EISA INTERNATIONAL ELECTION OBSERVER MISSION REPORT

THE GAMBIA

PRESIDENTIAL ELECTIONS

4 DECEMBER 2021

EISA INTERNATIONAL ELECTION OBSERVER MISSION REPORT No 71
This project was supported by the Embassy of Sweden
EISA INTERNATIONAL ELECTION OBSERVER MISSION
REPORT

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ACRONYMS AND ABBREVIATIONS

ACDEG  African Charter on Democracy, Elections and Governance
AFPRC  Armed Forces Provisional Ruling Council
APRC  Alliance for Patriotic Reorientation and Construction
AU  African Union
CA  Citizens’ Alliance
CEDAW  Convention on the Elimination of All Forms of Discrimination against Women
CRC  Constitutional Review Commission
CPRW  Convention of the Political Rights of Women
CRPD  The Centre for Research and Policy Development
CSOs  Civil Society Organisations
DCA  Democratic Congress Alliance
DoP  Declaration of Principles for International Election Observation
DP  Gambia Democratic Party
ECOWAS  Economic Community of West Africa
EISA  Electoral Institute for Sustainable Democracy in Africa
EMBs  Election Management Bodies
FPTP  First-Past-The-Poll
GDC  Gambia Democratic Congress
GFD  Gambia Federation of the Disabled
GMC  Gambia Muslim Congress
GMD  Gambian Dalasi
GNA  Gambian National Army
GPP  Gambia People’s Party
GPF  Gambia Police Force
GPU  Gambia Press Union
GRTS  Gambia Radio and Television Services
ICA  Information and Communications Act
ICC  International Criminal Court
IEC  Independent Electoral Commission
IEOM  International Election Observation Mission
IPC  Inter Party Committee
NCC  National Consultative Committee
NCCE  National Council for Civic Education
NCP  National Convention Party
NHRC  National Human Rights Commission
NPP  National People’s Party
NSC  National Security Council
NSP  National Security Policy
NUP  National Unity Party
NYC  National Youth Council
PAM  Pre-Election Assessment Mission
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Name</th>
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<tr>
<td>PDOIS</td>
<td>People's Democratic Organisation for Independence and Socialism</td>
</tr>
<tr>
<td>PEMMO</td>
<td>Principles for Election Management, Monitoring and Observation</td>
</tr>
<tr>
<td>PIEC</td>
<td>Provincial Independent Electoral Commission</td>
</tr>
<tr>
<td>PPP</td>
<td>Protectorate People’s Party, later changed to People’s Progressive Party</td>
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<tr>
<td>PRTD</td>
<td>Programme of Ratification and Transition to Democratic Rule</td>
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<td>PURA</td>
<td>Public Utilities Regulatory Authority</td>
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<tr>
<td>PWDs</td>
<td>People with Disabilities</td>
</tr>
<tr>
<td>RECs</td>
<td>Regional Economic Communities</td>
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<tr>
<td>REO</td>
<td>Regional Electoral Officer</td>
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<tr>
<td>RO</td>
<td>Returning Officer</td>
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<tr>
<td>SSR</td>
<td>Security Sector Reform</td>
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<td>STO</td>
<td>Short Term Observers</td>
</tr>
<tr>
<td>TANGO</td>
<td>The Association of Non-Governmental Organisations</td>
</tr>
<tr>
<td>TRRC</td>
<td>Truth, Reparations and Reconciliation Process</td>
</tr>
<tr>
<td>UDP</td>
<td>United Democratic Party</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UP</td>
<td>Gambia United Party</td>
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<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
</tr>
<tr>
<td>USD</td>
<td>United States Dollar</td>
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<td>WANEP</td>
<td>West African Network for Peacebuilding</td>
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ACKNOWLEDGEMENTS

The International Election Observation Mission (IEOM) of the Electoral Institute for Sustainable Democracy in Africa (EISA) to the presidential election in The Gambia would not have been possible without the assistance and support of the following individuals and institutions.

The mission leader, His Excellency John Dramani Mahama, former president of the Republic of Ghana, and his deputy; Mr. Baidessou Soukolgue, EISA’s Executive Director; the international observers who represented civil society organisations (CSOs); election management bodies (EMBs); academia; and regional economic communities (RECs) from around the continent.

The stakeholders whose interaction provided invaluable information and support necessary for the success of the mission, are: the Independent Electoral Commission (IEC); the Gambia Police Force; presidential candidates; National Human Rights Commission (NHRC); the Gambia Press Union (GPU); civil society organisations (CSOs); West African Network for Peacebuilding (WANEP); and the CSO Coalition on Elections.

The EISA IEOM met other international observer missions from the Africa Union (AU); the Economic Community of West Africa (ECOWAS); the Commonwealth; European Union (EU); and the West African Elders Forum (WAEF).

The mission would also like to thank the EISA staff team and the technical team that supported the mission. The EISA staff team comprised Dipti Bava, Pontsho Motaung, Riana Henley, and Mapitsi Raphala. The technical team comprised Justin Goré Doua, Lenny Taabu, and Magdalena Kieti.

The deployment of the EISA IEOM was made possible by the generous financial contribution of the Embassy of Sweden.
EXECUTIVE SUMMARY

The Electoral Institute for Sustainable Democracy in Africa (EISA) deployed an international election observation mission (IEOM) to the presidential election held in The Gambia on 4 December 2021. The mission was led by His Excellency, Mr John Dramani Mahama, former president of the Republic of Ghana. Mr. Baidessou Soukolgue, EISA’s executive director, was the deputy mission leader. The delegation comprised 15 international observers drawn from civil society organisations (CSOs), election management bodies (EMBs), academia, and regional economic communities (RECs) from around the continent. The IEOM was in the country from 24 November to 09 December 2021.

The EISA IEOM’s assessment methodology is guided by its commitments as an endorser of the Declaration of Principles for International Election Observation (DoP) and its attendant code of conduct for international observers. The IEOM assessed the extent to which the legal framework and procedures in the 2021 electoral process complied with The Gambia’s commitments and obligations set out in the following international instruments: the OAU/AU Declaration on the Principles Governing Democratic Elections; the African Charter on Democracy, Elections and Governance (ACDEG); the Principles for Election Management, Monitoring and Observation (PEMMO), Economic Community of West Africa (ECOWAS) Protocol on Democracy and Good Governance (A/SP1/12/01), and the national legal framework for elections in The Gambia.

During their deployment, the observers monitored several activities to gather information on key pre-election issues and to gather the perspectives of stakeholders on the process. Before election day, the IEOM engaged with key electoral stakeholders, including the Independent Electoral Commission (IEC), the Gambia Police Force (GPF), the Gambia Press Union (GPU), National Human Rights Commission (NHRC), presidential candidates, political analysts, and civil society organisations (CSOs). They also attended party campaigns. On election day, seven teams of observers visited 95 polling stations across the six regions in the country.
Summary of the findings:
The elections were guided by a constitutional and legal framework which is not fully in line with international and regional standards for democratic elections. It was observed that:

- The 2021 presidential elections were the first to be held since the defeat of former President Jammeh, who had ruled the county for 22 years. The elections were conducted during the COVID-19 pandemic. This did not however impact on the elections.

- The elections were held against the backdrop of ongoing reforms in the country. The EISA IEoM noted that despite progress in initiating reforms, some of them remained incomplete at the time of the 2021 election. Despite these shortcomings, the mission applauded the establishment of the National Human Rights Commission (NHRC) to promote and protect human rights. It also noted the enactment of an Access to Information law.

- The mission noted that as a result of the stalled constitutional and electoral review process, the legal framework remained largely unchanged. Few amendments were made in regard to nomination fees and the legal retirement age of Supreme Court judges.

- The voter registration process was not fully inclusive as it did not provide for the enfranchisement of Gambians in the diaspora, despite a court ruling that had ordered the IEC to provide for their registration. The legality and validity of the authority given to the mayor of Banjul to issue attestations for registration purposes was also challenged. While the High Court ruled that the mayor lacked the powers to issue attestations, voter cards issued on the basis of attestations were not cancelled.

- The registration process yielded a minimal increase compared to the voting age population of The Gambia. The number of unregistered eligible voters stood at 335,450, comprising 25.85% of the total eligible voters. In addition, there was an 8.5% increase in registered voters over a five-year period compared to the total population of 2,416,664 and median age of the population, which is 17 years.

- An enforceable IEC Code of Campaign Ethics for political parties was signed by all political parties and candidates. Campaigns were largely peaceful, and parties upheld their commitment to the IEC Code of...
Campaign Ethics. However, the legal framework does not provide for the regulation of campaigns.

- There was a surge in the number of registered political parties. This was despite some registration restrictions, including high registration costs at one million Dalasi (approximately 19100 USD),¹ which were introduced through amendments in 2015 to the Elections Act of 1996.
- The majority of the aspirants (15 out of 21) were disqualified for lack of compliance with the requisite requirements during the nomination process. Three disqualified aspirants sued the IEC. While the court ruled in their favour, they were not allowed to take part in the elections.
- Broadening democratic space allowed for the vibrant participation of civil society organisations (CSOs) throughout the electoral period. While numerous voter education activities were undertaken by various stakeholders, the high number of disqualified candidates signified a limited understanding of and education on the nomination process.
- The widening democratic space also allowed for an active media. Despite a limitation in the legal framework, press freedom was largely guaranteed and enforced during the election period.
- The Gambian Police Force (GPF) were professional in their duties and their conduct largely contributed to the peaceful environment witnessed during the electoral period. To a large extent they protected the right of security of the person in accordance with the law.
- The trust that the IEC had enjoyed among stakeholders, particularly since the 2016 elections, was impacted by the lack of adherence to law as attested by the various court rulings. The mission noted that the Commission has a wide mandate with a lean staff, coupled with funding challenges. Despite these shortcomings, the IEC was able to deliver on its mandate without major hitches.
- Election day procedures were undertaken in accordance with the procedures as laid down in all polling stations visited by the IEOM. Election day was generally peaceful and orderly. The post-election period saw a few protests following the announcement of election results and subsequent rejection by three opposition candidates. These were effectively handled by the police.

