has to facilitate the full participation of and ensure free and equal access for women, youth and disabled persons in political activities.<sup>72</sup> While the CRPD requires easy-to-read voter education materials, accessibility of polling locations and provisions for voting without assistance, the Basotho law and practice fell short of providing specific tools, materials or an alternative mode of voting.

The IEC did not involve or consult Disabled People's Organisations in the preparation of the elections, and had no specific provisions for inclusion of persons with disabilities in the electoral process, except tactile envelopes in some polling stations. Furthermore, the IEC did not disaggregate its voters' or candidates' lists by persons with disabilities as required by the CRPD, and as advocated for by the National Federation of Disabled (NFD), which also advocates for reserved seats for persons with disabilities. The observed polling locations were in many cases not accessible for voters with reduced mobility. Positively, one RFP candidate with disability was elected as Member of the National Assembly, winning the FPTP election in Maama constituency in Maseru district, and was appointed Minister of Gender, Youth, Sports, Arts, Culture and Social Development.

## **XIII. CITIZEN AND INTERNATIONAL ELECTION OBSERVATION**

***Significant number of international observers but limited presence of citizen observers throughout the country.***

The legislation provides for election observation by citizen and international observers. For these elections, the IEC issued a public invitation to election observers. Contrary to past practice, CSOs involved in voter education activities were not eligible to be accredited as observers. The IEC considered it as a conflict of interest if CSOs receiving IEC funding for voter education also observed the elections. The most prominent CSO, the umbrella organisation Lesotho Council of NGOs (LCN), had aimed to deploy 359 accredited observers, but their difficulties to secure funding for their observation activities reduced their observers to around 200. The LCN observation findings and recommendations were limited and exclusively related to election day, focusing on accessibility for persons with different categories with disabilities, names of voters missing on the voter lists, need for better equipment of the polling stations, and better election materials as well as lack of visibility for party agents. However, the observation of these elections was marked in particular by the low presence of citizen observers compared to international observers.

The African Union, SADC, the SADC Electoral Commissions Forum (ECF), the Commonwealth, and the Brenthurst Foundation deployed international short-term election observation missions.

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<sup>72</sup> Electoral Act, Art.30,1,a.

#### XIV. ELECTORAL DISPUTES

*A dispute resolution system covering all phases of the electoral process but lacking specification of procedures, deadlines, and right of appeal for Code of Conduct violations.*

##### **Complaints and Appeals**

The Electoral Act provides the framework for election dispute resolution at all phases of the electoral cycle. In order to address those cases, the IEC establishes a three-member tribunal to adjudicate the complaints contained in the Code of Conduct for parties and candidates, which is included in the Electoral Act.<sup>73</sup> The Code contains prescription against abuse of governmental power and resources; to refrain from intimidation; vote buying (offering and receiving); and use of weapons during the elections.<sup>74</sup> The Code binds all political parties registered with the IEC and includes sanctions ranging from a formal warning to party de-registration. The latter is an excessive sanction and lacks the criteria of objectivity, reasonability and proportionality required by international standards and SADC commitments for the right to stand.<sup>75</sup> The Electoral Act confines the role of the Tribunal to address only violations of the Code of Conduct, whereas other pre-electoral cases such as on candidate nomination have to be addressed by the IEC, which is also issuing all decisions suggested by the Tribunal.<sup>76</sup> Moreover, the Act neither contains specific qualifications for membership nor a clear procedure and deadlines.<sup>77</sup>

***Recommendation: Review, clarify and detail the competence of the IEC Electoral Tribunal to include all pre-electoral violations, to enact specific procedures, deadlines and the qualifications of Tribunal members.***

The Electoral Act also provides that decisions of the IEC should be final, thus precluding a second level of redress by a Court. Although in practice most cases escalated to the High Court, it would be essential that a second level of redress is included in the Electoral Act.<sup>78</sup>

***Recommendation: Provide for the right to appeal to the High Court against the decisions of the IEC.***

The Tribunal also lacked transparency. Access to information about hearings, decisions and the database of cases by stakeholders and interested persons was only obtained after being compiled upon the request of the EU EOM and not promptly made available online.<sup>79</sup> Although in practice

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<sup>73</sup> The Code of Conduct is included in Schedule 2 of the Electoral Act.

<sup>74</sup> On 14 October 2022, the IEC Tribunal charged the RFP Deputy Leader with LSL 3,000.00 (EUR 165) guilty of violating the electoral code of conduct as he promised the construction of a mall in Berea district during the campaign.

<sup>75</sup> 2018 SADC Model Law on Elections par. 35: Every citizen has the right to be elected, and this right may only be restricted based on objective and reasonable criteria.

<sup>76</sup> The IEC reported a total of 45 complaints on pre-electoral violations out of which 19 of these were related to violation of the Code of Conduct and 12 are pending adjudication at the time of writing. Three cases were related to illegal transfer of voters from one constituency to another and were rejected after investigation.

<sup>77</sup> SADC Model Law on Elections, para 92: There shall be an Electoral Tribunal set up by the competent authority as prescribed in the electoral law to receive and hear election complaints and objections relating to the code of conduct or election procedures. 2003.

<sup>78</sup> PEMMO Principles for Election Management, Monitoring and Observation in the SADC Region para. 3: Appeal procedures should be established for all elections and should be dealt with by the courts.

<sup>79</sup> 1996 United Nations Human Rights Committee General Comment No. 34 to Article 19 of the ICCPR, Freedoms of opinion and expression: To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information.

the hearings were open to the public, no information was provided regarding dates and venue, and decisions were not made available. While the Constitution includes the “freedom to receive ideas and information without interference”, these provisions should be detailed, complemented and operationalised by further enactment of lower level legislation.

***Recommendation: To establish an online legal database containing complaints, decisions and national legislation.***

### **Complaints regarding candidates’ nomination**

Any voter or a political party can lodge a complaint with the IEC at constituency level, against the nomination of candidates for constituency seats. The Commission must decide within five days. The aggrieved person may further appeal the Commission’s decision at the High Court. The High Court must render a decision expeditiously and at least two days before the date of the announcement of candidates’ nomination. For PR seats the same procedure applies but the deadlines are established by the IEC and published in the election calendar.

The High Court reported a total of 23 cases on candidate nomination and disputes on legitimacy of party committees. Other cases were attempts to declare failed elections in three constituencies in Quthing, Berea and Mafeteng districts, where three candidates (two from MEC and one from DC) could not stand for constituency elections as a result of the Court disqualification.<sup>80</sup> A total of 10 candidate nomination cases were further submitted to the Court of Appeal.<sup>81</sup> As a result of the Courts decisions, 36 candidates’ names had to be changed from the candidate lists; 21 from RFP, 14 from MFP, and one from AD. The protracted cases extended well beyond the deadlines for candidates’ nomination of 9 September 2022, forcing the IEC to remedy the process (see section V). This however was not only due to the delay of Courts’ decisions but also caused by the parties not complying on time with the procedural and submission requirements.

### **Electoral Offences**

Electoral Offences are contained in the Electoral Act and include the so-called money-politics (offering and receiving), abuse of power during the campaign, use of government vehicles during the elections, except for Ministers and governmental officials. Fines range from LSL 250 (EUR 14) to LSL 10,000 (EUR 576) as well as imprisonment from a minimum of three months to a maximum of two years for offences such as impersonation, tampering with ballot papers, and forging electoral documents among other issues.

### **Election Petitions**

The High Court,<sup>82</sup> sitting as an Electoral Court has exclusive jurisdiction on election petitions related to the validity of the election of any member of the National Assembly, whether a seat has become vacant and whether the PR seats have been properly allocated. Petitions must be lodged

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<sup>80</sup> On 29 September 2022, the High Court received two cases from the DC and one from the MEC respectively requesting the Court to stop the IEC from proceeding with elections in the constituencies of Sempe (No.66 in Quthing district), Mosalemane (No.19 in Berea district) and Matelile (No. 4 Mafeteng district), because their candidates had been disqualified for being public servants.

<sup>81</sup>RFP: four cases were dealing with candidacy nomination; MEC: three cases dealing with disqualification of candidates in 3 constituencies; DC: one case related to result of primary elections; AD: one case on candidate nomination; and MFP: one case on the legitimacy of the party National Executive Committee.

<sup>82</sup> The National High Court sits in Maseru. A regional division of the High Court is based in Leribe with jurisdiction over matters arising from Leribe, Botha Bothe, Mokhotlong’ (Judiciary Circular No.2 of 2022).

within 30 days of the announcement of the results and the decisions to be issued within 30 days after the last day of the hearing. The decision of the High Court is final.<sup>83</sup> This time frame is too long and could protract the uncertainty over the election results.<sup>84</sup>

On Friday, 21 October 2022, the IEC submitted an urgent application to the High Court requesting the modification of PR seat allocation as gazetted on 14 October.<sup>85</sup> Specifically, the IEC demanded to allocate to Democratic Congress (DC) eight compensatory PR seats instead of 11, and to the Alliance of Democrats (AD) two compensatory seats instead of three. The four seats wrongly allocated by the IEC to DC (three) and to AD (one) are to be rightly reallocated to the Basotho National Party (BNP), the Basotho Patriotic Party (BPP), the Lesotho People's Congress (LPC) and the United for Change (UFC), subject to a Court decision.

The IEC detected the wrong distribution of four PR seats during an internal auditing of results.<sup>86</sup> While the IEC admitted its own mistake by negligence in calculating the allocation of proportional seats, the trust in the electoral administration by electoral stakeholders was compromised.

During the next hearings the Court accepted the applications to join in the proceeding by the BNP and BPP, as possible subjects to the new allocation, and by the RFP as the case was possibly affecting the composition of the National Assembly.<sup>87</sup> On 16 and the 17 November, the DC argued that the case was wrongly instituted by the IEC, which instead of petitioning the Court for determination of the right PR allocation as required by both the law and the Constitution, directly presented the new allocation of PR seats and asked the Court for endorsement. The case was postponed to 1 December 2022.

Although the Court has been taking ample time for the case to be finalised, the Court appears to follow the right Court procedures and adheres to provisions for election petitions, which require the issuing of a decision 30 days after the last hearing. As the deadline for submission of election petitions expired on 10 November, no other petition against election results was pending in front of the High Court.

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<sup>83</sup> According to the Electoral Act and the Constitution, the decision of the High Court is final. However, the losing parties could still try to appeal to the Court of Appeal, which could retain it under the general principle enshrined in Section 123 (4) of the Constitution that the Court of Appeal is the superior court of record and therefore could adjudicate any appeal against the High Court decisions.

<sup>84</sup> On election day, in Thaba-Pechela constituency (# 52 Mafeteng district) a RFP candidate disputed the election results as he had won in all polling stations (48) with the exception of three which were won by the DC. The IEC conducted a re-tabulation for all polling stations, which confirmed the previous results.

<sup>85</sup> The case was presented by the IEC as a Constitutional Case when in reality is an election petition as clearly identified by the Section 125 of the Electoral Act recalling Section 69 (d) of the Constitution.

<sup>86</sup> The allocation of PR seats is included in the Schedule 3 of the Electoral Act, which enlists the different steps. According to the IEC, since the RFP obtained more constituency seats than the provisional allocation of compensatory seats, not only was it not entitled to obtain any compensatory seats but RFP's votes should have been removed from the total number of votes before the actual allocation. Although this is clear in the example of the law, it is not specified in the narrative of the different steps and was overlooked by the IEC.

<sup>87</sup> 24 October, 4 November, 16 and 17 November 2022



## XV. VOTING, COUNTING AND TABULATION OF RESULTS

*Election day was conducted in a peaceful atmosphere and opening, voting and counting were well organised.*

### **Overview of Voting**

The polling station staff conducted opening, voting and counting in a professional and impartial manner throughout the election day. The processes observed at polling stations (PSs) were orderly and calm with a large number of party agents present. The PSs observed by the EU EOM opened mostly on time. The transparency of the opening process was assessed as very good in 24 out of 37 PSs observed and party agents could monitor the process without restrictions.

The EU EOM observed voting in 302 polling stations. In 99 per cent of cases, voting was assessed as very good or good. During the voting, the atmosphere was calm with only moderate voter turnout in all visited PSs. Party and candidates' agents were present in 89 per cent of the PSs observed. Citizen-led election observers were only present in 15 per cent of observed PSs.

Some 42 per cent of observed polling stations were considered as not accessible for voters with reduced mobility, while the layout inside PSs was suitable for voters with reduced mobility in 74 per cent of the cases. The polling process provided no special measures for persons with disabilities to facilitate unassisted voting and only in a few polling stations was a tactile ballot sleeve made available.

***Recommendation: Introduce special measures for persons with disabilities to improve their access to campaign and voter information materials, as well as to polling stations to facilitate unassisted voting.***

Throughout the day, EU EOM observers reported 13 per cent of observed PSs as being overcrowded. The layout of the polling station and the position of the voting booths were not adequate to guarantee the secrecy of the vote in 18 per cent of the PSs observed.

EU EOM observers reported various cases of voters whose name could not be found on the voter list or who were not aware of the location of their polling station. These cases were noticed mostly in constituencies with recently revised boundaries. The polling staff referred all observed cases to the constituency officers to follow up and identify their polling stations. In a press conference on election day, the IEC confirmed several cases of eligible voters' names not found on the voter register.

### **Counting**

Closing and counting of votes were observed by the EU EOM to be conducted in a calm atmosphere. Observers and party agents were able to observe the process without restriction in all cases. Minor procedural mistakes which did not impact the process were reported mainly in relation to the reconciliation process. The overall assessment of the counting was evaluated as good and very good in all polling stations observed. However, polling staff appeared very tired towards the end of counting and partly stayed at the PSs overnight to await the transfer of PS results to the constituency tally centres in the early morning hours.<sup>88</sup>

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<sup>88</sup> In some remote polling stations polling staff stayed beyond two days.

### **Tabulation of Results**

The initial plan of the IEC to transmit the tally results from each constituency to the National Results Centre in Maseru had to be changed, due to the lack of necessary equipment. All polling stations result protocols were transported from the polling stations to the constituency tally centres where they were aggregated by hand in order of arrival. The result protocols from the constituency tally centres were taken to the IEC district offices where they were scanned and sent by email to the IEC HQ in Maseru. The IEC did not publish disaggregated results per polling station on its website. EU EOM Long-Term Observers (LTOs) only reported a few problems during the tallying of results at constituency level. However, the long working hours and the difficult conditions on several occasions led to a protracted tabulation process.

***Recommendation: Enhance the transparency of the tabulation process, centrally by the IEC publishing disaggregated results per polling station on its website, and by providing resources for a computerised tabulation system.***

The IEC set up a national results centre where the protocols from the 80 constituencies were entered into an electronic result system. The IEC had outsourced the tabulation of results, but this only included the electronic tabulation of constituency results and not of polling station results. The system for tabulation of the 79 constituency results followed a double-blind entry of the protocols. Additional control was exercised by the IEC Results Committee composed of representatives of registered political parties. The results were entered, approved, and almost instantly projected on big screens and uploaded on the IEC website, which contributed to the transparency of the process.

## **XVI. RESULTS AND POST-ELECTION ENVIRONMENT**

***The elections resulted in a three-member coalition government in a calm post-election environment despite an IEC's results error.***

### **Publication of Results**

The final election results were announced by the IEC from 8 to 10 October and published in the official Gazette on 14 October 2022.<sup>89</sup> The new National Assembly is composed of 14 political parties, the same number of parties as in the previous Parliament. No independent candidate was elected.

Voter turnout for these elections was 37.7 per cent, the lowest since the country's independence. This is a significant drop of over 9 per cent from the 2017 elections.<sup>90</sup> Stakeholders attributed the low turnout mainly to voters' fatigue and apathy, in addition to limited voter information and a

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<sup>89</sup> If the modification of PR seat allocation requested by the IEC on 21 October 2022 was granted by the Courts, the new National Assembly would then include a total of 17 instead of 14 political parties, including eight parties with only one seat. LPC would have gained a seat with merely 2,069 votes. The Revolution for Prosperity (RFP) would still have the same number of 56 seats. Its planned coalition with the AD, now four instead of five seats, and the Movement for Economic Change (MEC) with four seats would still have a majority of 64 seats in the new 119 Member National Assembly.

<sup>90</sup> The IEC recorded the lowest voter turnout in the Maputsoe constituency in Leribe district with 26 per cent and the highest voter turnout in the Mokhetoaneng constituency of Berea district with 48.5 per cent.

lack of awareness raising campaign about the voter register. The number of recorded invalid votes was quite low, at 1.2 per cent.

Of the 119 seats for which official results were announced,<sup>91</sup> 79 FPTP and 40 PR seats, RFP obtained a relative majority of 56 seats, all of them FPTP seats and no PR seat. This is the highest number of seats won by a single political party since 2007. The DC, a member of the outgoing ruling coalition secured 29 seats in total, including 18 FPTP and 11 PR seats. All other political parties obtained less than ten seats while six parties received only one seat.

These elections were seen as a blowback for parties and politicians dominating the outgoing National Assembly. Leaders of the ABC, the AD, the LCD, the BNP and the BAP did not win constituency seats, but all remain in Parliament due to the compensatory PR seat system. The largest political party in the outgoing National Assembly, the ABC, with previously 48 seats experienced the biggest loss, not winning any constituency seat in these elections. However, the ABC remains in the National Assembly with eight PR seats.

With the 40 PR compensatory seat allocation, eight political parties, which did not obtain any of the 79 FPTP seats, are nevertheless represented in the National Assembly. In the absence of a threshold for PR seats, the number of votes required to secure a seat was quite small, with one party gaining a PR seat with only 3,713 votes (0.7 per cent). The National Assembly is fragmented, and in the absence of reform, floor crossings for personal gains are still possible.

Outgoing Government parties like the DC promptly acknowledged defeat and accepted the election results and declared that the polls reflected the will of the nation. The ABC leader accepted the results, along with the BAP, which added it would act as a strong and constructive opposition.

### **Post-election developments**

On 11 October, the RFP, the MEC and the AD announced a coalition agreement to form the new Government. Altogether, the new Government coalition has a majority of 65 seats. The first sitting of the National Assembly took place on 25 October 2022 with the election of Mr. Tlohang Sekhamane (RFP) as Speaker<sup>92</sup> along with Ms. Tsepang Mosenana (MEC) as Deputy Speaker of the National Assembly. The swearing in of the new Prime Minister took place on 28 October and the new Cabinet was sworn in on 4 November 2022.

The new Prime Minister and RFP leader, Mr Sam Matekane, announced a 100-day reform plan, including the reduction of the number of ministries, a declaration of assets of coalition members holding public office, and the implementation of the Auditor General's last recommendations. Since 2012, Governments were composed of an average of 27 to 35 Ministers. The coalition reduced the number of Ministers to 15, including the Prime Minister and Deputy Prime Minister. The coalition also committed to advance institutional reforms, hinting at the reintroduction of an iteration of the Omnibus Bill.

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<sup>91</sup> Due to the death of a candidate close to election day, the IEC did not organize the FPTP election in Stadium Area constituency of Maseru district.

<sup>92</sup> With 69 favourable votes, 4 more than the members of RFP-led coalition. The Deputy Speaker was uncontested in her election.

XVII. ANNEX 1 – RECOMMENDATIONS

NO.	FR page #	CONTEXT	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL PRINCIPLE / COMMITMENT
<b>LEGAL FRAMEWORK</b>						
1	11	The legal framework was amended shortly before the election and then the amendment was annulled few weeks before election day. Uncertainty in the legal framework less than three weeks before the elections is against regional principles and international good practices.	In order to promote certainty of the applicable legal framework, avoid enacting fundamental changes of the electoral legislation within six months before elections.	Amend the Electoral Act	Parliament	<b>Rule of Law</b> <b>2018 SADC Model Law on Elections para.5(2):</b> “Elections shall be conducted under clear and unambiguous laws, following a detailed due process as stipulated.”
<b>ELECTORAL ADMINISTRATION</b>						
2	12	The IEC lacked procedures and a mechanism to formally determine and declare its decisions. While the law confers to make rules on the IEC, including prescribing procedures there is a vast gap in subsidiary regulation on the election process. The IEC has the power for legal interpretation into rules of procedures on various aspects of the election process, but in practice, they are neither formalised nor published, reducing the clarity and transparency of the IEC’s work.	<b>Priority recommendation: For the IEC to provide secondary legislation by formalising and publishing decisions and rules of procedures of the electoral processes.</b>	No change to the legal framework required	IEC	<b>Rule of Law</b> <b>ICCPR, GC 34, para. 19:</b> “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest and practical access to such information [...].” <b>2018 SADC Model Law on Elections para. 25 (1)(2):</b> “ 1) Promulgation of electoral regulations operationalising the electoral law shall be the sole prerogative of the EMB, which is the organiser and conductor of elections in line with the constitution. The regulations shall not be subject to approval or rejection by the Minister responsible for the administration of the Electoral Act, or any other minister or executive.”

3	13	The budget allocated for the elections was insufficient and did not take into consideration the significantly increased number of contestants. In addition, the IEC received its funding late in the process, in weekly instalments, which also impacted negatively election preparations and implementation of the planned essential activities.	<b>Priority recommendation: Provide the IEC with budgetary independence through direct and timely access to funds approved in the national budget, with strengthened transparency and accountability requirements.</b>	Amend the Electoral Act	Parliament	<b>Genuine elections that reflect the free expression of the will of voters</b>  <b>Independence of the election administration SADC PF Norms and Standards for Elections in the SADC Region, part 2 (5) (iii):</b> “To further enhance the independence and impartiality of the Electoral Commission it should have its own budget directly voted for by Parliament and not get its allocation from a Ministry or a Government Department.”
4	14	The late allocation of funds to the IEC by the Government compromised the timely implementation of voter education outreach activities, which had to be reduced from three months to three weeks prior to election day.	<b>Priority recommendation: Strengthen the implementation of continuous civic education including in educational institutions, and timely voter education campaigns, both offline and online, with a specific focus on youth, women, and persons with disabilities.</b>	No change to the legal framework required	IEC	<b>Right and opportunity to vote ICCPR Art 25 Right to Information ICCPR, General Comment 25, paragraph 11, 12;</b> “Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community. [...] Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty, or impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively.”  <b>ICCPR GC 25, para. 11:</b> “Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.”
<b>VOTER REGISTRATION</b>						
5	14	Basotho citizens declared “of unsound mind” by a Court are not entitled to register to vote.	In line with international standards, revise the law to provide full political rights to persons with cognitive impairment and mental health status disabilities.	Amend the Electoral Act	Parliament	<b>Equal suffrage</b>  <b>Articles 12 and 29 of the CRPD Paragraph 9.4 of the 2013 CRPD Committee’s Communication No. 4/2011:</b> “[...] an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualised assessment, constitutes discrimination on the basis of disability.”

6	15	The accuracy of the voter register has been questioned by many interlocutors referring to possible names of deceased persons and reported errors in voters' data. On election day many voters did not find their names on the voter register and for some of them this led to disenfranchisement.	<b>Priority recommendation: Improve the accuracy and inclusiveness of the voter register.</b>	No change to the legal framework required	IEC	<b>Right and opportunity to vote</b>  <b>SADC PF Norms and Standards for Elections in the SADC Region, part 1 (1) (ii):</b> "There should be provisions and practical arrangements for continuous voter registration and an updated voters' register must be made available to all stakeholders in the elections."
<b>CAMPAIGN ENVIRONMENT</b>						
7	17	The Law preventing parties from campaigning outside of the "electoral period" was not applied and no action was taken. The EU EOM noticed political parties campaigning before and after the end of the official campaign period.	The IEC to enforce the interdiction of campaign activities outside of the legally framed campaign period.	Amend the Electoral Act	Parliament	<b>Genuine elections that reflect the free expression of the will of voters / Fairness in the election campaign</b>  <b>ICCPR, GC 25, para 19:</b> "Persons entitled to vote must be free to vote. Without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of inducement manipulative interference kind."
<b>CAMPAIGN FINANCE</b>						
8	19	The IEC has the power to investigate any misuse of funds allocated to parties from the consolidated fund. Currently, it does not have enough resources to perform its oversight duties in the area of party and campaign finance.	<b>Priority recommendation: Enable the IEC to effectively perform its oversight tasks and extend them to all political parties' expenses and received donations to ensure the effective transparency of party and campaign finance.</b>	Amend the Electoral Act to extend IEC's mandate to provide oversight on all parties' resources  Increase budget appropriation for IEC	Parliament	<b>Genuine elections that reflect the free expression of the will of voters Prevention of corruption/Fairness in the election campaign</b>  <b>SADC Parliamentary Forum, Norms and Standards for Elections in the SADC Region:</b> "[The Electoral Commission] should be empowered to ensure that proper election expenses returns are submitted on time, to inspect party accounts, and for parties to have properly audited and verified accounts." <b>United Nations Convention Against Corruption (UNCAC), art.7.3:</b> "Each State Party shall also consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures".

						<p><b>UNCAC, art.6.2:</b> “Each State Party shall grant the body or bodies [...] the necessary independence [...] to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.”</p>
9	19	<p>The current legal framework does not limit funds, which parties and candidates can spend for campaigning. It creates an uneven playing field between parties and candidates who have vast amounts of resources and those who do not.</p>	<p><b>Priority recommendation: Introduce reasonable limitations on political campaign expenditures and prohibition of use of state resources in order to create a level playing field among contestants.</b></p>	<p>Amend the Electoral Act</p>	<p>Parliament</p>	<p><b>Genuine elections that reflect the free expression of the will of voters Prevention of corruption/Fairness in the election campaign</b></p> <p><b>HRC, CCPR, GC No. 25, para. 19:</b> “Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined, or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.”</p>
<b>MEDIA</b>						
10	20	<p>Contrary to Lesotho’s international and regional commitments, the LNBS is part of the Ministry of Communication, Science and Technology.</p>	<p>Transform the LNBS into an independent public service media with independent management, financing, and oversight.</p>	<p>New Act required</p>	<p>Parliament</p>	<p><b>Freedom of opinion and expression</b></p> <p><b>The 2001 African Charter on Broadcasting:</b> “all State and government controlled broadcasters should be transformed into public service broadcasters, that are accountable to all strata of the people as represented by an independent board, and that serve the overall public interest, avoiding one-sided reporting and programming in regard to religion, political belief, culture, race and gender.”</p> <p><b>2011 UNHRC General Comment No. 34</b> to the ICCPR: “States parties should ensure that public broadcasting services operate in an independent manner.<sup>32</sup> In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence.”</p>

						<p><b>2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa</b> (Principle 13): “States shall establish public service media governed by a transparently constituted and diverse board adequately protected against undue interference of a political, commercial or other nature.”</p>
11	21	<p>In line with international and regional commitments, the Constitutional Court declared on 18 May 2018 criminal defamation unconstitutional. However, other acts still include criminal defamation provisions. On 17 September 2022, the IEC reminded on Facebook of Section 169 of the Electoral Act providing for a fine of Lesotho Loti (LSL) 1,000 (approx. 59 Euros) and/or imprisonment of 12 months for “misleading” information on the manner of voting or for a false statement on the withdrawal of a candidate or his/her character. Furthermore, provisions on sedition in the Penal Code Act remain in violation of the country’s international and regional commitments.</p>	<p>Bring the legal framework, including the Constitution, the Criminal Code Act and the Electoral Act, in line with the country’s international and regional commitments on freedom of expression by removing all provisions on criminalising defamation.</p>	<p>Amend the Constitution, the Criminal Code Act and the Electoral Act</p>	<p>Parliament</p>	<p><b>Freedom of opinion and expression</b></p> <p><b>2011 UNHRC General Comment No. 34 to the ICCPR:</b> “States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.”</p> <p><b>2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa,</b> in Principle 22: “States shall repeal laws that criminalise sedition, insult and publication of false news.”</p>
12	22	<p>The 2012 Communications Act regulates the Lesotho Communications Authority (LCA), the broadcasting regulator, and establishes the Broadcasting Disputes Resolution Panel (BDRP). The independence of both is undermined by the appointment of the LCA’s governing Board members and the BDRP’s members by the executive, the Minister for Communications, Science and Technology. International and regional commitments on freedom of expression require the</p>	<p><b>Priority recommendation: Strengthen the independence of the Lesotho Communications Authority (LCA) by modifying the appointment mechanism in line with regional and international commitments.</b></p>	<p>Amend the 2012 Communications Act</p>	<p>Parliament</p>	<p><b>Freedom of opinion and expression</b></p> <p><b>2011 UNHRC General Comment No. 34 to the ICCPR:</b> “establish an independent and public broadcasting licensing authority”</p> <p><b>2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa</b> (Principle 17): “the appointment process for members of a public regulatory body overseeing broadcast, telecommunications or internet infrastructure shall be independent and adequately protected against interference. [...] The process shall be open, transparent and involve the participation</p>



		appointment process for members of a public broadcast regulatory body to be independent and adequately protected against interference. The process should be open, transparent and involve the participation of relevant stakeholders.				of relevant stakeholders. [...] Any public regulatory authority that exercises powers in broadcast, telecommunications or internet infrastructure shall be accountable to the public.”
13	22	The 2022 Broadcasting Code, developed by the BDRP and approved by the Minister, stipulates “accurate, balanced, credible, impartial and fair” news coverage and provides the right to sell advertising time under equal conditions. The LCA and BDRP are tasked with the implementation of these provisions which during elections are supplemented by the Electoral Act granting contesting political parties news coverage in government owned media and free of charge advertising on state broadcasters. However, the BDRP’s current members’ term expired without timely nomination of new ones at the end of August. Furthermore, no monitoring reports were published, nor decisions taken on the implementation of the law by the LCA during the election period. No campaign related complaints were filed.	Improve the LCA’s capacity to monitor and implement the Broadcasting Code content provisions on “accurate, balanced, credible, impartial and fair” news coverage in state and commercial broadcasting by legally defining the monitoring and implementing process and the timely publication of monitoring reports.	Amend the 2012 Communications Act and/or enact subsidiary legislation	Parliament	<b>Freedom of opinion and expression</b>  <b>2020 Joint Declaration on Freedom of Expression and Elections in the Digital Age by the UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media (RFoM) and OAS Special Rapporteur on Freedom of Expression:</b> “States should put in place a regulatory and institutional framework that promotes a free, independent and diverse media, in both the legacy and digital media sectors, which is able to provide voters with access to comprehensive, accurate and reliable information about parties, candidates and the wider electoral process.”
<b>SOCIAL MEDIA AND DIGITAL RIGHTS</b>						
14	25	The Constitution protects the right to privacy and the 2011 Data Protection Act sets out requirements for data protection in an attempt to bring Lesotho’s legal framework in compliance with the SADC data protection standards. However, the Data Protection Commission foreseen	Reinforce and implement provisions of existing data protection legislation, including the establishment of an independent Data Protection Commission, to guarantee fully citizens' right to privacy of their personal data online, especially during elections.	Amend the Data Protection Act	Parliament	<b>Right to Privacy</b>  <b>ACHPR. Declaration of Principles on Freedom of Expression and Access to Information in Africa. Principle 40. Privacy and the protection of personal information (I):</b> “Everyone has the right to privacy, including the confidentiality of their communications and the protection of their