¹ Average exchange rate for December 2021
Election results were disputed by three opposition candidates with one of them, Ousainou Darboe of the UDP, petitioning the Supreme Court against the re-election of President Barrow. The petition was however dismissed on a technicality as the court ruled that the petitioner had not followed the correct procedures in presenting his petition.

The mission offers the following recommendations for the improvement of future elections:

**Government of the Republic of the Gambia**

1. To revisit the constitutional review process in order to address the gaps in the legal framework for elections. These include the following considerations:

   - Introducing presidential term limits.
   - Regulating campaign financing by providing for ceilings and disclosure clauses to level the playing field in political contests.
   - Amending or repealing some parts of the Criminal Code and Information and Communication Act, especially those related to sedition, criminalisation of libel and spreading of false news, in order to protect freedom of speech as well as to align the law to international standards.
   - Public funding of political parties and campaigns.
   - Reviewing the suitability of the current FPTP system and considering a majority system (50%+1) as an alternative.
   - Responding to calls for fundamental reforms of the Elections Act in line with regional and continental standards.
   - Providing for affirmative action to promote the participation and representation of vulnerable and underrepresented groups such as women, youth and PWDs.

2. To implement the TRRC report recommendations to ensure justice and restitution for the victims of Jammeh’s era.

3. To fast track the implementation of security sector reforms and the report of the Anti-corruption Commission. Also, to consider the establishment of a permanent Anti-corruption Commission.
IEC

To consider:

- Putting in place the requisite mechanisms to allow for diaspora voting.
- Adjusting and extending the timelines between various electoral activities, especially between nomination and the start of campaigns, to ensure adequate time is granted for exhaustive dispute resolution for those who feel that their rights have been violated.
- Putting in place provisions to ensure that all professionals on official election duty, other than IEC staff, have the right to vote.
- Restructuring the Commission’s organisation to include legal and communication departments with dedicated staff. This will address litigation, compliance and communication gaps, ultimately enhancing the capacity of the IEC.
- Enhancing civic and voter education on the nomination procedures and requirements to ensure that candidates have a better understanding of the process thus minimising the number of disqualifications.
- Enhancing communication with stakeholders as a means of enhancing transparency not only between the Commission and stakeholders but also in the entire electoral process.

Political Parties

- To promote the participation of underrepresented groups including women, youth and PWDs in decision-making organs within the party. This will prepare them for elective positions.

Civil Society

- Ensure targeted civic and voter education, especially with regard to the rights of the underrepresented groups including women, youth and PWDs. This will increase their chances of participation and of being elected.
- Undertake a holistic civic and voter education exercise to ensure that citizens have an understanding of each of the processes throughout the electoral cycle.
- Lobby for accelerated electoral reform to address the legal gaps as well as implementation of the recommendations arising from the TRRC and other reform processes in the country.
In conclusion, the EISA IEOM observed that:

The 2021 elections were conducted within a largely peaceful and calm environment.

They were also conducted within a legal framework that made partial provision for democratic elections. While the county is party to various international and regional human rights instruments that guide the conduct of democratic elections, critical gaps and restrictive provisions in the national laws which do not conform to these international and regional instruments were noted.

The key players in the process conducted themselves professionally and in accordance with stipulated laws and guidelines. Issues arising from the process were addressed by the various mandated institutions including the courts of law. The mission however noted a lack of compliance with some of the rulings by the IEC, thus impacting on the transparency and credibility of some of the electoral activities.

The mission noted the high voter turnout which demonstrated eagerness of the people of The Gambia to participate in the conduct of public affairs as guaranteed in the Constitution. It commended the resolve by the UDP candidate to use the procedures as stipulated in challenging the election results.
Since its inception in July 1996 EISA has established itself as a leading institution and an influential player dealing with elections and democracy-related issues on the African continent. It envisions an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment. The institute’s vision is executed through its work of striving for excellence in the promotion of credible elections, citizen participation and the strengthening of political institutions for sustainable democracy in Africa.

EISA seeks to realise effective and sustainable governance in Africa through strengthened electoral processes, good governance, human rights and democratic values. In this regard, EISA undertakes applied research, capacity building, and technical support to continental and regional bodies on election observation, advocacy and other targeted interventions. Within this broad context EISA fields election observer missions (EOMs) to assess and document the context and the conduct of selected elections on the continent.

EISA deploys international observer missions as a contribution to the transparency, integrity and improvement of electoral processes. In its assessment of elections EISA recognises that an election is a technical process with deep political implications, as opposed to an event. It therefore adopts a holistic approach that enables it to cover the main aspects of the electoral process and the context within which the elections were conducted.

EISA deployed a mission to observe the 2021 presidential Election in The Gambia. The mission was in the country from 24 November to 09 December 2021.

The EISA IEOM’s assessment methodology was guided by its commitments as an endorser of the Declaration of Principles for International Election Observation (DOP). The IEOM assessed the extent to which the legal framework and procedures in the 2021 electoral process complied with The Gambia’s commitments and obligations set out in the following international
instruments: the OAU/AU Declaration on the Principles Governing Democratic Elections; the African Charter on Democracy, Elections and Governance; the Principles for Election Management, Monitoring and Observation (PEMMO); the ECOWAS Protocol on Democracy and Good Governance (A/SP1/12/01); and the national legal framework for elections in The Gambia.

During the course of the mission, the observers engaged in several activities. These included attending the briefing conducted by the IEC for international observers; holding consultative and briefing meetings with key electoral stakeholders including the IEC, the police, judiciary, political parties, National Human Rights Commission (NHRC), Gambia Press Union (GPU) and civil society groups (CSOs); election day observation in all the six regions; and post-election assessment which included observation of vote tallying and the announcement of results.
INTRODUCTION

The 2021 elections were the sixth to be held since the return to democratic rule following the 1994 military coup. The elections were also the first since Yahya Jammeh, who had ruled the country for 22 years, was ousted in 2017.

EISA has a long-standing interest in supporting democratic consolidation in the continent. In line with its commitment EISA deployed an IEOM to observe the 2021 Presidential Elections in The Gambia. This was preceded by a pre-election assessment mission (PAM) from 03 to 09 October 2021.

The PAM aimed at assessing the pre-election and political context in The Gambia, and determining whether conditions existed for conducting democratic elections during the presidential elections scheduled for 04 December 2021. The PAM also examined the state of preparedness for the elections by key stakeholders such as the Independent Electoral Commission (IEC), political parties, The Gambia Press Union (GPU), civil society organisations (CSOs), the Gambia Police Force (GPF), and the National Council for Civic Education (NCCE). The mission found that the various stakeholders were prepared for the elections and that generally, there were favourable conditions for holding democratic elections.

Following the finding of the PAM, an IEOM was deployed to observe the 2021 presidential elections. This was the first IEOM by EISA to The Gambia. Observers were on the ground from 24 November to 09 December 2021.

This report presents the findings, conclusions and recommendations of the EISA IEOM deployed to the 04 December 2021 presidential elections in The Gambia. The report is structured along the phases of the electoral cycle, with the first chapter assessing the political context and the second chapter providing an assessment of the legal framework. The third, fourth and fifth chapters present an assessment of the pre-election, election day and postelection contexts. The sixth chapter addresses cross-cutting issues, and the final chapter presents the EISA IEOM’s conclusions and recommendations.
Source: On the world map https://ontheworldmap.com/gambia/
1.1 HISTORICAL BACKGROUND AND POLITICAL CONTEXT

1.1.1 The First Republic
The Gambia was granted full internal self-government by the British in 1963 and gained independence in February 1965. An attempt to make it a republic in the same year was unsuccessful when a referendum held in November failed to garner the requisite two thirds support in order to pass the law.¹

While the nation has held periodic multi-party elections since then, elections in the country predate independence. The first general elections were held in 1960² although political parties were formed in the early 1950s. Parties emerged then to compete for the limited power made available by the colonial masters to the newly enfranchised urbanites.³ During this period, there were four main political parties, three of which were colony (urban) based and one protectorate (rural) based⁴. Urban-based parties were the Gambia Democratic

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¹ It was supported by 65.85% of the 93,484 valid votes cast. https://dbpedia.org/page/1965_Gambian_republic_referendum, accessed on 20 December 2021.
² The first legislative elections were held in 1960. This followed the implementation of a new constitution that formed the House of Representatives. The PPP won with a majority of seats (9), UP (5), DCA (1), and Independents (4) https://africanelections.tripod.com/gm.html accessed 20 December 2021
⁴ For administrative purposes, Gambia was divided into two: Colony (urban) and Protectorate (rural) regions.
Party (DP); the Gambia United Party (UP), and the Gambia Muslim Congress (GMC). The DP was dominant until 1954 when it was replaced by the UP. This position was later taken up by the Protectorate People’s Party (PPP) which was the only rural-based political party.