		<p>in the Act has yet to be established, resulting in the absence of an oversight body to enforce it. The Commission, if appointed, will have less enforcement power than analogous bodies in other African countries, including the lack of ability to impose fines on entities that violate the Act. Moreover, the law does not explicitly state that the Commission is independent, which leaves the door open for undue influence.</p>				<p>personal information.”</p> <p><b>SADC Model Law HIPSSA –Data Protection. Chapter III (1):</b> “An independent and administrative authority called the Protection Authority or Authority is established and will have oversight and control of this Model Law and the respective rights of privacy in the national territory. This implies a decision-making power independent of any direct or indirect external influence on the Authority.”</p> <p><b>ICCPR, art. 17:</b> “1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.”</p> <p><b>ICCPR, HRC, art. 17, GC 16, para. 10:</b> “The gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law (...) In order to have the most effective protection of his private life, every individual should have the right to ascertain in an intelligible form, whether, and if so, what personal data is stored in automatic data files, and for what purposes.”</p>
15	26	<p>Many rural areas do not have access to the internet, which limits people’s right to freedom of expression and access to information online. Interlocutors expressed the need for higher levels of digital and social media literacy.</p>	<p>Support independent fact-checking initiatives that can help tackle online information manipulation and enhance digital and social media literacy.</p>	<p>No change to the legal framework required</p>	<p>Government, IEC, political parties, media, CSOs, other election stakeholders, social media platforms,</p>	<p><b>Transparency and access to information</b> <b>Prevention of corruption/Fairness in the election campaign</b></p> <p><b>ACHPR. Declaration of Principles on Freedom of Expression and Access to Information in Africa. Principle 37. Access to the internet:</b> “2. States shall recognise that universal, equitable, affordable and meaningful access to the internet is</p>

		<p>There were no fact-checking initiatives in Lesotho, which left the door open for information manipulation on social media. To prevent falsehoods from spreading, the IEC published on its Facebook page a screenshot of the Electoral Act (S.169), which foresees imprisonment for disseminating misleading information or false statements. No formal cooperation was established between the Government, the IEC, social media platforms and CSOs to develop efficient collaborative mechanisms to tackle information manipulation online, particularly during the elections.</p>			<p>and international development partners</p>	<p>necessary for the realisation of freedom of expression, access to information and the exercise of other human rights. 3. States shall, in cooperation with all relevant stakeholders, adopt laws, policies and other measures to provide universal, equitable, affordable and meaningful access to the internet without discrimination, including by: e) facilitating digital literacy skills for inclusive and autonomous use.”</p> <p><b>UN, OSCE, OAS, ACHPR Joint Declaration on Freedom of Expression and ‘Fake News’, Disinformation and Propaganda (3e):</b> “States should take measures to promote media and digital literacy, including by covering these topics as part of the regular school curriculum and by engaging with civil society and other stakeholders to raise awareness about these issues.”</p> <p><b>UN, OSCE, OAS, ACHPR Joint Declaration on Media Independence and Diversity in the Digital Age (5):</b> “States, online platforms and other stakeholders should consider working collaboratively to support an independent, diverse and economically viable media, including as a means of responding to the presence of information bubbles/silos.”</p> <p><b>UN, OAS, OSCE Joint Declaration on Freedom of Expression and Elections In the Digital Age:</b> “States should consider supporting positive measures to address online disinformation, such as the promotion of independent fact-checking mechanisms and public education campaigns, while avoiding adopting rules criminalising disinformation.”</p>
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PARTICIPATION OF WOMEN						
16	27	<p>Women often have difficulties to pass primary elections and struggle to be appointed as candidates by parties. Women representation in the leadership of political parties could be enhanced by positive incentives like additional party funding.</p>	<p>While maintaining the “zebra” system, provide for positive incentives for greater inclusion of women in political parties’ top decision-making bodies.</p>	<p>Amend the Electoral Act</p>	<p>Parliament</p>	<p><b>Women’s participation in public affairs/ Equality between men and women</b></p> <p><b>2015 AU Agenda 2063 para. 3.2.6 Agenda 2063:</b> “Agenda 2063 envisages under this aspiration, a continent that has equal participation, opportunity and access for all segments of the continent’s population to development outcomes and social and political discourse regardless of gender, political affiliation, religion, ethnic affiliation, locality, age or other factors.”</p> <p><b>2003 AU Protocol on the Africa Charter on Human and People’s Rights on the Rights of Women of Africa Article 9:</b> “States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that: a) Women participate without any discrimination in all elections; b) Women are represented equally at all levels with men in all electoral processes.”</p> <p><b>SADC Agreement Amending the SADC Protocol on Gender and Development 31 August 2016, Art. 9:</b> “State Parties shall endeavour to ensure equal and effective representation of women in decision-making positions in the political, public and private sectors including through the use of special measures as provided for in Article 5.”</p>

ELECTORAL DISPUTES						
17	29	The IEC Electoral Tribunal is established to adjudicate only violations of the Code of Conduct but the Electoral Act neither provides for the qualification of the members nor for deadlines or procedures.	Review, clarify and detail the competence of the IEC Electoral Tribunal to include all pre-electoral violations, to enact specific procedures, deadlines and the qualifications of Tribunal members.	Amendment of Section 123 of the Electoral Act	Parliament	<p><b>Right to effective remedy</b></p> <p><b>SADC Model Law on Elections, para 92:</b> “Electoral Tribunal. There shall be an Electoral Tribunal set up by the competent authority as prescribed in the electoral law to receive and hear election complaints and objections relating to the code of conduct or election procedures.”</p>
18	29	The Electoral Act provides that decisions of the IEC and the Tribunal should be final, thus precluding a second level of redress by a Court	Provide for the right to appeal to the High Court against the decisions of the IEC.	Amendment of Section 123 of the Electoral Act	Parliament	<p><b>Right to effective remedy</b></p> <p><b>2003 PEMMO Principles for Election Management, Monitoring and Observation in the SADC Region para. 3:</b> “Appeal procedures should be established for all elections and should be dealt with by the courts.”</p>
19	30	The IEC Tribunal lacked transparency and the public lacked access to information about hearings and decisions and the database of complaints was obtained by the EOM after being compiled upon request and not promptly made available on Internet.	To establish an online legal database containing complaints, decisions and national legislation.	No change to the legal framework required	Parliament	<p><b>Transparency and access to information</b></p> <p><b>1996 United Nations Human Rights Committee General Comment No. 34 to Article 19 of the ICCPR, Freedoms of opinion and expression:</b> “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information.”</p>
VOTING, COUNTING AND TABULATION						
20	32	Some 42 per cent of observed polling stations were considered as not accessible for voters with reduced mobility, while the layout inside PSs was suitable for voters. The polling process provided no special measures for persons with disabilities to facilitate unassisted voting and only in a few polling stations was a tactile ballot sleeve made available.	Introduce special measures for persons with disabilities to improve their access to campaign and voter information materials, as well as to polling stations to facilitate unassisted voting.	No change to the legal framework required; however IEC provision required	IEC	<p><b>State must take the necessary steps to give effect to rights</b></p> <p><b>Right and opportunity to vote</b></p> <p><b>Article 29(a) of the CRPD:</b> “ensure that persons with disabilities can effectively and fully participate in political and public life on equal basis with others [...] inter alia, by ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to use.”</p>

21	33	The tabulation process is done manually at PS and Constituency level. The polling station results are not published.	Enhance the transparency of the tabulation process, centrally by the IEC publishing disaggregated results per polling station on its website, and by providing resources for a computerised tabulation system.	No change to the legal framework required; however IEC provision required	IEC	<p><b>Transparency and access to information</b>  <b>Genuine elections that reflect the free expression of the will of voters</b></p> <p><b>ICCPR, United Nations Human Rights Commission, General Comment 34 p.18 and article 19(2) of the ICCPR:</b> “the right of access to information held by public bodies”.</p>
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XVIII. ANNEX 2 – ELECTION RESULTS

Party Name	Party Abbrev.	Total seats as Gazetted	Gazetted Constit. seats	Gazetted comp PR seats	Proposed Total seats	Proposed comp. PR	% vote	% seats
African Ark	AA						0.08	
All Basotho Convention	ABC	8	0	8	8	8	8.67	6.72
Alliance of Democrats	AD	5	2	3	4	2	4.80	3.36
Alliance for Free Movement	AFM						0.46	0.00
Allies for Patriotic Change	APC						0.05	0.00
African Unity Movement	AUM						0.17	0.00
Basotho Action Party	BAP	6	0	6	6	6	6.73	5.04
Basotho Council for Economic	BCEF						0.07	0.00
Basotho Covenant Movement	BCM	1	0	1	1	1	0.95	0.84
Basotho Congress Party	BCP						0.44	0.00
Basutoland Democratic Congress	BDC						0.27	0.00
Basotho Democratic National Party	BDNP						0.27	0.00
Basotho Economic Enrichment	BEE						0.23	0.00
Basotho Liberation Movement	BLM						0.35	0.00
Basotho National Party	BNP	1	0	1	2	2	1.70	1.68
Basotho Patriotic Party	BPP		0		1	1	0.74	0.84
Basotho Poverty Solutions Party	BPSP						0.11	0.00
Basotho Social Party	BSP						0.13	0.00
Bahlabani Ba Tokoloho Movement	BTM						0.11	0.00
Basotho Thabeng ea Sinai	BTS						0.00	0.00
Basotho Redevelopment Party	BRP						0.07	0.00
Basutoland African National Congress	BANC						0.10	0.00
Basutoland Total Liberation Congress	BTLC						0.20	0.00
Community Freedom Movement	CFM							
Cry Not Child	CNC							
Democratic Congress	DC	29	18	11	26	8	29.59	21.85
Development Party for All	DPA						0.11	0.00
Empowerment Movement for Basotho	EMB						0.06	0.00
Khothalang Basotho	KB						0.19	0.00
Lekhotla La Mekhoa Le Meetlo	LMM						0.13	0.00
Lesotho Congress for Democracy	LCD	3	0	3	3	3	2.81	2.52
Lesotho Economic Freedom Fighters	LEFF						0.27	0.00
Lesotho Peoples Congress	LPC		0		1	1	0.48	0.84
Marematlou Freedom Party	MFP						0.41	0.00
Metsi Natural Resource Party	METSI						0.12	0.00
Movement for Economic Change	MEC	3	1	3	4	3	3.95	3.36
Mookoli Theocratic Front	MTF						0.06	0.00
Mphatlalatsane	HOPE	1	0	1	1	1	0.86	0.84
Mpulule Political Summit	MPS	1	0	1	1	1	1.04	0.84
National Independent Party	NIP	1	1	0	1	0	0.86	0.84
Peoples Convention	PC						0.05	0.00
Popular Front for Democracy	PFD	1	0	1	1	1	1.07	0.84
Prayer Shawl and Light	PSL						0.03	0.00
Reformed Congress of Lesotho	RCL						0.42	0.00
Revolution Alliance of Democracy	RAD						0.10	0.00
Revolution for Prosperity	RFP	56	56	0	56	0	46.17	47.06
Socialists Revolutionary Party	SR	2	1	1	2	1	2.48	1.68
Tsepo-ee-Basotho	TEB						0.10	0.00
Tsebe Social Democrats	TSD						0.03	0.00
United For Change	UFC		0		1	1	0.67	0.84
Yearn for Economic Sustainability	YES						0.05	0.00
Your Opportunity & Network Alliance	YONA						0.17	0.00
Shao (Independent)	Shao						0.03	0.00
<b>Total</b>		<b>119</b>	<b>79</b>	<b>40</b>	<b>119</b>	<b>40</b>		

## XIX. ANNEX 3 – MEDIA MONITORING FINDINGS

The EU Election Observation Mission monitored a sample of Lesotho broadcast and print media outlets with a quantitative and qualitative analysis of their election coverage. The media monitoring was used to assess the amount of time and space allocated to political actors as well as the tone of the coverage.

Monitored media outlets were:

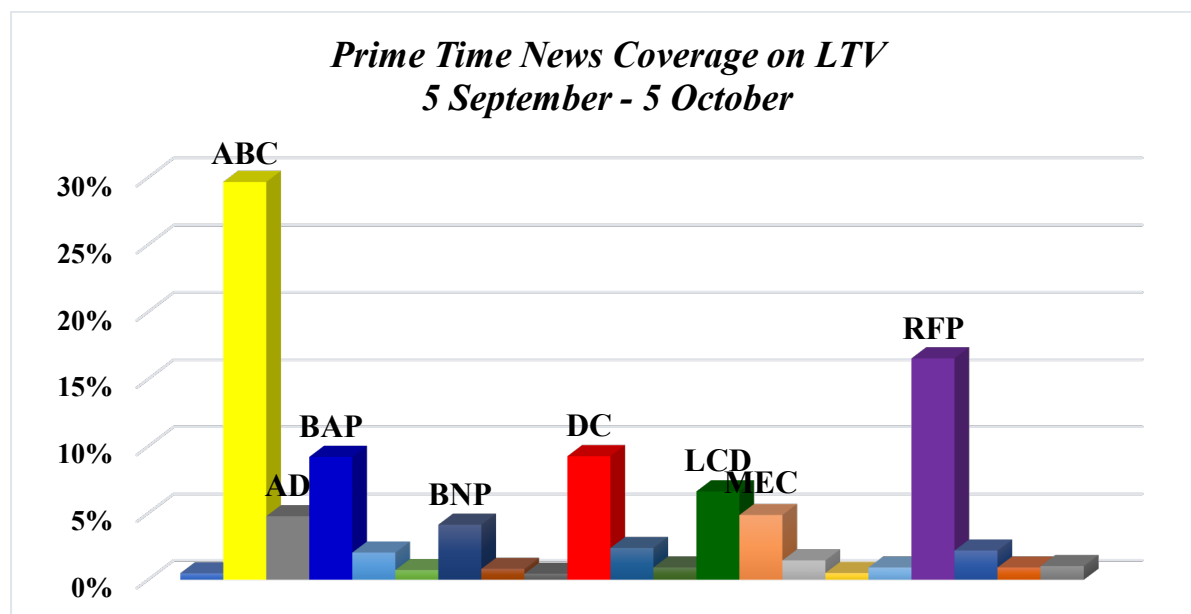
- One TV station: the state-owned *Lesotho Television (LTV)*. The TV station was monitored daily between 18:00 and 24:00 hours.
- Nine radio stations: the state owned *Radio Lesotho*, the commercial *MoAfrika FM*, *People's Choice FM* and *Ts'enolo FM*, as well as the community radio stations in the Botha Buthe (*Moeling FM*), Mafeteng, Qacha's Nek (*Souru FM*), Quthing (*Mose Ho Seaka*, *Emeshea Seaka*, *Peshakwe Qgilie FM*) and Thaba Tseka (*Motjoli FM*) districts. Radio stations were monitored daily between 06:00 and 09:00 and between 18:00 and 21:00 hours.
- Three newspapers: The Sesotho language *Moeletsi oa Basotho*, the *Lesotho Times* and *The Post*.

The media monitoring took place from 05 September 2022 to 05 October 2022.