Party politics became particularly intense towards the 1962 elections, and political parties adopted several measures in an effort to appeal to voters. The DP and GMC merged to form the Gambia Democratic Congress Alliance (DCA) while the PPP formed several coalitions along the way. In addition, the PPP changed its name to People’s Progressive Party in order to appeal to the urbanites. Following the elections and victory of the PPP in the elections, the party formed an alliance with the DCA. The two parties later invited the UP to join the government coalition, reinforcing its power-sharing strategy and effectively weakening the opposition.\(^5\) This strategy, coupled with the support of the rural voters who outnumbered those in the urban areas as well as co-option of top opposition candidates, saw the PPP emerge as the dominant party in the post-independence period.

The PPP won a majority of seats in the House of Representatives in the 1962 elections. The leader of the party, Dawda Jawara, was appointed prime minister after the attainment of self-governance in 1963. He became the first president of The Gambia following the success of a second republic referendum in April 1970 which made The Gambia a Republic.

The PPP went on to win all subsequent elections, both presidential and legislative, until 1994 (see Table 1 below). During this period, the hegemony of the party, which spanned three decades, was not threatened, even with the formation of new opposition parties. Most of these parties split from the PPP, including the National Convention Party (NCP), Gambia People’s Party (GPP) and the People’s Democratic Organisation for Independence and Socialism (PDOIS). Therefore, although regular elections were conducted, the country operated as a one-party state as a result of the PPP’s political dominance (see Table 1 below).

1.1.2 Military Coup d'état
The political stability of the first republic in Gambia under Jawara of the PPP was interrupted by two coups d'état. The first was the aborted coup of 1981. It was led by some elements of the Field Force, a paramilitary police unit which existed before the formation of the army, with the help of some civilians. The coup that took place while President Jawara was in Britain was repressed through the support of Senegalese troops. In the aftermath, the two presidents Jawara and Senegalese President Abdou Diouf established the SeneGambia Confederation which, however, collapsed eight years later.6

The government of Jawara, which was one of the oldest multi-party democracies in Africa at the time, was however toppled through a second coup on 22 July 1994. The bloodless military coup was organised by Gambian National Army (GNA) junior officers. The coup, which elicited excitement and high expectations, especially among the youth, was justified on the grounds of endemic corruption and complacency in the ruling PPP.7

Following this successful coup, the military established the Armed Forces Provisional Ruling Council (AFPRC) to govern the nation. The five-person AFPRC was led by Lieutenant Yahya Jammeh. The council promised to restore true democracy, transparency, and accountability,8 which had been eroded during Jawara’s rule. The council ruled by military decree after abolishing the 1970 Constitution. The House of Representatives was also abolished and political party activities banned.

Through the Programme of Ratification and Transition to Democratic Rule (PRTD), the council announced a four-year transition timeline for a return to civilian rule. Following pressure both from within and internationally, the AFPRC appointed the National Consultative Committee (NCC) in December 1994 with a mandate to subject the AFPRC’s programme of activities and timetable to the public and development partners, and obtain their views

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6 The confederation was established in 1982 and collapsed in 1989. It aimed at achieving political and economic unity between the two countries. However, in an effort to protect their sovereignty with respect to the more powerful Senegal, Gambia resisted efforts to form a greater unity.
8 Ibid.
and offer recommendations.\(^9\) The timeline for the transition to democratic civilian rule was reconsidered and reduced to two years at the NCC’s recommendation. The presidential election was thus rescheduled and put forward from November 1998 to June 1996; but was, however, postponed to 26 September 1996.

In line with the amended PRTD, several commissions were established to support the return to civilian rule. The Constitutional Review Commission (CRC) was mandated to draft a new constitution. The Constitution was passed through a referendum on 08 August 1996 but became effective only on 16 January 1997, following the presidential and national assembly elections held on 26 September 1996 and 02 January 1997 respectively. The Electoral Law Review Commission was charged with reviewing and redrafting the electoral legislation. It developed the Elections Decree of 1996, which came into force on 02 January 1996. The Provincial Independent Electoral Commission (PIEC) was established to conduct and supervise elections. The ban on political activities was lifted except for three political parties, the PPP, NCP, and GPP that had existed during the Jammeh era. Also prohibited from participating in the elections were all persons who held the offices of president, vice president and ministers in the previous (PPP) regime. The decree banning their participation, Decree NO. 89 of 1996, was lifted in 2001.

Ahead of the elections, Jammeh retired from the army and formed a political party, the Alliance for Patriotic Reorientation and Construction (APRC), as a vehicle for his entry into civilian rule. Concerns were raised about some prohibitive conditions which restricted broad-based participation in the elections. The deposit required by parliamentary candidates had been raised from GMD 200 to GMD 2 500 and for presidential candidates from GMD 2 500 to GMD 7 500.\(^{10}\) A candidate also risked forfeiting their deposit if they failed to garner 40% of the vote. In addition, the number of endorsement signatures was markedly high. The logistics of submitting 5 000 registered voter

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9. [https://gambia.dk/ncc/annex1.htm#17](https://gambia.dk/ncc/annex1.htm#17)

signatures was considered a daunting challenge for all but the incumbent.\textsuperscript{11} Another undemocratic provision in the Constitution was the removal of the two-term presidential limit, despite the wish by Gambians for such limits, as expressed to the CRC. In addition, Sec 62(3) (a)(b)(c) of the Constitution prohibited the following persons from vying for presidency: Persons who had been compulsorily retired, terminated or dismissed from public office; those found guilty of any criminal offence by a Court; and persons found liable for misconduct, negligence, corruption or improper behaviour by any commission.

\subsection*{1.1.3 Second Republic}
The presidential elections of September 1996 and National Assembly elections of January 1997 held under the above conditions, restored civilian rule in The Gambia. Yahya Jammeh of the APRC was elected president. His party also won a majority of the parliamentary seats (33 out of 49).

The Second Republic of The Gambia had a positive start. The country’s return to civilian rule attracted the resumption of international relationships and donor aid which had been stopped during military rule. This enabled the country to realise partial economic recovery. However, the regime began to perpetrate the same vices it had accused the previous regime of committing.

Whilst the justification of the 1994 coup was to eliminate entrenched corruption and protect human rights, a promise reiterated by Jammeh upon his succession into power as a civilian ruler, the same concerns reemerged in his administration. The government became increasingly dictatorial and hostile to any form of criticism. There was a decline in human rights and other freedoms characterised by rampant arrests, together with the abduction of political opponents and independent journalists. Media and civic spaces gradually shrank. Some media houses were closed and journalists assassinated.\textsuperscript{12} Jammeh’s administration was the subject of coup attempts in 2000, 2006, and 2014, which, although unsuccessful, underlined the growing


\textsuperscript{12} The editor of \textit{the Point}, Deyda Hydara, was assassinated in December 2004 allegedly on government orders.
discontent in the country.\textsuperscript{13} Foreign relations were affected as Jammeh withdrew the country from the Commonwealth in 2013. He also declared The Gambia an Islamic state in 2015 in an effort to break away from its colonial past. He further threatened to withdraw The Gambia from the International Criminal Court (ICC) in 2016.

Similar to the previous regime, Jammeh’s administration did not lead to a change in power, despite holding regular elections throughout a 20-year period (see Table 2 below). Growing discontent led to the formation of a coalition by six opposition parties and an independent candidate, dubbed Coalition 16, in the lead-up to the 2016 elections.\textsuperscript{14} The coalition, with Adama Barrow as the presidential candidate, finally defeated and ousted Jammeh from leadership after twenty-two years in power.

Table 1: General Elections Results (\%) from 1966–1992

<table>
<thead>
<tr>
<th>Political Party</th>
<th>PPP</th>
<th>UP</th>
<th>DCA</th>
<th>GPP</th>
<th>National Convention Party (NCP)</th>
<th>PDP</th>
<th>People’s Democratic Organisation for Independence and Socialism (PDOIS)</th>
<th>Independent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1966</td>
<td>65.32</td>
<td>33.37</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>1.31</td>
</tr>
<tr>
<td>1971</td>
<td>63.84</td>
<td>15.69</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>20.56</td>
</tr>
<tr>
<td>1977</td>
<td>69.79</td>
<td>*</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>2.34</td>
</tr>
<tr>
<td>1982</td>
<td>61.73</td>
<td>2.88</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>15.74</td>
</tr>
<tr>
<td>1987</td>
<td>54.5</td>
<td>*</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>0.12</td>
</tr>
<tr>
<td>1992</td>
<td>54.47</td>
<td>1.43</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>7.6</td>
</tr>
</tbody>
</table>


* Included in NCP totals
** Included in UP total

\textsuperscript{13} https://www.britannica.com/place/The-Gambia/Political-change accessed 24 December 2021

\textsuperscript{14} The coalition comprised the United Democratic Party (UDP), People’s Democratic Organisation for Independence and Socialism (PDOIS), Peoples Progressive Party (PPP), National Reconciliation Party (NRP), The Gambia Moral Party (GMP), National Convention Party (NCP), and the Gambian Party for Democracy and Progress (GPDP). The independent candidate was Dr. Isatou Touray
### Table 2: Trend of Presidential Results (1996–2016)

<table>
<thead>
<tr>
<th>Year</th>
<th>Candidate</th>
<th>Political Party</th>
<th>No. of Votes</th>
<th>% votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>Yahya Jammeh</td>
<td>Alliance for Patriotic Re-orientation and Construction (APRC)</td>
<td>220,011</td>
<td>55.77</td>
</tr>
<tr>
<td></td>
<td>Ousainou Darboe</td>
<td>United Democratic Party (UDP)</td>
<td>141,387</td>
<td>35.84</td>
</tr>
<tr>
<td></td>
<td>Hamat Bah</td>
<td>National Reconciliatory Party (NRP)</td>
<td>21,759</td>
<td>5.52</td>
</tr>
<tr>
<td></td>
<td>Sidia Jatta</td>
<td>People’s Democratic Organisation for Independence and Socialism (PDOIS)</td>
<td>11,337</td>
<td>2.87</td>
</tr>
<tr>
<td>2001</td>
<td>Yahya Jammeh</td>
<td>APrC</td>
<td>242302</td>
<td>52.84</td>
</tr>
<tr>
<td></td>
<td>Ousainou Darboe</td>
<td>UDP</td>
<td>149,448</td>
<td>32.59</td>
</tr>
<tr>
<td></td>
<td>Hamat Bah</td>
<td>United Front (UF)</td>
<td>35671</td>
<td>7.78</td>
</tr>
<tr>
<td></td>
<td>Sheriff Mustapha Dibba</td>
<td>National Convention Party (NCP)</td>
<td>17,271</td>
<td>3.77</td>
</tr>
<tr>
<td></td>
<td>Sidia Jatta</td>
<td>PDOIS</td>
<td>13841</td>
<td>3.02</td>
</tr>
<tr>
<td>2006</td>
<td>Yahya Jammeh</td>
<td>APrC</td>
<td>264404</td>
<td>67.33</td>
</tr>
<tr>
<td></td>
<td>Ousainou Darboe</td>
<td>UDP</td>
<td>104808</td>
<td>26.69</td>
</tr>
<tr>
<td></td>
<td>Halifa Sallah</td>
<td>National Alliance for Democracy and Development (NADD)</td>
<td>23473</td>
<td>5.98</td>
</tr>
<tr>
<td>2011</td>
<td>Yahya Jammeh</td>
<td>APrC</td>
<td>470,550</td>
<td>71.54</td>
</tr>
<tr>
<td></td>
<td>Ousainou Darboe</td>
<td>UDP</td>
<td>114,177</td>
<td>17.36</td>
</tr>
<tr>
<td></td>
<td>Hamat Bah</td>
<td>UF</td>
<td>73,060</td>
<td>11.11</td>
</tr>
<tr>
<td>2016</td>
<td>Barrow Adama</td>
<td>Coalition 2016</td>
<td>227,708</td>
<td>43.29</td>
</tr>
<tr>
<td></td>
<td>Jammeh Yahya</td>
<td>APrC</td>
<td>208487</td>
<td>39.64</td>
</tr>
<tr>
<td></td>
<td>Kandeh Mamma</td>
<td>Gambia Democratic Congress (GDC)</td>
<td>89,768</td>
<td>17.07</td>
</tr>
</tbody>
</table>

Source: IEC
1.2 POLITICAL AND ELECTORAL DEVELOPMENTS AHEAD OF THE 2021 ELECTIONS

The Gambia held presidential elections on 4 December 2021, the sixth elections to be held since the return to democratic rule following the 1994 military coup. Voters went to the polls to elect a president for a five-year term. The elections were also the first since the defeat of Yahya Jammeh in the previous election, who had ruled the country for 22 years.

The Gambia achieved its first-ever electoral changeover through the ballot in the 2016 elections after two phases of one-party political dominance since independence in 1965. While the 2016 elections were held in an environment of growing dissent and dissatisfaction with the regime, the defeat of the incumbent came as a surprise to many. The conditions prior to the elections were not openly conducive to an opposition win. Jammeh was averse to any form of dissent, and prior to the elections the main opposition party leader, Ousainou Darboe of the UDP, and members of his party, had been arrested. The arrests came in the wake of the death of Solo Sandeng, the leader of the youth wing of the UDP, in police custody. In addition, the nomination fees for presidential election candidates had been raised from Gambian Dalasi (GMD) 50 000 to 500 000 (approximately USD 1 214 to USD 12 138) through amendments to the electoral law in mid-2015. International observers were also not registered which saw ECOWAS boycotting the election, citing the lack of a conducive political environment for holding free and fair presidential elections. Only the AU was accredited to observe the elections.

The prevailing pre-election environment, exacerbated by the imprisonment of Darboe before the elections, gave an impetus to the formation of Coalition 16 by opposition parties. This was in a bid to oust the long-term leader, Jammeh. In the absence of the leader of the main opposition party, the UDP, the coalition settled on Adama Barrow, the then treasurer of UDP, as their flag bearer.

15 The PPP was the dominant party from 1966 to 1994. A military coup in 1994 deposed the president, and a governing council led for two years. The APRC dominated the political scene from 1996 to 2016.

Under the prevailing pre-election environment, Adama Barrow won the elections after garnering 45% of the votes against Jammeh’s 36.7% votes. Following the announcement of the results, Jammeh initially conceded defeat. However, he rescinded this decision a week later and dismissed the election results as fraudulent and called for a fresh election. Because his political party was in the majority in Parliament, he successfully passed a motion for a state of emergency. His party also indicated that they would challenge the election results in court. However, this was not possible given that The Gambia did not have a sitting Supreme Court at the time. The ensuing constitutional crisis was defused through military intervention by the Economic Community of West Africa (ECOWAS), with the support of the United Nations (UN) and the African Union (AU), leading to Jammeh’s fleeing into exile in Equatoria Guinea.

Besides being the first post-Jammeh regime elections, several other factors shaped the pre-election context of the 2021 presidential elections. These included the progress of the reform agenda as contained in the National Development Plan (2018–2021) and a breakdown of the political consensus, including the sacking of the vice president and formation of a new political party by President Barrow.

Following the 2016 presidential elections, the government embarked on institutional, constitutional, electoral, transitional justice and security sector reforms. The objective of the reform agenda was to re-establish and consolidate democracy in the country which had faced continued constitutional manipulation under the previous regime.

In line with transitional justice reforms, the Truth, Reconciliation and Reparations Commission (TRRC) was established. This Commission had a mandate to conduct research and investigations into human rights violations committed during the presidency of Yahya Jammeh. The TRRC’s mandate ran from January 2019 to May 2021 and it heard the testimonies of witnesses with first-hand knowledge that implicated Jammeh in murder, torture,
rape and other crimes. The Commission was tasked with, among others, making recommendations for reparations, reconciliation and institutional reforms, as well as identification and recommendation for the prosecution of persons bearing the greatest responsibility for human rights violations. The final report was submitted to the president on 25 November 2021, despite being initially scheduled for presentation by the end of July 2021. The late submission, a few days before the elections, made it timeous implementation impossible. The report was also not made public before the elections.

A Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises and Offices as regards their dealings with Yahya Jammeh and connected matters (the Janneh Commission) was established. The Commission submitted its nine-volume report to the president on 29 March 2019. At the time of the elections, implementation of the recommendations was ongoing, albeit at a slow pace. There was also a delay in the passage of the Anti-Corruption Bill 2019 which aimed at strengthening Gambia’s anti-corruption legal framework.

In view of the political role played by the security services in previous regimes, security sector reform (SSR) comprised a key part of the reform agenda for President Barrow’s government. Reforms to the sector aimed at bringing the security services fully under civilian democratic control and at deterring any recurrence of human rights violations. Implementation of reforms was slow and included the development of a National Security Policy (NSP), National Security Strategy (NSS), and Security Sector Reform Strategy.

The government also commissioned the drafting of a new constitution to replace the 1997 Constitution. A draft constitution was developed by the Constitutional Review Commission (CRC) following a two-year consultative process throughout the country. However, the draft constitution, which it was hoped would reform the governance structure, failed to garner the requisite 2/3 parliamentary support. It was supported and rejected by 31 and

19. The security services were perpetrators of human rights violations especially during Jammeh’s regime.
23 parliamentarians respectively. Salient governance provisions included the introduction of presidential term limits and checks on presidential powers as well as the introduction of gender quotas. There were also proposals for an expansion to the mandate of the National Security Council (NSC) under SSR.

Despite some progress in initiating reforms, several of the reforms remained unfinished in the lead-up to the 2021 election, as highlighted above. This notwithstanding, the mission noted that, as part of the reform process, the government had established, for the first time ever, a National Human Rights Commission (NHRC). The mandate is to promote and protect human rights. An Access to Information law was also enacted in August 2021. In the context of elections, granting the right of access to information enhances transparency and accountability in the process. In addition, the Persons with Disability Act was passed.

In January 2021, President Barrow ditched the opposition coalition, which sponsored his candidacy in 2016, and formed a new political party, the National People’s Party (NPP). The coalition broke following the sacking of prominent coalition members from the government. These included Vice-President Ousainou Darboe. In addition, as part of the coalition agreement, Barrow was to serve as a transitional leader for a period of three years, but he decided to complete his five-year term. The NPP formed a coalition with one faction while the other faction joined forces with Mama Kandeh of the GDC.