### ***TV STATIONS***

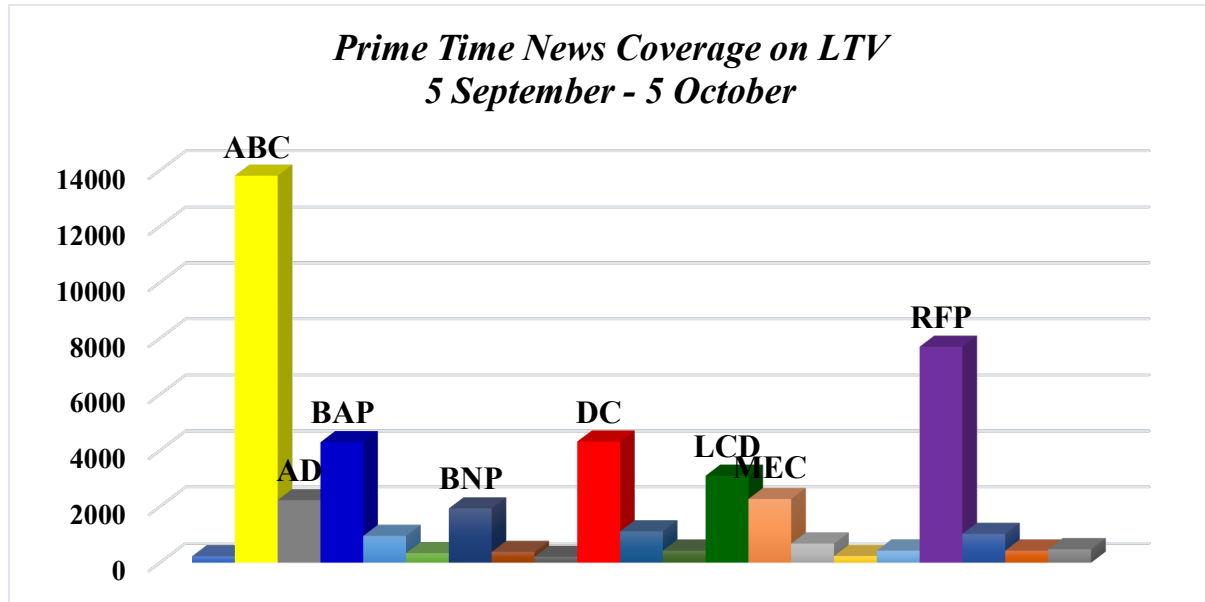
#### ***Election Campaign Coverage***

The bar charts below show the distribution of airtime (in percentage) allotted to electoral contestants by LTV. All coverage was in a positive or neutral tone.

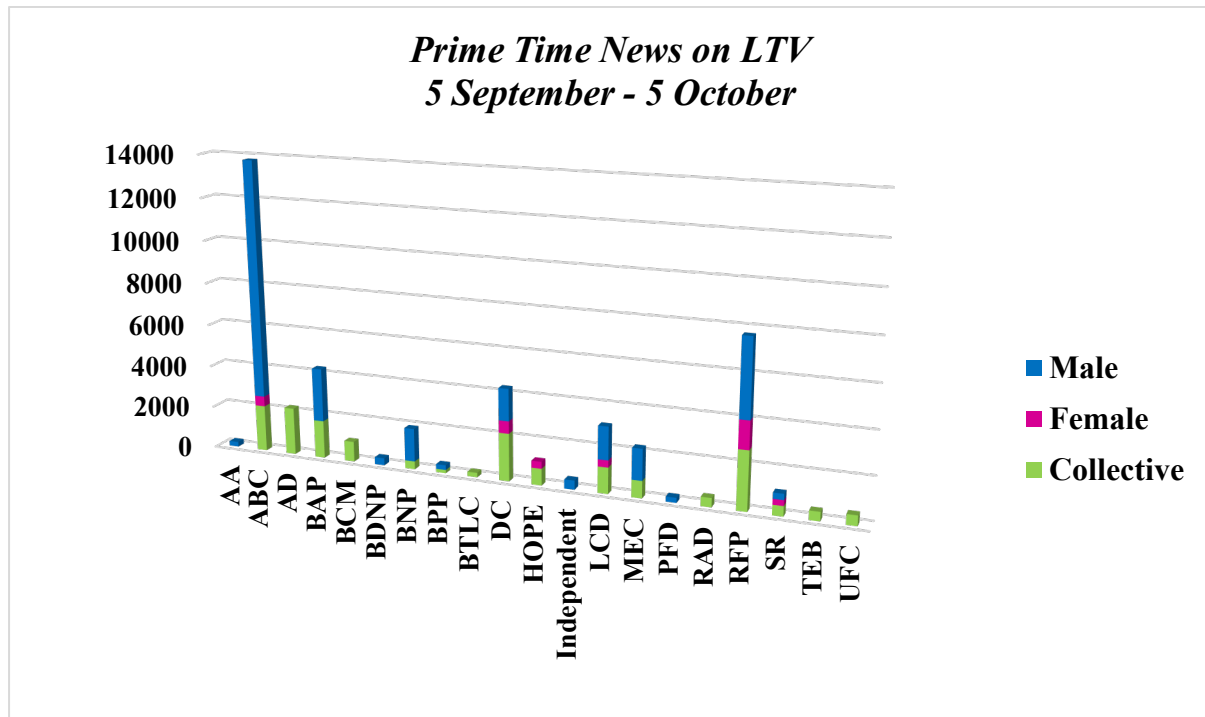




The charts below shows the distribution of airtime (in seconds) allotted to electoral contestants by LTV. A total of 12 hours and 55,5 minutes of news bulletins was broadcast on prime time LTV (25 minutes per day).

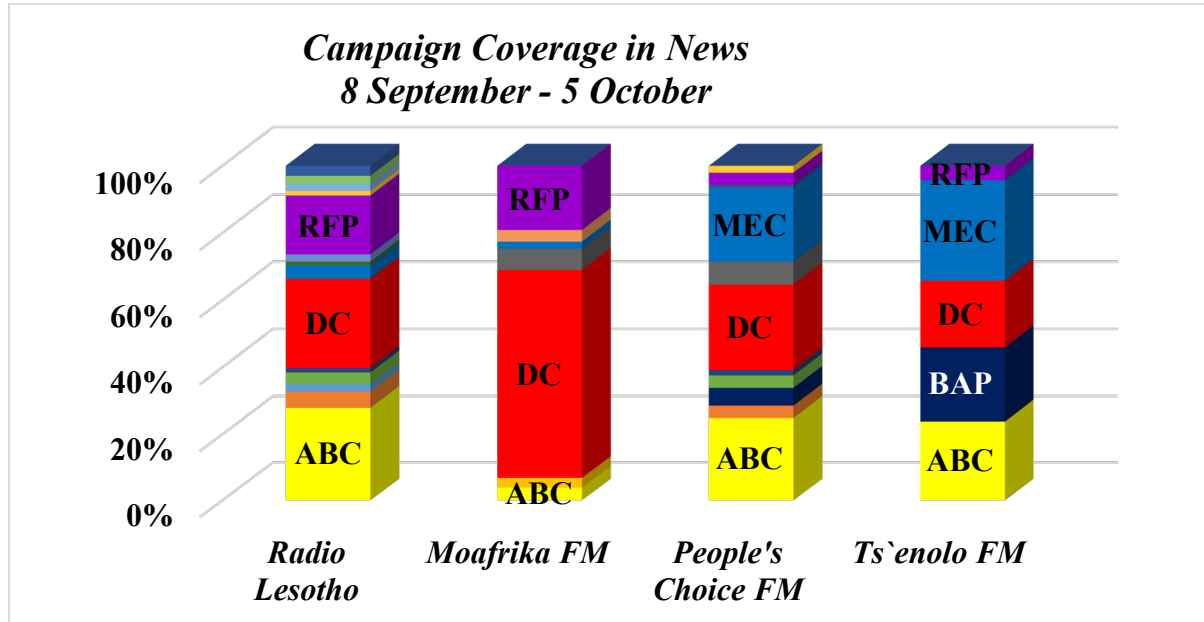


The charts below show the coverage of political actors by gender in prime time news on LTV. Female political actors received a total of 54 minutes prime time news coverage, comparing to 6 hours and 58 minutes male political actors received.



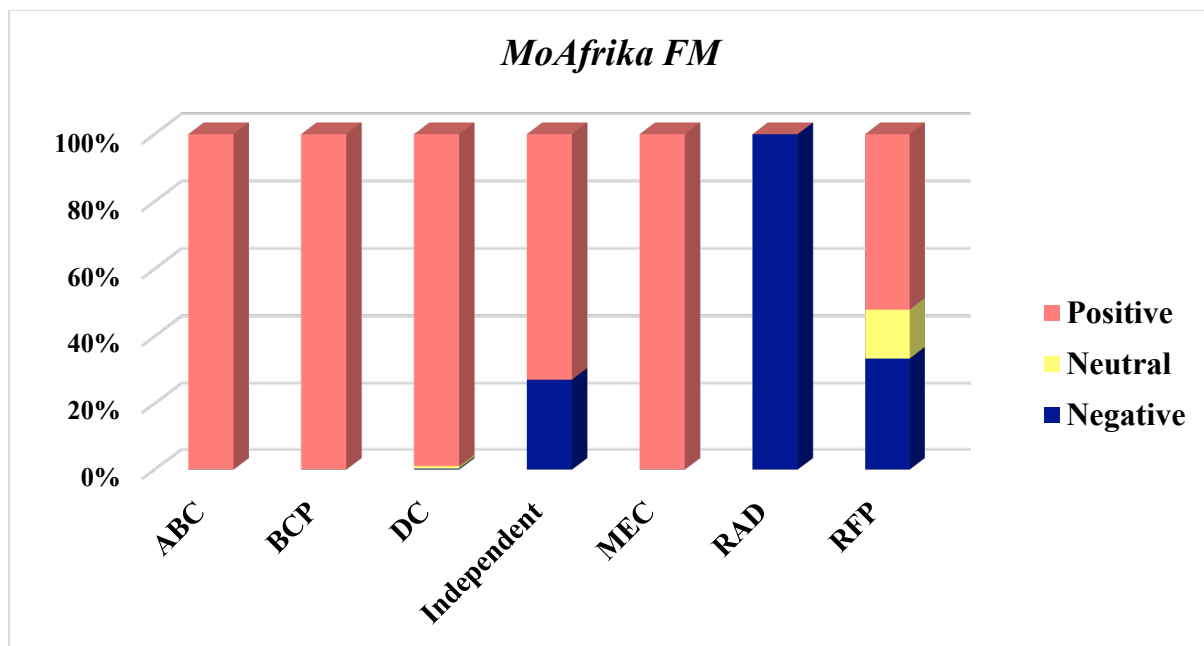
**RADIO STATIONS**

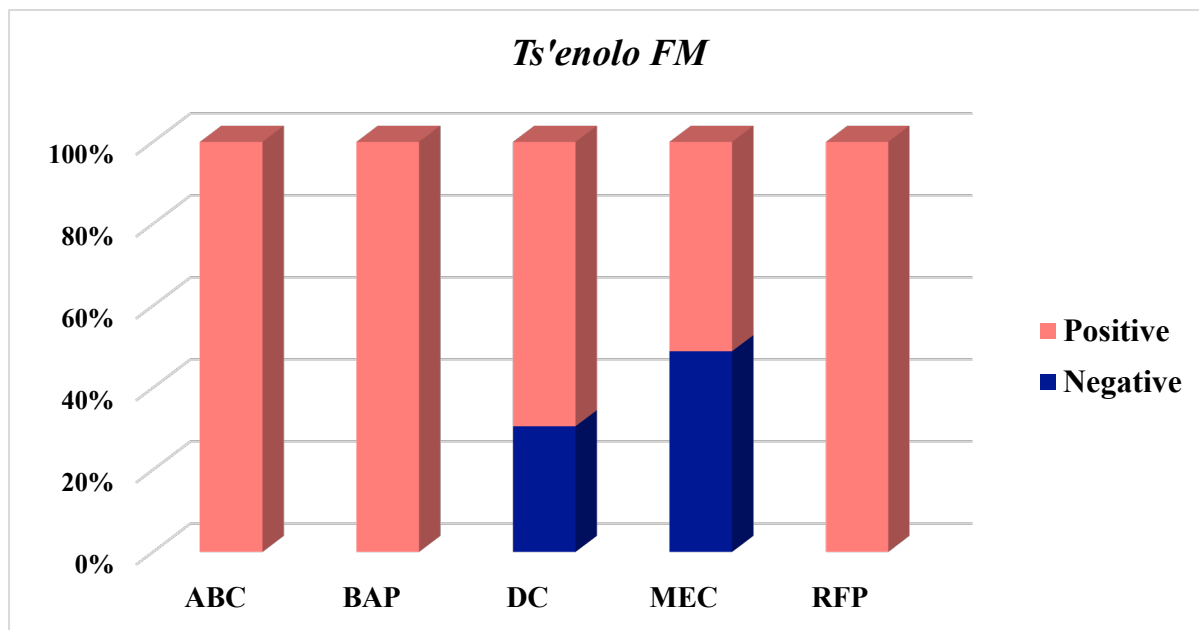
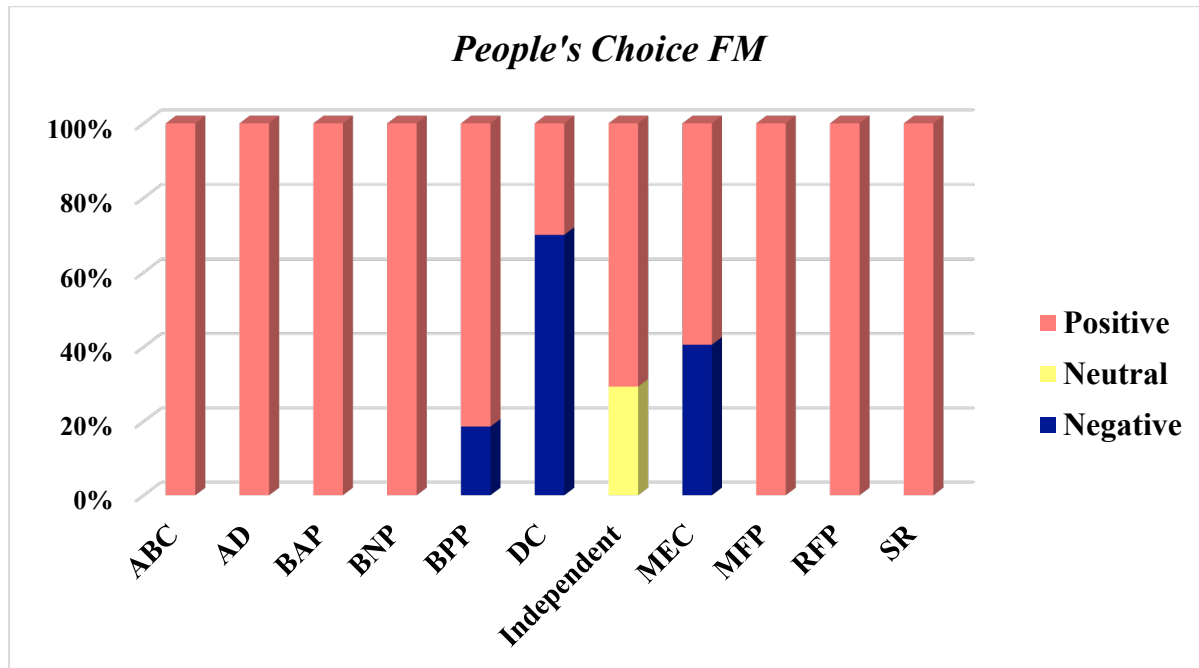
The bar charts show the distribution of airtime (in percentage) allotted to each electoral contestant by each radio station. The amount of news coverage on monitored radio was low, a total of 4 hours and 55 minutes, comparing to a total of 115 hours and 53 minutes of discussion programmes.