Twenty-one candidates presented their nomination for the presidential race, thereby signalling a liberalised political space. However, the IEC nominated only six candidates to contest in the presidential elections. Fifteen candidates were disqualified for not meeting the constitutional requirements, including the only female candidate, Marie Sock.

The mission noted that the pre-electoral environment was characterised by improved governance conditions amid ongoing reforms. The period was, however, marked by slow management and implementation of the reforms, probably caused by the breakdown of the political consensus within the ruling coalition. The period was generally peaceful with only a few skirmishes reported. Within this context the various players were able to conduct their activities in an environment largely free from undue restrictions.
1.3 COVID-19
The presidential elections were conducted during the COVID-19 pandemic. The mission noted that the IEC had put in place safety and prevention measures. The voter registration process was conducted at the height of the pandemic. Interlocutors that were consulted by the mission noted that COVID-19 safety protocols were observed throughout the process. While not applied in a consistent manner, safety protocols were also observed on polling day. The EISA IEOM observed that the IEC had provided handwashing stations for the public at every polling station visited. The pandemic did not affect the conduct of the elections as all activities were undertaken and timelines observed.

2.1 THE CONSTITUTION
The Constitution proclaims The Gambia as a sovereign secular republic. It guarantees various civil liberties and human rights relevant for the electoral process. It provides for genuine periodic elections which should be held by universal and equal suffrage and be held by secret ballot. All citizens of 18 years and above have the right to vote and to contest for elections.

The Constitution also grants citizens the right to take part in the conduct of public affairs, directly or through freely-chosen representatives. It guarantees
the freedom to form and join associations and unions, including political parties. It guarantees other human rights such as the right to equality, dignity, the right to life and security of person, right to privacy, freedom of conscience, freedom of movement, expression, assembly and association, and the right to have access to courts for dispute settlement (Chapter IV). The mission, however, noted that there are some legal provisions that infringe on the right to and freedom of expression, as guaranteed. The Public Order Act also restricts freedom of assembly. Section 5 requires police permission in order to protest. If not checked, this can be misused to restrict public gatherings, especially political gatherings.

The Constitution provides for the doctrine of the separation of powers, clearly defining the roles of the various arms of government. The executive is entrusted with executive functions, the legislature with the legislative mandative and oversight of the executive, and the judiciary is responsible for the administration of justice. Section 42 establishes an Independent Electoral Commission (IEC) with a mandate to conduct elections.

2.2 ELECTORAL LAW
The Elections Act, 1996 as amended, makes provisions for all technical aspects of the electoral process, including the registration and conduct of political parties, the registration of voters, candidate nomination, the conduct of polls, election campaigns, election petitions and civil proceedings, and announcement of the results. It also makes provisions regarding electoral offences and penalties.

2.3 ELECTORAL GUIDELINES
The Election Petition Rules provide for filing (presentation, format, publications, timelines, deposit of security, service of petition), grounds, and other matters necessary for the determination of election petitions.

The Code on Election Campaign Ethics is binding on all political parties and candidates contesting any electoral position. Acceptance and adherence to the code is a condition for the registration of a political party to take part in an election and for the acceptance of a candidate’s nomination papers.

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20 These are contained in the Criminal Code sections 46, 51, 52, 52A, 53, 54, 59, and 181A
21 The Act is referred to as Decree No. 78 of 1996. It was amended in 2001, 2015 and 2017.
Elections Media Rules are established in accordance with Section 93 of the Elections Act, 1996, as amended, to provide for fair access to the media for all political parties and candidates over the electoral period. It also sets out general ethics for journalists and media within the election period in order to encourage high standards of journalism.

The mission noted that while the legal framework provides the basis for the conduct of competitive elections, there are critical gaps and restrictions which limit the general conduct of genuine elections in The Gambia. These include lack of regulation of campaign financing; state funding of political parties and campaigns; provisions for presidential term limits; and affirmative action to promote participation and representation of women, youth and people with disabilities (PWD). Limited timelines for the adjudication of electoral disputes impact the right to effective remedy, and some provisions restrict freedom of expression. In addition, the electoral guidelines do not have clear implementation and monitoring mechanisms which weakens their enforcement. As a result of these gaps, the national law in The Gambia does not fully align with the international human rights obligations and commitments ratified by the country.

2.4 LEGAL REFORMS AHEAD OF THE 2021 PRESIDENTIAL ELECTIONS IN THE GAMBIA

In 2016, the new government led by President Adama Barrow committed to implementing reforms aimed at aligning the legal framework with the new political dispensation. The government however managed to make minimal amendments to the legal framework with the bulk of the reforms not implemented or passed at the time of the elections.

2.4.1 Elections (Amendment) Act, 2017

The Elections Act, 1996, as amended, was revised in March 2017. The amendments aimed at promoting inclusivity and participation in the election by revising the candidate nomination fees. In 2015, the nomination fees were increased to GMD 500 000 (USD 12 138), GMD 50 000 (USD 1 214) and GMD 10 000 (USD 243) for the president, National Assembly and local council candidates respectively. The 2017 amendment thus aimed at restoring the fees to their initial costs of GMD 10 000, GMD 5 000, D2 500, and GMD 1 200 for the president, National Assembly, mayor and local council seats
respectively. While these changes were applied in the 2017 parliamentary elections, they were applicable to the presidential elections for the first time in 2021.

### 2.4.2 Constitution (Amendment) Act, 2017

The 1997 Constitution was also amended in February 2017. The amendment revised the compulsory retirement of a judge of the Superior Court by extending the retirement age from 70 to 75 years. The upper limit of holding office as a president of the Republic of The Gambia was also removed. The initial upper limit had been set at 65 years.23

### 2.4.3 Proposed Amendment to the Constitution and the Elections Act

Other legal reforms initiated included developing a new Constitution to replace the 1997 Constitution which was associated with the repressive Jammeh rule.24 The Constitution had been amended numerous times to include undemocratic provisions, key among which was the removal of the two-term presidential limits and the provision for a run-off upon failure to attain 50+1 in the first round of presidential elections.

In this regard, the Constitutional Review Commission (CRC) charged with the development of the new constitution submitted its final draft to the president on 30 March 2020. Key provisions of the draft Constitution Amendment Bill were to reintroduce presidential term limits to two five-year terms; amend the electoral system to provide for an absolute majority in the presidential election; introduce a quota system for female representation in the National Assembly; as well as regulate presidential powers through the introduction of approval of ministerial appointments by the National Assembly.

The Bill unfortunately failed to garner the requisite 2/3 majority parliamentary support needed for it to be passed.25

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22 section 141(2)(b)
23 section 62(1)(b)
24 The Constitution has been amended over 50 times
25 It was supported by 31 and rejected by 23 out of the 58-member assembly.
This rejection was despite the overwhelming support for a new constitution by Gambia’s citizens, as attested to by surveys conducted by Afrobarometer and the International Republican Institute (IRI).26

There were also efforts to review the Elections Act, 1996, as amended. Proposals for legal, administrative and procedural changes to the conduct of elections were advanced. These included adoption of paper ballots in voting; revision of the demarcation of electoral constituencies; introduction of timelines for the announcement of presidential election results, as well as an extension of timelines for a new election upon invalidation of an election through a petition. The Election Bill 2020 was however not enacted. It was still pending in the National Assembly at the time of the elections.

While the mission noted the few amendments made in 2017, in the spirit of promoting inclusive political participation it observed that these comprise a very small portion of the required electoral reforms in The Gambia. The changes envisioned in the proposed Constitution (2020) as well as Electoral Law (2020) were aimed at significantly improving the electoral legal framework and strengthening democracy in the country, and need to be revisited to guarantee the conduct of democratic elections.

2.5 THE ELECTORAL SYSTEM

The Gambia is a multi-party state. The president is elected for a five-year term of office in a single round using the First-Past-The-Poll (FPTP) method. The Constitution does not provide limits on the number of terms a president may contest.

The Gambia has a unicameral parliament. Similarly, the members of the National Assembly are elected using the FPTP method in single member constituencies. There are 53 constituencies. Following the elections, the

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26 According to a 2019 survey by the International Republican Institute (IRI), 87% of Gambians agreed that the country needs a new constitution; 60% rated the work of the Constitutional Review Commission as very good or good. https://www.iri.org/resource/new-poll-gambians-support-new-constitution, accessed on 1 November 2021.

Regarding opinions on specific constitutional provisions, Gambians expressed strong support for presidential term limits in general (85%) and specifically for reintroducing a limit of two five-year terms in the new Constitution (87%). https://afrobarometer.org/sites/default/files/publications/D%C3%A9p%C3%AAches/ab_r7_dispatchno338_gambia_draft_constitution_reflects_citizen_preferences.pdf
president nominates five additional members to the unicameral parliament, bringing the total to 58. Parliamentarians are also elected for five-year terms.

The country uses a unique voting system which comprises a drum and marble. In this case, the drum represents the ballot box while the marble, also referred to as a token, represents the ballot. A voter casts their ballot (marble) in iron drums specifically marked for each candidate. The drum (ballot box) bears the party’s candidates identifying colours. It also has the party symbol or candidate’s photograph. Once cast, the ballot hits a bell and produces an audible sound that notifies the polling staff that they have voted. Sand or saw dust is placed at the bottom of the drum so as to prevent any other sound from being audible.

The mission noted that while this voting system has served the electoral needs of The Gambia since 1960, there was a proposal to replace the system with paper ballots. The amendments were contained in the proposed electoral reforms which were still before Parliament at the time of the elections. The proposal by the IEC was informed by the increasing number of political parties and candidates. The IEC cited the ensuing operational challenges as well as increased costs as a justification for the proposed reform. Political parties doubled to 18 in 2021 up from nine in 2016. The proposal was, however, not supported by most political parties who felt that the level of illiteracy, which motivated the adoption of the system, was still high and there was not sufficient time to conduct adequate voter education, should the proposal be passed. Similarly, there was a proposal to replace the FPTP system with an absolute majority voting system in the presidential elections.

2.6 ELECTION MANAGEMENT: THE INDEPENDENT ELECTORAL COMMISSION (IEC)

Section 42 of the 1997 Constitution establishes an electoral commission, usually referred to as the Independent Electoral Commission (IEC) and provides for its composition and mandate. The IEC is guaranteed functional independence through Section 43(3) of the Constitution which stipulates that, in the exercise of its functions under this Constitution or any other law, the Commission shall not be subject to the direction or control of any other person or authority.
2.6.1 Composition of the IEC
The IEC is composed of a chairperson and four other members. Members of the Commission are appointed for a seven-year term which is renewable once. Appointment is by the president in consultation with the Judicial Service Commission and the Public Service Commission. The current commissioners are all male.

The president has the power to remove the commissioners. A member of the Commission may be removed for misconduct, inability to perform the functions of the office resulting from infirmity of mind or body, and if circumstances arise which would have disqualified his/her appointment. Removal of a commissioner follows recommendation by a tribunal appointed to investigate the matter. A commissioner is entitled to appear and be legally represented before the tribunal.

The IEC is composed of the Commission and staff who are appointed by the Commission. It has five technical departments: Administration; Operations; Training, Communication and Public Affairs; Finance; and Information Technology. The Commission’s headquarters are supported by regional offices in each of the seven regions of the country. Each regional office is under the direct oversight of a member of the Commission, who also acts as the returning officer (RO) for elections in their area. Each regional office is headed by a regional electoral officer (REO).

The mission noted the lack of a legal department in the organisational structure of the IEC, resulting in legal services being outsourced. Regional treaties, to which The Gambia is a state party, obligates the state to take steps to institutionalise good political governance through accountable, efficient and effective public administration, including elections. Effective and efficient administration of elections would significantly benefit from the services of an inhouse legal team to enforce and ensure compliance of the Commission with the law, as well as reduce legal risks through offering legal advice.

27 AU ACDEG Art 32(1) and ECOWAS Protocol Art 34(2)
2.6.2 Powers and Functions of the IEC

In terms of Section 43 of the 1997 Constitution, as amended, and Section 8 of the Electoral Act, 1996, as amended, the IEC is mandated to perform the following functions: Conduct and supervise the registration of voters for all public elections and referenda; Conduct and supervise all public elections and referenda; Registration and supervision of political parties; Demarcate electoral boundaries for both national and local government elections; Develop an elections timetable in advance of the elections; Nominate candidates for the various elective positions and ensure that the candidates for elections make full declaration of their assets at the time of nomination; Announce the results of all elections and referenda; and Conduct elections of the Speaker and Deputy Speaker of the National Assembly.

In undertaking its duties, the Commission is expected to exercise fairness, impartiality and compliance with the provisions of the law. The IEC’s compliance with the law was tested during the electoral period with several court cases which ruled against the Commission. The courts ruled that the IEC acted in contravention of the law by failing to register Gambians in the diaspora, allowing the mayor of Banjul to provide attestations for voter registration and disqualifying some aspiring candidates during the nomination process.

2.6.3 Funding

The Commission is funded by budgetary allocations appropriated by the National Assembly. It may also receive grants, donations, and fees from groups other than a political party. The Commission should submit its annual estimates of expenditure to the president for presentation to the National Assembly. The president is however not allowed to make any amendments but may attach his/ her own comments and observations.

The National Assembly has oversight responsibility for the work of the IEC. The Commission is audited annually by the Auditor General. It is expected to submit an audited statement of its accounts to the National Assembly at the end of each financial year.

The mission was informed that the Commission did not have adequate funding for the election and relied on international donors to support some
electoral activities. Regional treaties obligate states to ensure that sufficient funding and resources are provided for the conduct of an electoral process.\textsuperscript{28}

The EISA IEOM observed that the highlighted challenges did not, however, impact on the conduct of the elections, which were undertaken without unresolved logistical challenges being settled.

\section*{2.7 POLITICAL PARTY AND CAMPAIGN FINANCE}

The legal framework does not provide for public funding for political parties or campaigning. State funding is minimal and indirect, through provision of free airtime during campaigns and tax exemptions on imported election campaign materials.\textsuperscript{29}

In the absence of state funding, political parties may only receive funding from citizens of The Gambia, including those that are abroad. The law prohibits them from receiving contributions or donations from foreigners and corporate or unincorporated bodies.

There is no ceiling on the amount of money that political parties and candidates may receive nor on the amount of money they may spend on an election. Similarly, there is no disclosure requirement on the amount and sources of funds received by parties and candidates for campaigns. While candidates are required to declare their assets before nomination, there is no mandatory requirement for publication of the information to enhance transparency and accountability. Political parties are also required to submit yearly audited accounts to the IEC.

There is therefore no safeguard against the undue influence of money in Gambian politics which is essential for healthy political competition. Unrestricted political spending has the potential to encourage irregularities such as vote buying, and shifting the political competition away from a competition of ideas to one supported by resources.

The EISA IEOM is of the view that party and campaign financing, as well as control of campaign expenditures, should be taken into account in the legal

\textsuperscript{28} AU, ACDEG, art 15(4)
\textsuperscript{29} Section 41(d) of the Constitution and Sections 93 and 86(4)(5) of the Elections Act, 1996.
reforms. This will guarantee a level playing field and protect the electoral process from an imbalance in undue funding. It will further align the national law with the provisions of the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa.\textsuperscript{30}

\section*{2.8 DISPUTE RESOLUTION AND ELECTORAL JUSTICE}

Electoral dispute resolution is an integral part of the electoral process as it significantly contributes to the integrity and legitimacy of an election. The right to an effective and expeditious remedy should therefore be protected and guaranteed throughout the electoral process.

In terms of the 1997 Constitution (as amended) and the Elections Act, 1996 (as amended), the IEC is the primary entity responsible for the resolution of electoral disputes that are of an administrative nature. These include disputes arising from voter registration, candidate nomination, campaigning, and the conduct of the elections. The right to appeal exists in most instances where the aggrieved party feels dissatisfied.

For instance, complaints relating to political party registration denial or deregistration not satisfactorily dealt with by the IEC may be appealed at the High Court within 14 days of the decision made by the IEC. The high court’s decision is final.\textsuperscript{31} Appeals to decisions of the IEC regarding complaints on voter registration can be made at the revising courts.\textsuperscript{32} Decisions from these courts should be given within 60 days from the date of notice of related appeals. Decisions are appealed at the Supreme Court. Objections by voters to nominations are lodged with the returning officer (RO) who is expected to make an expeditious decision on the validity of an objection. The decision may be appealed to the Commission within two days of the ruling. The Commission’s decision is final. Candidate objections to rejected nominations may be lodged at the Commission. Decisions are appealed at the High Court.

The Supreme Court has the final jurisdiction on election petitions for presidential and National Assembly seats.\textsuperscript{33} Section 34 of the Constitution

\textsuperscript{30} Section III (g)
\textsuperscript{31} Part VIII of the Elections Act, 1996.
\textsuperscript{32} Revising Courts are established under Section 24 of the Elections Act, 1996, to hear and determine appeals and objections from the voter registration process. They are established in each of the administrative areas on a needs basis.
\textsuperscript{33} Section 127(c) of the Constitution
provides a timeline of 30 days to handle such petitions. The technical and procedural requirements for filing an election petition are provided for under the Electoral Rules and Procedures. These include timelines, filing procedures, issues relating to costs, and security for costs.

The mission noted that, in line with the right to effective remedy as provided for in the legal framework, several complaints and objections were raised during the pre- and post-election periods. These included complaints raised during the voter registration and candidate nomination periods as well as a petition challenging the final presidential election results.

During the voter registration process, the legality and validity of the authority given to the mayor of Banjul to issue attestations for registration purposes was challenged.34 The High Court ruled that the mayor lacked the powers to issue attestations as the Act was in contravention of Section 12(2)(e) of the Elections Act. The Court did not issue consequential orders in regard to the cancellation of voters’ cards issued on the basis of such attestations, as sought by the petitioners. The issue was thus referred to the Revising Court, which has jurisdiction over such matters as provided in Section 30 of the Elections Act, 1996, as amended.35 However, the petitioners did not go to the Revising Court within the period prescribed for objections. Voters’ cards that were issued based on the attestations by the mayor were thus not annulled.

The IEC rejected the nomination of 15 of the candidates who had submitted their nomination papers. Three of the rejected candidates appealed the IEC’s decision at the Commission and later at the High Court following rejection of the appeals by the Commission. These were Mai Ahmad Fatty of the Gambia Moral Congress (GMC), Dr. Ismaila Ceesay of the Citizens’ Alliance (CA) and Henry Joof (Independent candidate).