The bar charts below show the tone of the news coverage on monitored radio (positive, neutral, negative).

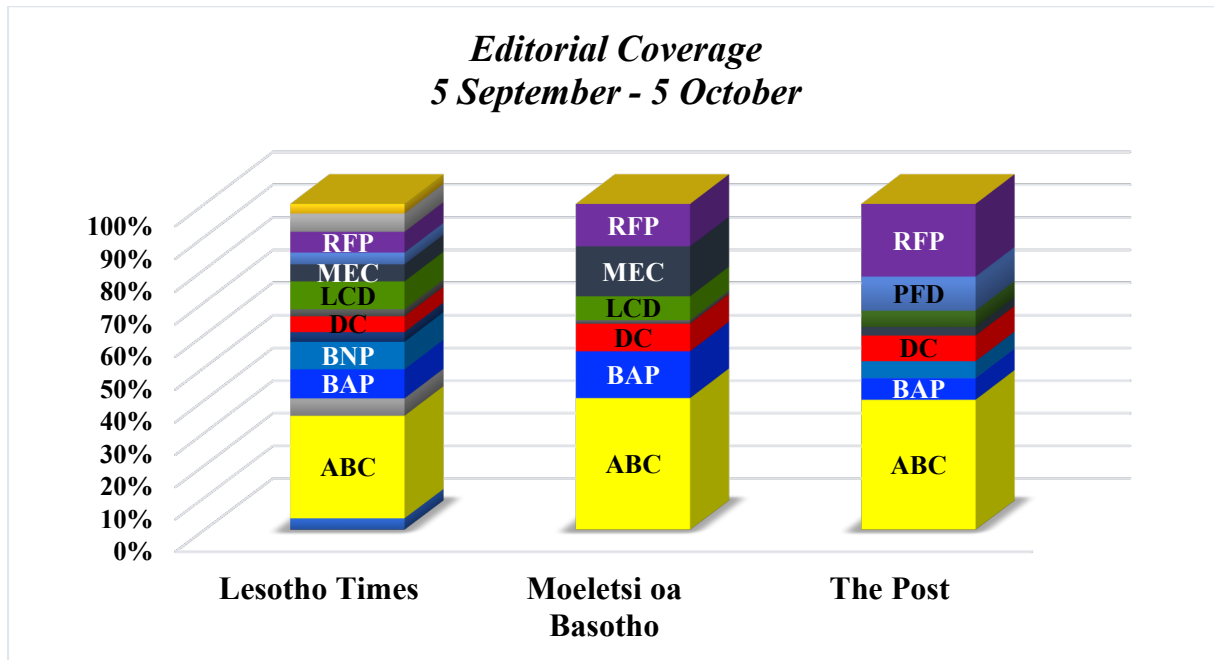
Radio Lesotho covered contestants exclusively in a positive tone in its news bulletins.



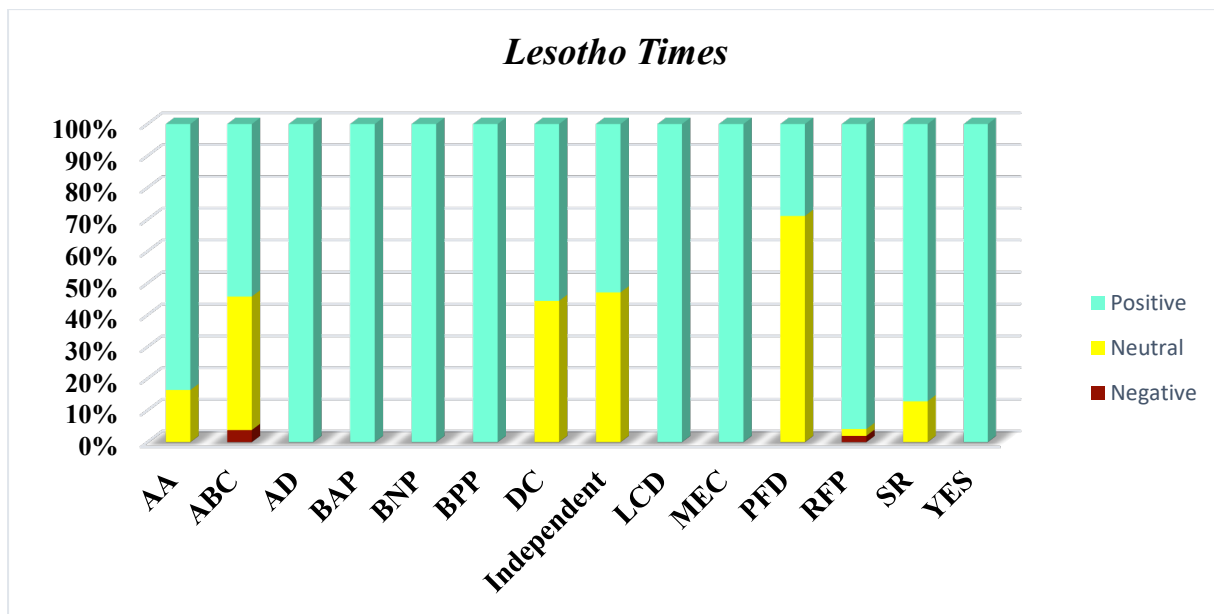


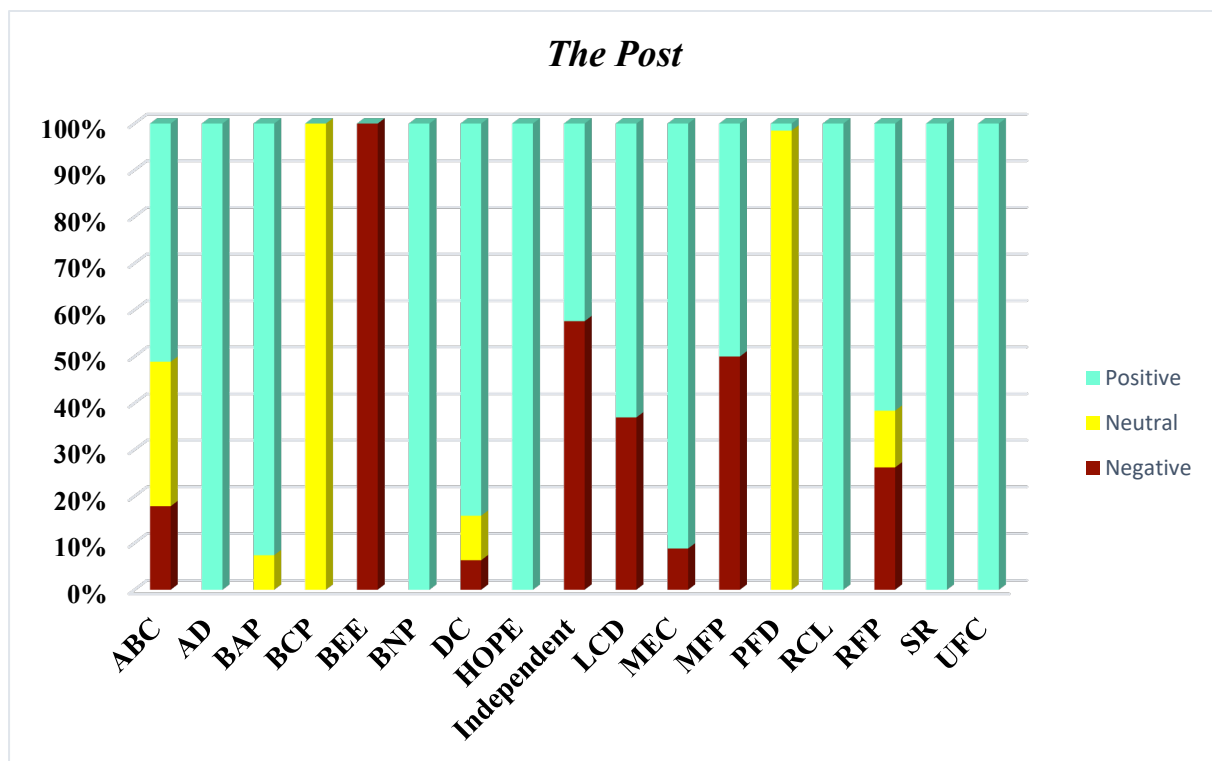
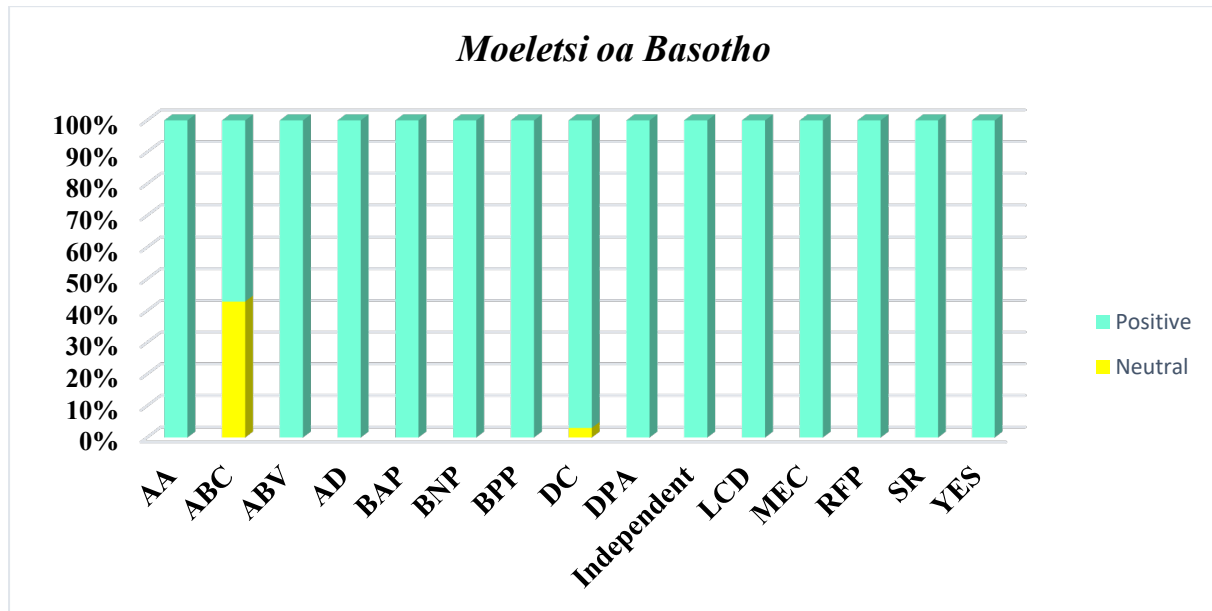
At times insufficient quality of recordings made a quantitative content analysis, the measuring of coverage devoted to political actors, not possible for the assessment of community radios.

**NEWSPAPERS**



The bar charts below show the tone of the coverage (positive, neutral, negative).





## XX. ANNEX 4 – SOCIAL MEDIA MONITORING FINDINGS

### 1. SOCIAL MEDIA ENVIRONMENT

#### Social Media Landscape in Lesotho 2022

Total population, internet and social media users in Lesotho as of January 2022

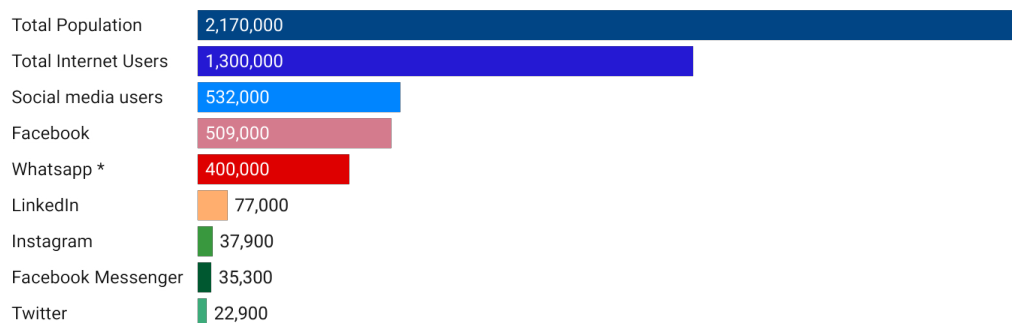


Chart: EU EOM Lesotho 2022 • Source: DataReportal January 2022 | Lesotho Post \* • Created with Datawrapper

#### Social Media Landscape in Lesotho 2022

Social media users in Lesotho per platform in January 2022, broken down by gender and age

Social media	Total users	% of total population	% male	% female	% Aged 13+
All platforms	532,000	25	46	55	34
Facebook	509,000	24	45	55	33
LinkedIn	77,000	4	42	58	6
Instagram	37,900	2	43	57	2
FB Messenger	35,300	2	47	54	2
Twitter	22,900	1	N/A	N/A	2

Table: EU EOM Lesotho 2022 • Get the data • Created with Datawrapper

## 2. EU EOM LESOTHO 2022 METHODOLOGY

The EU EOM Lesotho 2022 applied different and complementary approaches and techniques to analyse online platforms and to gather information on online election-related content.<sup>93</sup> These methods include quantitative and qualitative data analysis, legal analysis and meetings with relevant stakeholders. From 29 August till 12 October 2022, the EU EOM Lesotho 2022 systematically monitored 601 social media

<sup>93</sup> Monitoring messaging networks, such as WhatsApp, Telegram, Viber or Messenger are not included in the scope of the EU EOMs/EEM methodology due to data protection and privacy matters. However, EOMs may include relevant information coming from national and international credible organisations that specialise in monitoring online platforms and networks.

accounts of a selected sample of election and non-election contestants to capture key campaign trends across the main social media platforms (See Table below). The social media monitoring and data-scraping tools used were CrowdTangle, SentiOne, Tweetdeck and Twitonomy.

The EU EOM also monitored political advertising on Facebook through daily monitoring of the Facebook Meta Ad Library and the Facebook Meta Ad Library report in Lesotho. Other type of political advertising published in Facebook posts was also identified through manual observation and through launching specific searches in CrowdTangle.

**Social Media Accounts Monitored**

Sample of accounts	Facebook Pages	Facebook Groups	Twitter Accounts	Instagram Accounts	YouTube Accounts
Political Candidates	19		18	6	
Eight Political Parties (official)	8		8	4	4
Eight Political Parties (tv pages official)	5				
Eight Political Parties (supporters)	91	123			
57 political parties	47				
EMB (IEC)	1	3	1	1	1
Public Institutions	12		4	1	
International Organisations	6		8	3	4
CSOs	27		11	4	4
Social Media Influencers	35		50		
Official Media	17		15	7	4
Anonymous Media	41		5	2	1
<b>Total 601</b>	<b>309</b>	<b>126</b>	<b>120</b>	<b>28</b>	<b>18</b>

Table: EU EOM Lesotho 2022 - Created with Datawrapper

The EU EOM monitored a total of 151 pages and 123 groups linked to the 65 political parties registered with the IEC. Only a few of these pages were directly managed by the parties, while the rest were created and managed by individual supporters or by party members at constituency level. Political representatives were not fully aware of the exact number of official pages managed at constituency level. In this particular scenario with several Facebook pages linked to the political parties created in a decentralised way, it was not possible for the EU EOM to establish the exact number of official pages out of the 151 pages.