Both Dr. Ceesay’s and Mr Fatty’s nominations were rejected for failure to comply with Section 42(2) of the Elections Act by not submitting the

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34 Attestations are by village head or district chiefs. However, since Banjul is a city/town with no village head, the mayor is responsible for the attestation of voters. This had not been challenged before because of the authoritarian nature of the previous ruling regime. The case was brought forward by two CSOs, the Centre for Research and Policy Development (CRPD) and Gambia Participates.

35 It provides that, ‘No list of voters, list of deletions and entry in such list shall be questioned in any proceedings (other than criminal proceedings) except in a revising court or an appeal from such revising court to the court in accordance with this Part’.

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requisite support of nomination (of at least 200 registered voters) in Banjul Administrative area. Mr Joof failed to submit the requisite support of nomination in several administrative areas. He also submitted support of nomination by registering voters on notebooks as opposed to the legally prescribed forms.

The Court ruled in favour of Dr. Ceesay and Mr. Fatty. Dr. Ceesay was granted an opportunity to re-submit the application for nomination after ruling that the IEC failed to comply with the provisions and spirit of the Elections Act in disqualifying his nomination. In making its ruling, the High Court ordered that Dr. Ceesay was entitled to submit an additional list of names and signatures of registered voters for the Banjul Administrative Area. It thus directed him to submit the additional list (exhibit “IC7”), as presented in Court, to the IEC. The Court also ruled that the RO had the liberty to first satisfy himself that all the constitutional and other legal requirements had been met as per Section 46 of the Elections Act. Accordingly, Dr. Ceesay resubmitted his nomination papers, which were however rejected again.

The Commission noted that Dr. Ceesay had not provided the actual signatures (exhibit “IC7”) that he had presented in Court. As such, the IEC ruled that Dr. Ceesay had not complied with the court order ruling. Dr. Ceesay was therefore not able to contest the election. He stated that the decision to reject his submission for a second time constituted contempt of court and expressed his intention to sue the IEC for it.

In Mai Fatty’s case, the High Court ruled that the IEC failed to inform the party of their rejections in time to make the necessary changes on the nomination. The IEC was therefore ordered to make arrangements for the party to contest. Fatty submitted fresh nomination papers but was not cleared by the IEC to contest. He accused the IEC of contempt of court and announced that he would continue to challenge the illegal actions of the IEC.

36 The IEC disqualified him for not complying with Section 42 (2) (a) of the Elections Act, in Banjul Administrative Area. He submitted the support of nomination by less than two hundred (200) registered voters, as opposed to the legal requirement that a candidate for election to the office of President shall be nominated by at least two hundred voters from each Administrative Area.

37 In a letter addressed to the IEC, he stated that the Commission had not responded to him regarding the fresh nomination papers, a day to the elections, https://www.africa-press.net/gambia/all-news/mai-says-he-will-seek-redress-in-court-against-iec, accessed on January 15, 2022.
even in the post-election period. The Commission appealed the High Court rulings of both cases. However, they had not been concluded at the time of the elections.

Joof’s case was struck out on 30 November 2021 for failure to appear in Court.

The mission noted that the legal framework provides for dispute resolution throughout the electoral process, by the IEC and the judiciary. This is in line with both international and regional obligations and standards for democratic elections. The judicial resolution of disputes was noted to have guaranteed access to redress for aggrieved parties, and also strengthened public confidence in the judicial system through its judgements. However, procedures for dispute resolution by the IEC were noted to be weak. In particular, the timelines for complaints by voters on nominations were severely limited with stakeholders granted five minutes each. The period between nominations and campaigns was equally limited with only two days between the two critical electoral activities. This affected the candidates’ right to timely and effective remedy.

The mission further noted that, whilst the court rulings were in favour of the candidates, the timing could not have allowed for their effective participation had they been cleared to do so. This is because the ruling was made around two weeks before the end of the campaign period and the elections. As a result, the candidates lost their right to contest, contrary to the constitutional provisions.

The handling of the nomination process as well as the individual cases also brought to the fore communication gaps within IEC. The Commission failed to clearly communicate its reasons for not implementing the court rulings. Fatty had not received any communication regarding his resubmitted nomination papers a day before the elections. This demonstrated a lack of transparency on the part of the IEC. In addition, while the Election Act allows for a candidate to be given an opportunity to amend their nomination papers38 this was not considered nor communicated by the IEC, as attested by the High Court rulings on the two cases.

38 As long as the papers are submitted before the end of the allocated date and time for nominations.
3.1 Voter Registration and Voters’ Register

Registration of eligible voters gives effect to the citizen’s right to vote. Voter registration is provided for under Articles 39 and 43 of the Constitution and Section 12 of the Electoral Act, 1996, as amended. The Act vests the responsibility of preparing, compiling and maintaining the voter register in the IEC.

The Constitution provides for universal suffrage, with citizens who have attained the age of 18 being eligible to vote. In addition, to qualify as a voter, one is required to be a citizen of The Gambia and produce an identification document (a birth certificate, Gambian passport, national identity card, or an attestation certified by a district chief or village Alkalo). One is disqualified from registration by virtue of adherence to a foreign power or state, serving a prison sentence, being of unsound mind, and being registered to vote in a foreign country.

Pursuant to the legal provisions, the IEC conducted voter registration from 29 May 2021 to 11 July 2021. The exercise was initially scheduled for the period from 14 January to 26 February as per the elections calendar. The IEC attributed the delay to logistical challenges relating to the procurement of materials and equipment for registration. Voter registration was biometric.
On 12 July 2021, the IEC released a provisional voter register with a total of 987 484 registered voters.

The register was displayed at the various registration centres from 16 to 29 August 2021 for verification and objections. The mission was informed that no objections or appeals were raised during this exercise. It was further informed that the registration process was open to observation and monitoring by stakeholders, including political parties and CSOs. The public display, as well as opening up of the process for monitoring and observation, is in line with the principles of transparency and access to information in the electoral process.

The final voter register had a total of 962 157 voters. Of these, 545 318 (56.67%) were female while 416 839 (43.32%) were male. Voters in the 18 to 35 age bracket comprised 57% of the total registered voters, signifying a youthful voter population in The Gambia. There was a total increase of 75 579 (8.5%) in the number of registered voters, compared to 2016 when the total registered voters were 886 578.

Section 39 of the Constitution, 1997 provides for the right of every Gambian citizen, even those residing outside the country, to register and to vote. This right has however never been actualised. As a result, the IEC was taken to court over the disenfranchisement of the over 200 000 Gambians in diaspora. On 27 January 2021, the Supreme Court ruled that they should be allowed to vote. The IEC did not make provisions for this in the 04 December election, thus perpetuating the denial of their political rights as enshrined in the Constitution.

As previously highlighted, the legality and validity of the authority given to the mayor of Banjul to issue attestations for registration purposes was successfully challenged at the High Court by two civil society organisations (CSOs). The mission noted that, while the act of attestations by the mayor was declared unlawful, voters registered on the basis of these attestations were

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39 The civil suit against the IEC and Attorney General was brought by five Gambians, namely Jeggan Gerald Grey-Johnson, Pa Samba Sadaga Jow, Bakary Bunja Dabo, Cherno M Njie, and Sidi Mohammed Sanneh, who sued the Attorney General and the Independent Electoral Commission (IEC). They sought an order from the Supreme Court for the IEC to register Gambians in the diaspora to enable them participate in all elections.
allowed to vote. This brings to the fore the obscurity in and lack of adherence to the legal framework. In addition, the voters’ roll does not promote broad participation as it excludes eligible voters in the diaspora.

During the registration process, the IEC voided all the voters’ cards issued in the previous elections. All registered voters were therefore requested to apply for new voters’ cards. There were no complaints regarding access to and availability of the new cards.

The mission noted the positive step by the IEC to segregate the voter register according to gender and different age sets. This was the first time the Commission had segregated data in the register and this allows for targeted interventions in the electoral process to improve participation.

The mission further noted the low number of registered voters during the national registration drive for the 2021 election. It observed that the 8.5% increase in registered voters over a five-year period was minimal compared to the total population of 2,416,664, and the median age of the population which is 17 years. It further noted the high number of unregistered eligible voters which was 335,450, comprising 25.85% of the total eligible voters.40

<table>
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<tr>
<th>Region</th>
<th>Registered Voters</th>
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<tr>
<td></td>
<td>Total</td>
<td>Male</td>
<td>%</td>
<td>Female</td>
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<tr>
<td>Banjul</td>
<td>21,372</td>
<td>10,148</td>
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<td>45,025</td>
<td>38.10</td>
<td>73,185</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>962,157</strong></td>
<td><strong>416,839</strong></td>
<td><strong>545,318</strong></td>
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</tr>
</tbody>
</table>

Source: IEC

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3.2 POLITICAL PARTY REGISTRATION AND CANDIDATE NOMINATION

3.2.1 Political Party Registration
As principal players in an electoral contest, political parties are indispensable to democracy. It is therefore paramount to ensure that they are granted a fair and equal opportunity to participate in the electoral process. The IEC is responsible for the registration of political parties. The registration and conduct of political parties is stipulated under Article 60 of the Constitution, and Articles 105–106 of the Elections Act, 1996, as amended.

A political party that intends to register is required to submit a completed application form setting out among others, the name, contact details of secretariat and regional offices, names and contacts of the executives, and its object and purpose. The application must be accompanied by the political party’s constitution. Acceptance and adherence to the IEC’s Code on Election Campaign Ethics is a precondition for registration. Amendments in 2015 to Section 105 of the Elections Act, 1996 added the following requirements for the registration of a political party: Party executives must reside in The Gambia; the Party should have a secretariat in each administrative region; should hold a biennial congress; have 10 000 members with at least 1 000 members from each administrative area; pay a registration fee of one million – 1 000 000 Dalasis (approximately 19 100 USD); and submit yearly audited accounts to the IEC.