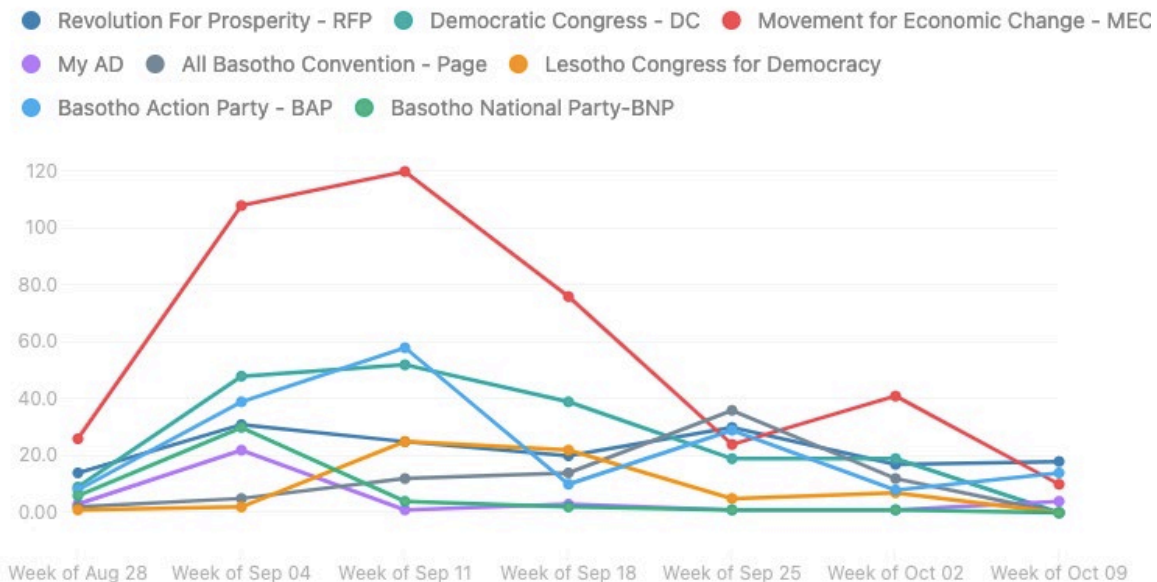
- For the reason above, the EU EOM identified and systematically monitored the eight official Facebook pages of the seven most prominent political parties with presence in Parliament (ABC, AD, BAP, BNP, DC, LCD, MEC) and RFP, referenced as “**Eight political party pages**” in this annex.
- The EU EOM systematically monitored the remaining 143 political party pages referenced in the charts as “**Other party pages**”. The monitoring lists for these pages were classified as follows:
  - 91 pages linked to the eight political parties (supporters and constituency level);
  - Five pages featuring TV channels of the eight political parties (official);
  - 47 pages linked to all other 57 political parties.

- From 29 August until 12 October, the EU EOM analysed a sample of 1,447 posts on Facebook published by election-contestants and non-election contestant pages and groups, both in English and in Sesotho. Posts were selected by choosing the overperforming ones from the different monitored lists in CrowdTangle on a weekly basis. The posts were manually classified by type of content, tone, topic and target of the content.
- Negative posts were then manually classified by type of content (negative campaigning -derogatory language – inflammatory language – hate speech), topic and target of the post.
- The EU EOM analysed **1,447 Facebook posts and 278 tweets** as follows:
  - **327 Facebook posts** published by the ‘‘eight political party pages’’
  - **278 tweets** published by the four most active political parties on Twitter
  - **214 Facebook posts** published by ‘‘Other party pages’’
  - **300 Facebook posts** published in Facebook groups (partisan and non-partisan)
  - **202 Facebook posts** on election-related information published by anonymous media pages
  - **360 Facebook posts** published by anonymous media pages on election day (07 October)
  - **44 Facebook posts** published by the IEC

### 3. ELECTION CONTESTANTS CAMPAIGN ONLINE



#### EIGHT POLITICAL PARTY PAGES FACEBOOK



From 29 August until 12 October 2022, the eight political parties published a total of 1,300 posts, with a weekly average of 23 posts. MEC was the most active political party in number of posts (486) followed by DC (189), BAP (175), RFP (160) and ABC (92). The week 11-19 September, MEC had a noticeable peak in activity



publishing 120 posts featuring rallies at different constituencies. The same week, BAP also increased its activity featuring its rallies with 58 posts.

### Type of content shared by eight political parties - Facebook

Over 1,300 posts were published from 29/08 till 12/10/2022

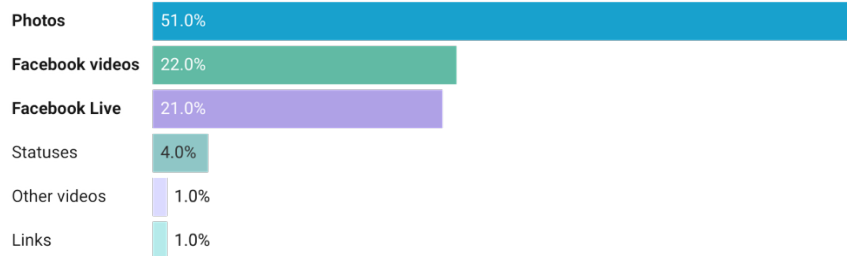


Chart: EU EOM Lesotho 2022 • Source: CrowdTangle • Created with Datawrapper

The majority of the posts were photos (656), Facebook videos (274) and Facebook live sessions (266), followed by statuses (48), other videos (9) and links (7).

### Type of content per political party - Facebook

Over 1,300 posts were published from 29/08 till 12/10/2022

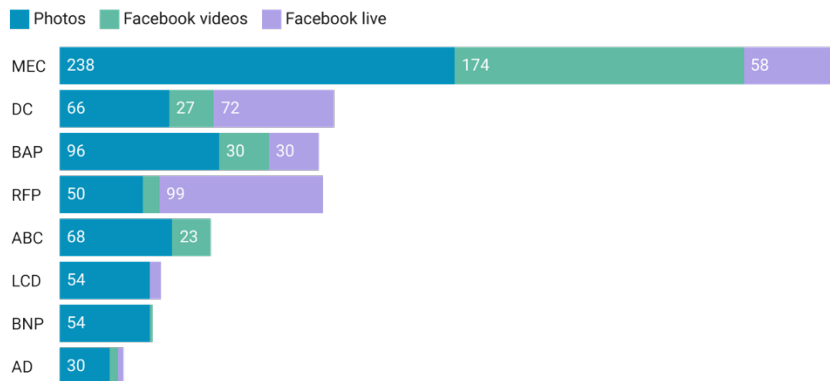


Chart: EU EOM Lesotho 2022. Data: CrowdTangle • Created with Datawrapper

MEC was the most active political party sharing photos (238) and Facebook videos (174). RFP was the most active one doing Facebook Live (99). BAP was the second most active party sharing photos (96) and Facebook videos (30), while DC was the second most active one doing Facebook live (72).

### Total interactions of eight political parties - Facebook

Over 1,300 posts were published from 29/08 till 12/10/2022



Chart: EU EOM Lesotho 2022 • Source: CrowdTangle • Created with Datawrapper

The Facebook pages of the eight political parties received a total of 301,200 interactions consisting of 234,593 reactions, 53,319 comments and 12,217 shares.

### Total interactions per political party - Facebook

Over 1,300 posts were published from 29/08 till 12/10/2022

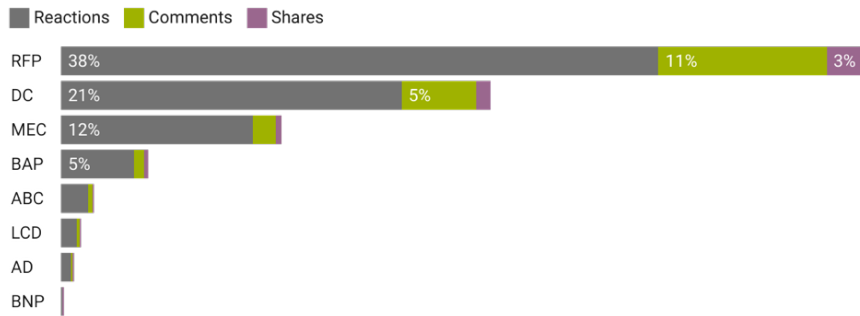
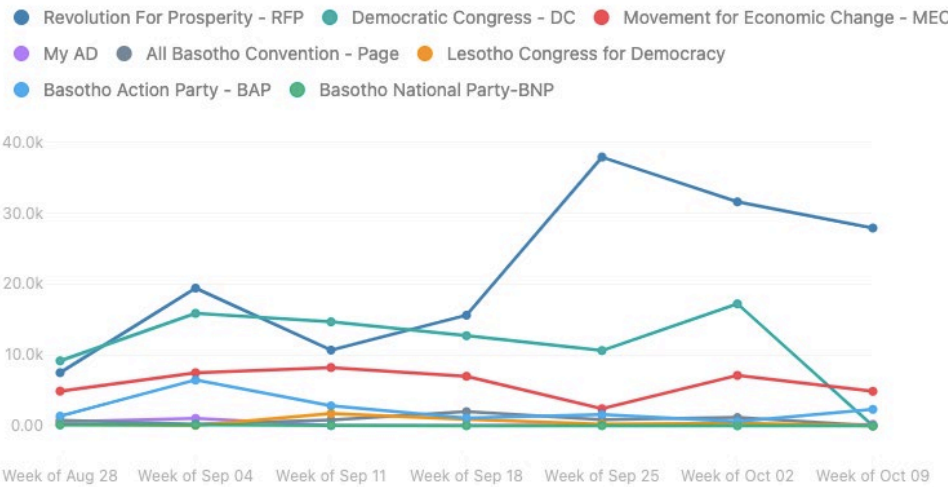


Chart: EU EOM Lesotho 2022 • Source: CrowdTangle • Created with Datawrapper

Despite not being the top publisher, RFP led in engagement with the highest number of interactions (150,600), almost doubling DC (80,200). This could be explained by a higher number of FB live, which is a more engaging content, and more interest by supporters in the party. MEC received few interactions (41,000), despite publishing the highest number of posts.



RFP achieved its highest peak in number of interactions the week of 01/10/22, with various videos and FB live of its more prominent rally: the ‘‘RFP Festival’’ (the most viewed video got 193,419 total views).

### Tone of posts - Eight political parties Facebook

The EU EOM analysed 327 posts from 29/08 till 07/10/2022



Chart: EU EOM Lesotho 2022 • Created with Datawrapper

The EU EOM analysed 327 posts published on the official Facebook pages of the eight political parties from 29 August until 7 October resulting in 314 with a positive tone, 11 neutral tone and two negative.

## Main topics eight political parties - Facebook

The EU EOM analysed 314 posts with positive tone from 29/08 till 07/10/2022

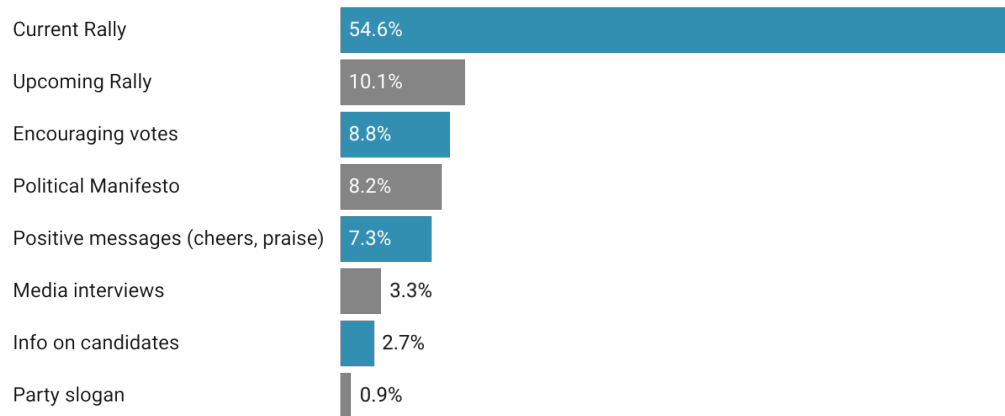


Chart: EU EOM Lesotho 2022 - Created with Datawrapper

The analysis of the 314 posts with a positive tone revealed that top topics shared were current rallies (178), followed by announcements of upcoming rallies (33), posts encouraging Basotho to vote for them (29), posts containing political manifestos (27), positive messages containing cheers and praise (24), announcements of media interviews (11), information about candidates (nine) and party slogans (three).

## Political Manifesto Main Topics - Facebook

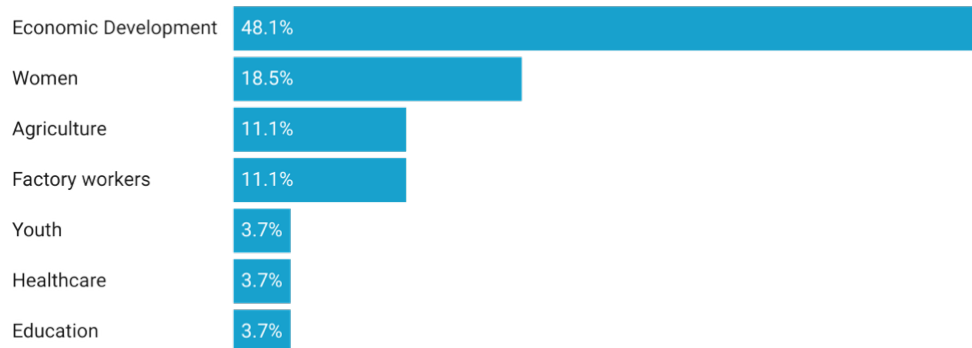


Chart: EU EOM Lesotho 2022 - Created with Datawrapper

The EU EOM analyses of the posts containing political manifestos revealed that the topics most mentioned were economic development (17), women empowerment (five), factory workers (three), agriculture (three), youth empowerment (one), education (one), and healthcare (one).

### Topics shared per each political party - Facebook

The EU EOM analysed 314 posts with positive tone from 29/08 till 07/10/2022.

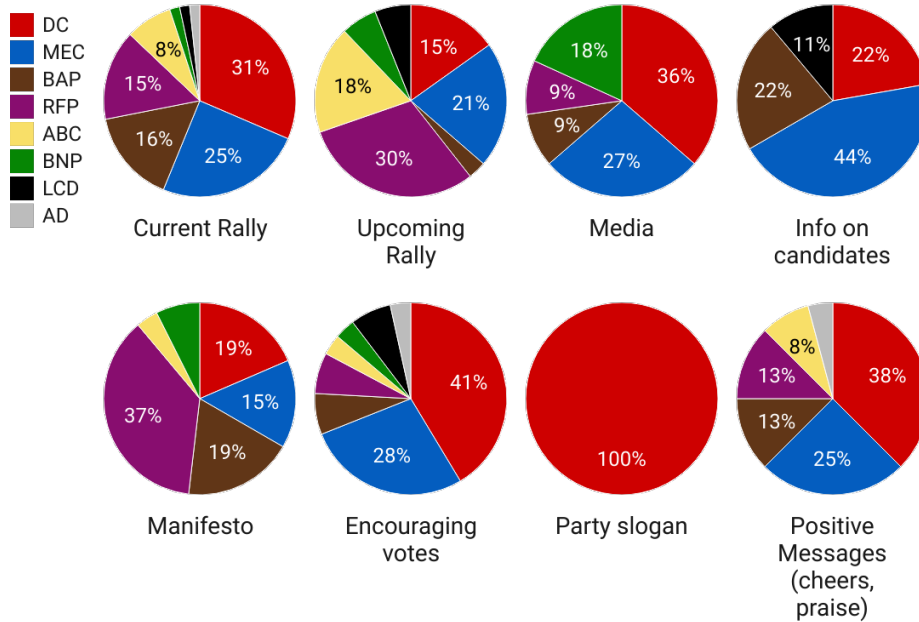


Chart: EU EOM Lesotho 2022. • Created with Datawrapper

### Follower growth eight political parties - Facebook

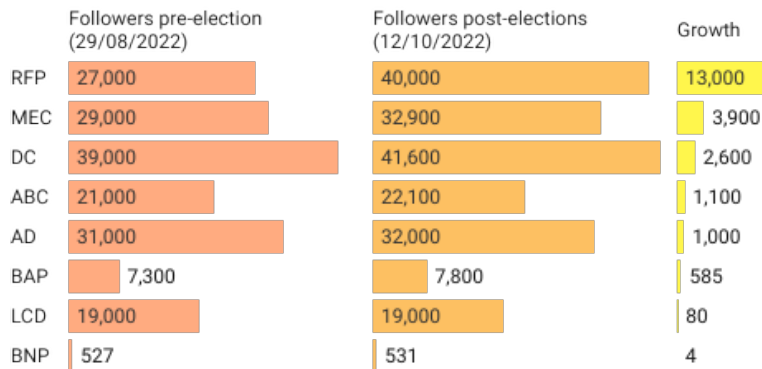


Chart: EU EOM Lesotho 2022 • Created with Datawrapper

RFP experimented a remarkable growth in followers after winning the elections.



## POLITICAL PARTIES TWITTER

The EU EOM analysed 278 tweets of the four most active political parties on Twitter (BAP, DC, MEC and RFP) resulting in all tweets having a positive tone.

### Main topics political parties - Twitter

The EU EOM analysed 278 tweets from 29/08 till 07/10/2022



Chart: EU EOM Lesotho 2022 • Source: Twitter • Created with Datawrapper

### Topics shared per political party - Twitter

The EU EOM analysed 278 tweets from 29/08 til 07/10/2022

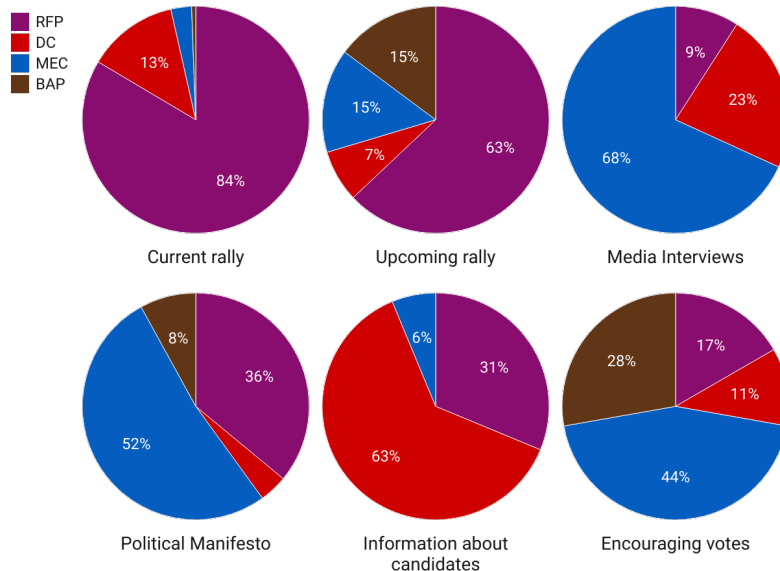


Chart: EU EOM Lesotho 2012 • Created with Datawrapper

### Follower growth per political party - Twitter

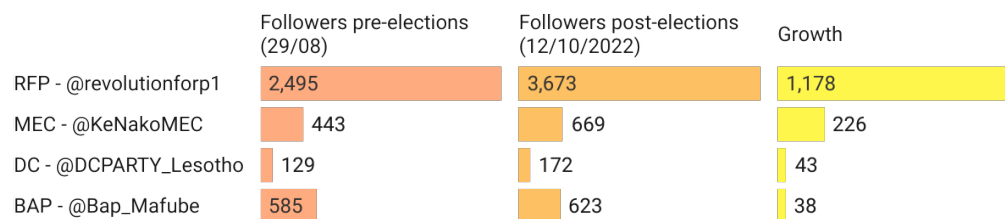


Chart: EU EOM Lesotho 2022 • Created with Datawrapper



## OTHER PAGES LINKED TO POLITICAL PARTIES

The EU EOM monitored other 143 Facebook Pages linked to the 65 parties registered with the IEC. Among them were 96 pages linked to the eight political parties and 47 pages linked to all other parties. The EU EOM analysed 214 posts resulting in 203 with a positive tone, 7 neutral and four with a negative tone.

### Tone of posts - Other party pages Facebook

The EU EOM analysed 214 posts from 29/08 till 07/10/2022

Positive Neutral Negative



Chart: EU EOM Lesotho 2022 - Created with Datawrapper

### Main topics other party pages - Facebook

The EU EOM analysed 203 posts with positive tone from 29/08 till 07/10/2022

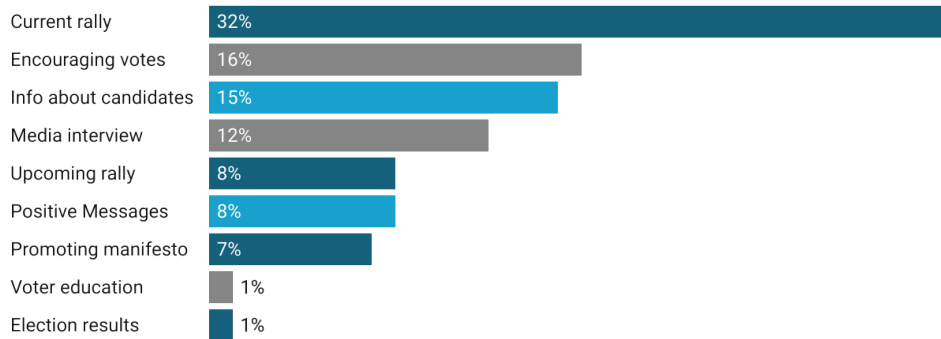


Chart: EU EOM Lesotho 2022 - Created with Datawrapper

### Topics per each political party - Other party pages Facebook

The EU EOM analysed 203 posts with a positive tone from 29/08 till 07/10/2022

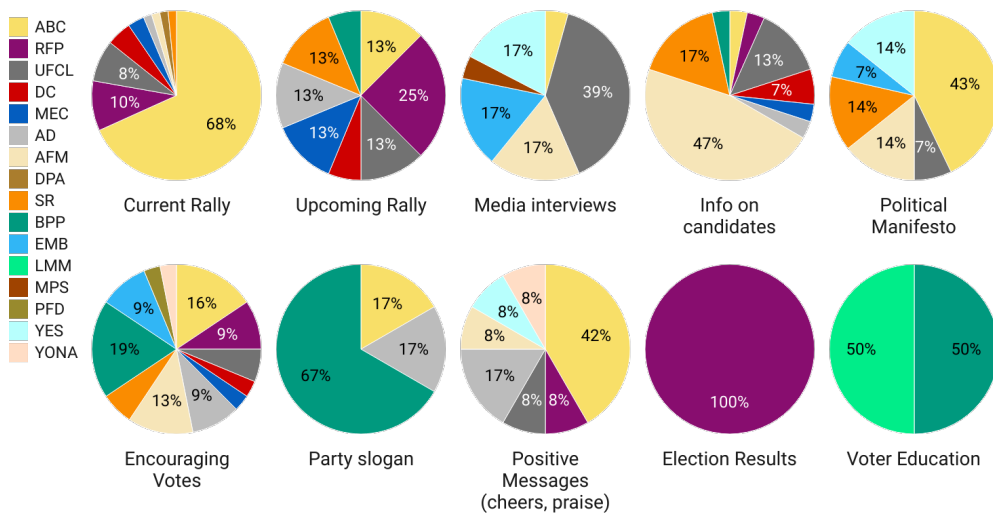
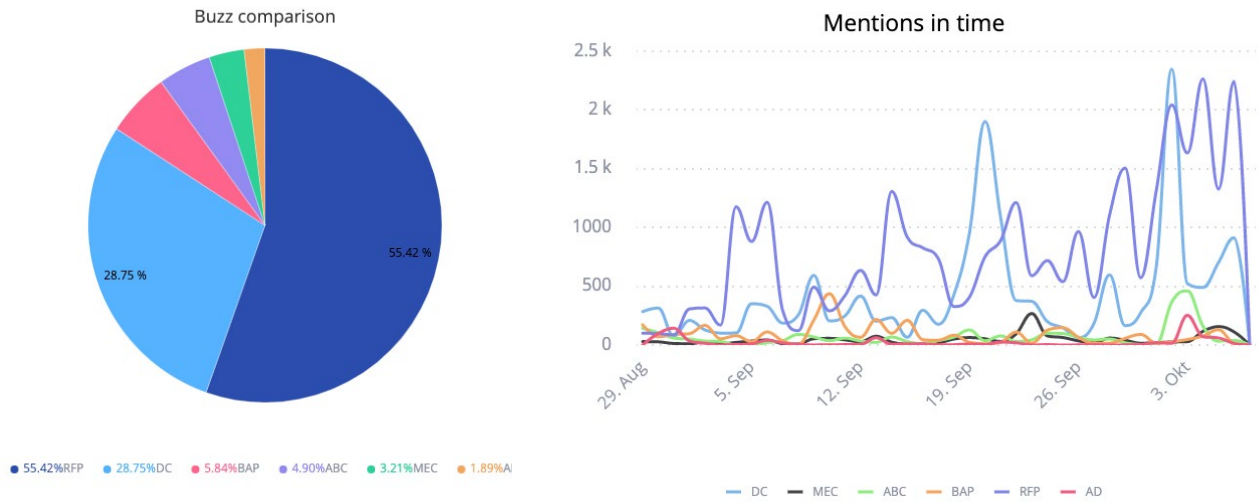


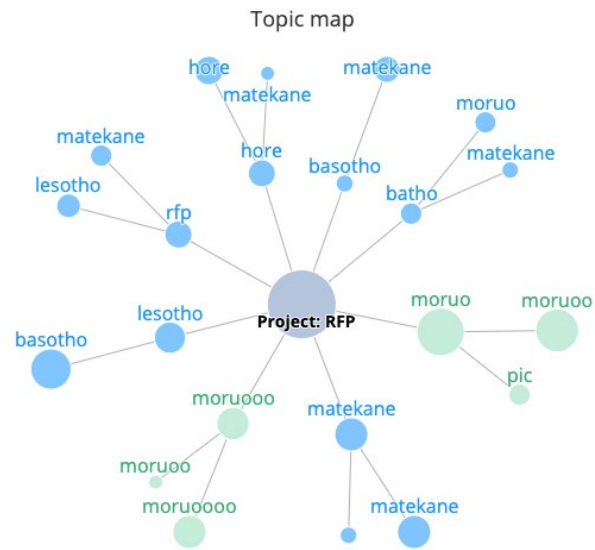
Chart: EU EOM Lesotho 2022 - Created with Datawrapper

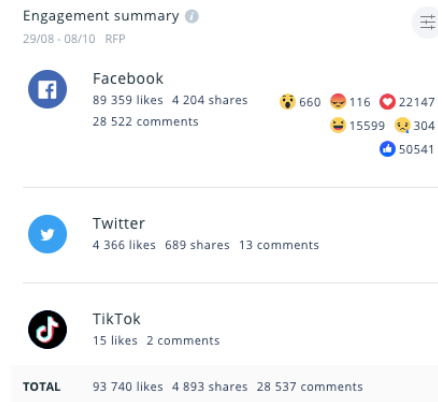
**BUZZ COMPARISON OF EIGHT POLITICAL PARTIES ON SOCIAL MEDIA**



From 29 August till 07 October, RFP was the most mentioned political party on social media platforms (33,798 mentions), followed by DC (17,533), BAP (3,561), ABC (2,986) and MEC (1,955). Over the monitoring period, RFP led in number of mentions except for two occasions when it was surpassed by DC. On 20 September (1,904 mentions) and on 2 October (2,348 mentions), DC led the conversation on social media with mentions on the DC star rally, #VoteDC and Potoana.

RFP topic map showed that the most important words used around the party in the online conversation were positive and neutral in tone, with mostly references to RFP Leader ‘Matekane’, the party slogan ‘Moruo’ (wealth), ‘Lesotho’ and ‘Basotho’.





RFP was the political party with the highest engagement on social media platforms achieving a total of 93,740 likes, 4,366 shares and 28,537 comments in the three platforms Facebook, Twitter and Tik Tok.

#### 4. ELECTION-RELATED INFORMATION SHARED BY NON-CONTESTANTS

**FACEBOOK GROUPS:** The EU EOM monitored 123 supporter groups on Facebook from 29 August until 12 October 2022, publishing a total of 154,400 posts. The EU EOM analysed 300 posts containing election-related information, resulting in 143 with a positive tone, 112 negative and 43 neutral. Out of the 112 negative posts, the Mission identified 85 posts containing negative campaigning, 26 posts containing derogatory language and one case of inflammatory language. Among the 26 cases of derogatory language were 15 insults, 4 criticism and 7 accusations, mostly targeting RFP and its leader. Also, one case of inflammatory language against RFP was identified.

##### Tone of posts - Facebook Groups

The EU EOM analysed 300 posts from 29/08 till 12/10/2022



Chart: EU EOM Lesotho 2022 • Created with Datawrapper

##### Negative posts - Facebook Groups

The EU EOM analysed 112 negative posts from 29/08 till 12/10/2022



Chart: EU EOM Lesotho 2022 • Created with Datawrapper



### Political parties most targeted by negative posts- Facebook Groups

The EU EOM analysed 112 negative posts from 29/08 till 12/10/2022



Chart: EU EOM Lesotho 2022 • Created with Datawrapper

### Derogatory Language per topic and per political party - Facebook Groups

The EU EOM analysed 26 cases of derogatory language from 29/08 till 12/10/2022

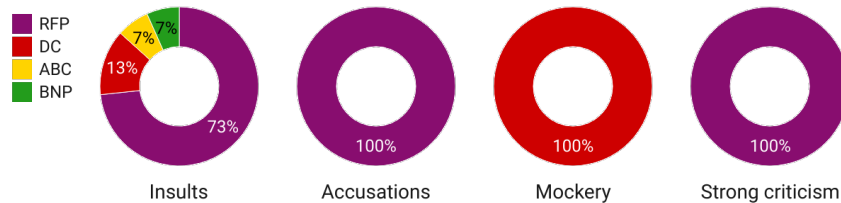


Chart: EU EOM Lesotho 2022 • Created with Datawrapper

**ANONYMOUS MEDIA FACEBOOK PAGES:** The EU EOM monitored 41 anonymous media pages on Facebook from 29 August until 7 October 2022, publishing 13,400 posts. Out of the top 700 overperforming posts, the mission analysed 202 election-related information posts resulting in 82 in positive tone, 79 negative and 41 in neutral tone. Out of the 79 negative posts, the Mission identified 70 posts containing negative campaigning against the different parties, seven posts containing derogatory language and two cases of inflammatory language. Among the seven cases of derogatory language were three insults, two criticism and 1 accusation, mostly targeting RFP and its leader. Also, two cases of inflammatory language against ABC and the Prime Minister were identified.

### Tone of posts - Anonymous media pages Facebook

The EU EOM analysed 202 posts between 29/08 till 07/10/2022



Chart: EU EOM Lesotho 2022 • Created with Datawrapper

## Negative posts - Anonymous media pages Facebook

The EU EOM analysed 79 negative posts from 29/08 till 07/10/2022



Chart: EU EOM Lesotho 2022 • Created with Datawrapper

## Negative posts per topic and per political party - Anonymous media pages Facebook

The EU EOM analysed 79 negative posts from 29/08 till 07/10/2022

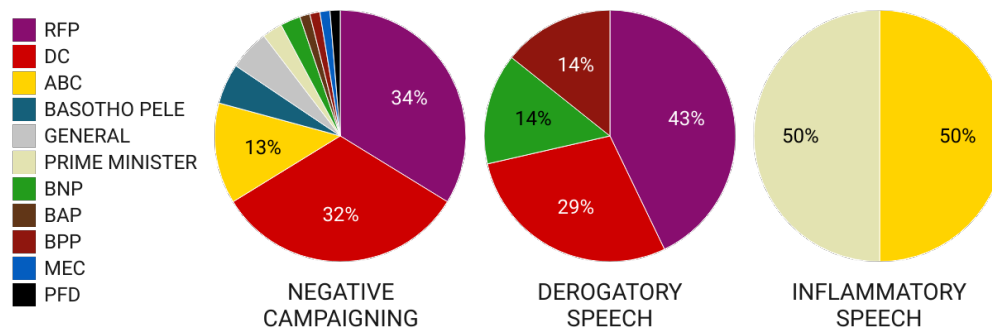


Chart: EU EOM Lesotho 2022 • Created with Datawrapper

## 5. ELECTION MANAGEMENT BODY (IEC)

The Independent Elections Commission (IEC) published official election-related information on its Facebook page (@IEC Lesotho). The page, created on 4 November 2013, was classified as a local business. The IEC also had three Facebook groups. IEC Twitter account (@LesothoIec) was inactive since 2017. All accounts had the IEC spokesperson as the admin.

The IEC Facebook page was gated. This means that it was not completely public and the EU EOM could not track its data using social media monitoring tools.

From 29 August until 18 October 2022, the EU EOM identified 44 posts published on IEC Facebook page, of which 64 per cent were on voter education and information. IEC posts used no hashtags and almost no captions. IEC also created an online event for election day which was pinned to the top of the page.

Out of the three IEC official Facebook groups monitored, two had commenting turned off and shared the same content as the IEC official page with a total of 37 posts (IEC AND MEDIA STRIVING FOR FREE AND FAIR ELECTIONS and I.E.C. Lesotho towards striving for free and fair elections). The third group was open for the public to post.

### Language Facebook posts

From 29/08 till 18/10/2022, IEC published 44 Facebook post. Over 64 per cent were in Sesotho language and 36 per cent in English

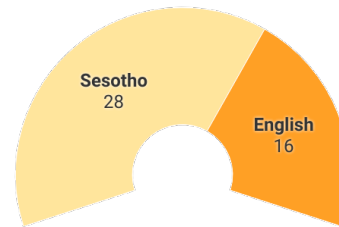


Chart: EU EOM Lesotho 2022 • Created with Datawrapper

### IEC posts - Facebook

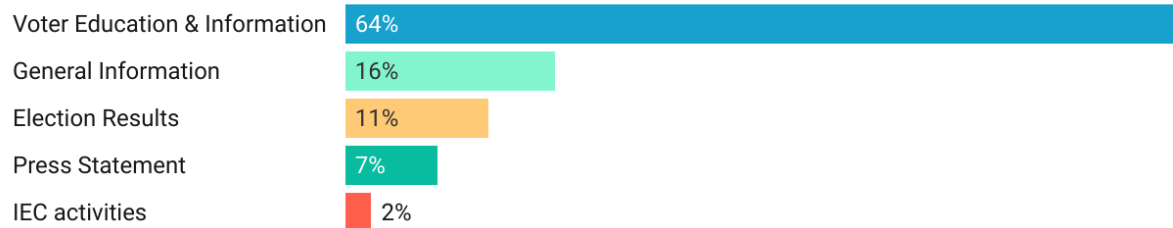
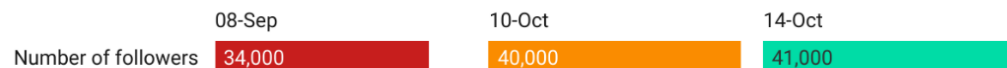


Chart: EU EOM Lesotho 2022. From 29 August until 18 October, IEC published 44 postson Facebook • Created with Datawrapper

### IEC FOLLOWER EVOLUTION



Created with Datawrapper

## 6. ELECTION INTEGRITY

The EU EOM identified some cases of misinformation/disinformation, mostly posts created and shared by individual accounts that did not spread exponentially. The EU EOM did not identify specific harmful narratives impacting the overall integrity of the elections, nor any inauthentic manipulated behaviour on online platforms.

The EU EOM monitored 41 anonymous news and media pages on Facebook which published at times misleading content. On election day, the Mission analysed 360 posts published by unofficial media and identified 81 posts giving election results before the official results were announced by the IEC. However, the monitoring concluded that 70 posts (86%) were accurate and 11 were inaccurate (14%). See Chart below. The inaccurate results were

shared 942 times, a number that doubles the shares of the posts with accurate results (447), and received 10,200 interactions, including 3,089 comments.

According to this analysis, the level of misleading content published by anonymous media pages on Facebook, while present, was not big enough to negatively affect the integrity of the elections.

### Pre-election results - Anonymous media pages Facebook

The EU EOM analysed 81 posts on election day (07/10/2022) announcing results before the official IEC results were published.



Chart: The EU EOM Lesotho 2022 • Source: EU EOM • Created with Datawrapper

### Unverified claims - Facebook Groups & anonymous media pages

The EU EOM analysed 502 posts and identified 52 cases of unverified claims from 29/08 till 07/10/2022

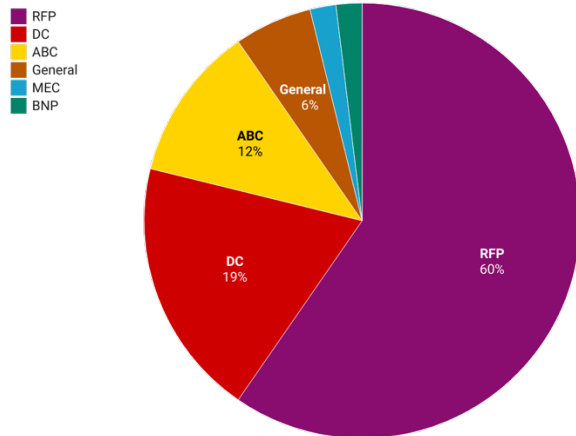


Chart: EU EOM Lesotho 2022 • Created with Datawrapper

The EU EOM identified 52 posts (10.4 per cent) containing misleading or false information categorized as “unverified claims” out of 502 posts analysed from 123 public groups and 41 anonymous media news pages on Facebook.

RFP was the most targeted party with 31 posts (60 per cent), followed by DC with 10 posts (19 per cent) and ABC with six posts (12 per cent). Some of these posts contained accusations to discredit RFP leader such as “DC supporters say RFP leader is a greedy killer who murdered his wife’s boyfriend.” However, specific searches using keywords in CrowdTangle showed that none of the “unverified claims” went viral on social media.

The EU EOM identified 31 cases of misleading or false information categorized as “unverified claims” (10 per cent) out of 300 posts analysed from Facebook Groups.

Most of them were targeted towards RFP with 24 posts (77 per cent), followed by DC with four posts (13 per cent). The EU EOM identified the Facebook groups [MOCHONONO NEWS SUPPORTERS](#) (162k), [Revolution For Prosperity \(RFP\) likhethong 2022](#), (97 k) and [PARAMENTENG EA LESOTHO](#) (120k) as the ones containing most negative statements against RFP Leader Matekane. Within these groups, the EU EOM identified three Facebook profiles created between July and September 2022 actively discrediting RFP Leader Matekane accusing him of being “cruel” and “killer”.

**Unverified Claims - Facebook Groups**

The EU EOM identified 31 cases of unverified claims from 29/08 till 07/10/2022

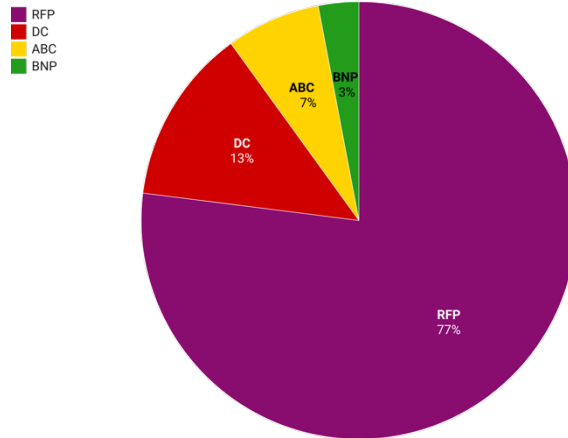


Chart: EU EOM Lesotho 2022 - Created with Datawrapper

**Unverified claims - Unofficial media Facebook**

The EU EOM identified 21 cases of unverified claims from 29/08 till 02/10/2022

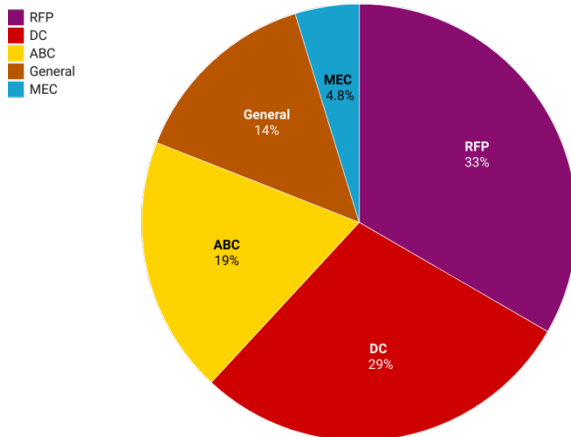


Chart: EU EOM Lesotho 2022 - Created with Datawrapper

The Mission identified 21 cases of misleading or false information categorized as “unverified claims” out of 202 election-related posts published by 41 anonymous media news pages on Facebook.

RFP was the main target with 7 posts (33 per cent), followed by DC with six posts, ABC with four posts, general with three and MEC with one.

## 7. POLITICAL ADVERTISING ON SOCIAL MEDIA

### FACEBOOK AD LIBRARY

#### Amount spent Facebook Ad Library

Data from 29 August till 07 October 2022

Page	Amount Spent (ZAR)
<b>Restoring the Nation's Hope &amp; Dignity (5 ADS)</b>	ZAR 1,296
<b>Revolution For Prosperity Malimong#22 (2 ADS)</b>	ZAR 898
<b>MEC Hlotse#13 (1 AD)</b>	ZAR 100
<b>Total</b>	ZAR 2294

Table: EU EOM Lesotho 2022 • Created with Datawrapper

From 29 August 2022 until 12 October 2022, the EU EOM identified **10 political ads**. Two ads were published from the page of the party YONA, but they did not provide full details on spending.

Other eight ads were published from: **Restoring the Nation's Hope & Dignity**, community page campaigning for DC (five ads at EUR 69 approx.); **Revolution For Prosperity Malimong#22**, constituency page supporting RFP (two ads at EUR 50 approx.) and **MEC Hlotse #13**, constituency page campaigning for MEC (one ad at EUR 6 approx.). The total spending for the eight ads was EUR 128 approx.

#### Total Impressions of Ads

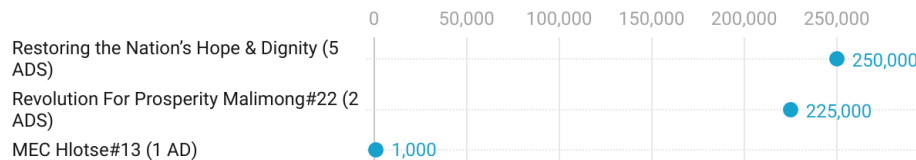


Chart: EU EOM Lesotho 2022 • Created with Datawrapper

### “PAID POSTS” IN ANONYMOUS MEDIA PAGES ON FACEBOOK

#### Number of paid posts per political party in unofficial media - Facebook

Data from 29 August till 07 October 2022.

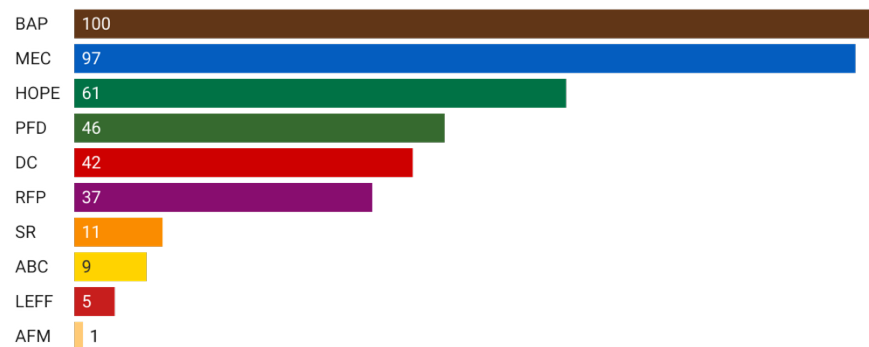


Chart: EU EOM Lesotho 2022 • Created with Datawrapper

The EU EOM identified over 409 “paid posts” featuring political advertisement on anonymous news and media pages on Facebook.

From 29 August till 12 October 2022, searches were launched through CrowdTangle for each of the seven most prominent political parties with presence in Parliament and the RFP, using the following keywords:

[Papatso (advert) + name of political party], [Paid Advert + name of political party], [Ilefelletsoe PFD (paid advert) + name of political party] and [Papatso kanana\_ea\_basotho + name of political party].

## NUMBER OF PAID POSTS BY PARTY PER PAGE - FACEBOOK

Paid posts by parties from 29 August till 07 October 2022.

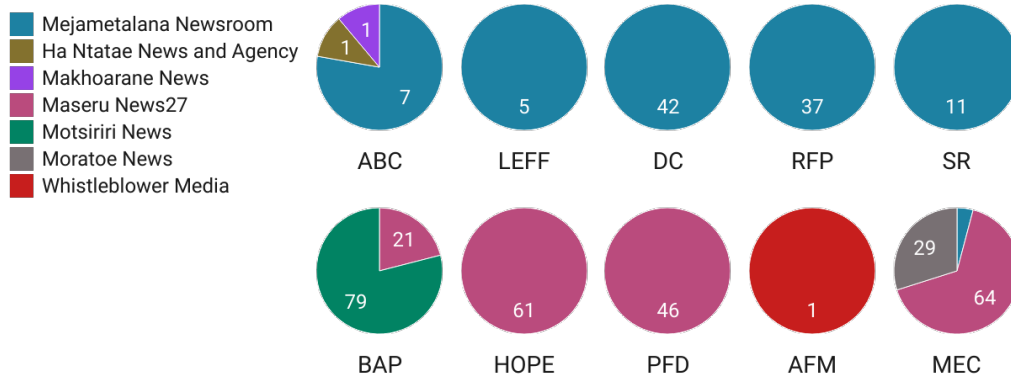


Chart: EU EOM Lesotho 2022 - Created with Datawrapper