For the 2021 presidential elections, 18 political parties were registered. The number had doubled compared to the 2016 elections where only nine political parties were registered. Five of these parties sponsored candidates for the presidential seat. The liberalised democratic space following the defeat of Jammeh is most probably a key factor for the increase in the number of political parties.

In line with the legal framework provisions, all presidential candidates signed the IEC Code of Campaign Ethics. By signing, they pledged their commitment to, among others, cooperate with the IEC and election officials so as to guarantee the integrity of the electoral process, maintain high

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41 Average exchange rate for December 2021
ethical and moral standards during campaigns, refrain from incitement, and foster tolerance among Gambians. A breach of the Code results in the deregistration of a political party or cancellation of nomination of an independent candidate. In an effort to promote peaceful elections and dialogue, the 18 registered political parties signed a peace pledge referred to as the Janjangbureh Peace Accord. This was under the auspices of the Inter-Party Committee (IPC) and witnessed by the IEC.

The mission noted the increase in the number of registered political parties since the last presidential election, which indicates a broadening political space. This upsurge is, however, seen against the stringent registration requirements introduced by the 2015 amendments to the Elections Act, 1996, as amended.

The mission also noted that the Code of Campaign Ethics, if strictly applied, promotes conditions conducive to free and fair elections. It sets out acceptable and prohibited behaviour by parties during the electoral period, especially the campaigns, which are backed up by sanctions. While the campaign environment was generally peaceful, the mission noted the lack of enforcement and monitoring mechanisms for the Code of Ethics during the campaign period.

3.2.2 Candidate Nomination
Section 46 of the Constitution, 1997 stipulates that election for the Office of the President should be conducted three months before the expiration of the term of the incumbent president. It further grants the IEC the responsibility to determine the dates for the nomination of candidates and for holding the election. In line with this, the nomination days for the presidential election were from 30 October to 5 November 2021.

Qualification requirements are provided for under Section 62 of the Constitution. In order to be nominated as a presidential candidate, one must be a citizen of The Gambia; be at least 30 years of age; have a minimum educational qualification of senior secondary school education; be a resident in The Gambia for five years immediately preceding the election; be nominated by at least 5,000 registered voters with at least 200 voters drawn from each region; present a sworn declaration of assets; and tender a tax clearance certificate. In addition, a candidate should pay a deposit of
10,000 Dalasis (D10,000). The law also allows for independent candidates to contest the elections. The mission noted that the qualification requirements are reasonable, uphold the freedom of association and allow for inclusive participation.

The 2017 amendments to the Electoral Act, 1996 were applied to presidential elections for the first time during the 2021 elections. The amendments to Section 105 of the Act lowered the candidate nomination fees/deposit to 10,000 Dalasi (GMD 10,000) from GMD 500,000 paid during the 2016 elections. The mission noted that this increased the accessibility of the process by the various candidates.

In line with the legal provisions, the nomination of presidential candidates was conducted from 30 October to 05 November 2021. The IEC received 23 nomination papers, 11 from political parties and 12 independents. Section 49 of the Elections Act, 2001, as amended, provides for scrutiny of the nomination papers by any registered voter. Accordingly, the date for public scrutiny of the nomination papers was 06 November 2021 from 08:00 to 12:00. The mission was informed that due to the limited time allocated for scrutiny, stakeholders were allowed only five minutes each. It was further informed that, at the conclusion of the process, 66 voters had scrutinised the candidate nomination papers, and three objections were received and dismissed by the returning officer.

Following the verification process, the IEC validated the nomination of six candidates, all of whom were male. Fifteen candidates were disqualified for not fulfilling the nomination criteria. Of these, one was the only female aspiring candidate, Maria Sock. The nominated candidates comprised Adama Barrow, the incumbent (NPP); Ousainou Darboe (UDP); Mama Kandeh of Gambia Democratic Congress (GDC); Halifa Sallah of the People’s Democratic Organisation for Independence and Socialism (PDOIS); Abdoulie Jammeh of the National Unity Party (NUP) and Essa Mbye Faal contesting as an independent.42

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42 Ousainou Darboe is a former foreign minister and one of the three vice presidents in Barrow’s government. He was sacked in March 2019. He is believed to be the strongest opposition candidate. Mama Kandeh came third in the 2016 elections with 17.1% votes. Halifa Sallah was a spokesman for Barrow during the 2016 presidential election campaign and former special advisor to President Barrow. Abdoulie Jammeh is the former director-general of The Gambia Civil Aviation Authority (GCAA). Essa Mbye Faal is the former lead council of Gambia’s TRRC.
As previously highlighted, following the nomination the Commission received, considered and dismissed three appeals from disqualified candidates. The three candidates challenged IEC’s decision in the High Court, and the Court ruled in favour of two of the appellants by declaring that the IEC acted in contravention of the Elections Act. The IEC was ordered to receive fresh and additional nomination documents from the candidates. The Commission appealed the High Court’s decision on both cases which were still pending in court at the time of the 2021 elections.

Stakeholders consulted by the mission expressed concerns about the time allocated to scrutinise the nomination papers before the conclusion of the nomination process, limiting the opportunity to verify the bona fides of all contesting candidates. This restricted the right of access to information and ultimately impacted on the transparency of the process. In addition, there were only two days between nomination and the start of the campaign, further impacting on the right to effective remedy as it did not provide adequate time for filing and adjudicating petitions arising from the nomination process.

### 3.3 CIVIC AND VOTER EDUCATION

Civic and voter education in The Gambia are the mandates of the National Council for Civic Education (NCCE) and the IEC, respectively. In implementing their activities, the two institutions collaborated with one another. They also co-opted other organisations in order to boost their capacities. These included the Gambian Women’s Bureau, the National Youth Council (NYC), the CSO Coalition on Elections and The Gambia Federation of the Disabled (GFd). The education materials and messages are created by the IEC and NCCE, with those originating from the partners vetted for appropriateness before dissemination. Other groups including political parties also conducted voter education.

Voter education strategies included the use of billboards, jingles, community meetings, targeted caravans (women and youth), radio and television panels as well as social media. Misinformation issues associated with the use of social media and challenges in countering the misinformation were however reported by the IEC. Issues covered included the voter registration process, election timetable and various timelines, the type of election being held, and voting procedures as well as the official dates and times of the election.
Conduct of the voting process and the results, especially regarding spoiled papers and in some instances voter turnout, can be used as a measure of the effectiveness of voter education efforts. In this respect, the mission noted that the average time to process a voter on election day was between one and three minutes. This, coupled with the limited number of assisted voters and invalid ballots as well as the high voter turnout, could indicate relatively widespread voter education. On the other hand, however, the high number of disqualified candidates during the nomination process, due to their failure to fulfil the nomination requirements, could indicate a limited understanding of the nomination process.

3.4 ELECTION CAMPAIGNS

The rights of candidates and political parties to campaign are guaranteed by the 1997 Constitution and the Elections Act, 1996, as amended. The IEC determines the period, after nominations, for campaigns to be held pursuant to Section 85(1) of the Elections Act. Campaigns kicked off on 09 November 2021 and ended on 02 December 2021, 24 hours before the commencement of voting. Prior to this, the IEC conducted the campaign reconciliation programme on 07 and 08 November 2021 together with the candidates’ representatives and the police, to avoid any clashes that might arise.

All contesting candidates signed the IEC Code of Campaign Ethics on 11 November 2021. The code of conduct is aimed at promoting their campaign in a manner that promotes a peaceful electoral atmosphere where there are ‘conditions that are conducive to free and fair elections’, and that create a climate of tolerance, free political campaigning, and open public debate. It provides that during campaigning parties and candidates must maintain high ethical and moral standards; respect other political parties, candidates and voters; promote a congenial and peaceful atmosphere throughout the electoral process; refrain from the use of inflammatory, defamatory or insulting language which might incite citizens; not engage in voter bribery for any reason; not use public resources for campaigns; and timeously communicate their schedule of campaign activities to the IEC, as well as foster a spirit of tolerance and multiculturalism.

Political parties and candidates are expected to abide by the Code of Campaign Ethics. Contravention of the code can lead to the cancellation of
the registration of a political party or, in case of an independent candidate, the cancellation of the nomination of the candidate. By making it a prerequisite to declare commitment to the code upon registration and nomination, all contesting parties and candidates were assured of the freedom to campaign.

Section 93 of the Elections Act, 1996, as amended, provides that the IEC should ensure that equal time is given to each candidate and party on public radio and television during the campaign period. The mission noted that the IEC complied and allocated each candidate a broadcast of up to ten minutes free of charge at the public broadcaster. This was largely adhered to during the campaign period.

The EISA IEOM observed the final days of campaigns across the six regions, and EISA observers attended six campaign events. The EISA IEOM noted that the campaign scene was dominated by the NPP and UDP. Parties and candidates conducted their campaigns in a context that was largely free of fear and intimidation. They also largely upheld their commitment to the IEC Code of Campaign Ethics. Candidates complied with the requirements to submit a request to the IEC indicating the date, time and place of holding demonstrations and processions. Police officers were visibly present during most campaign activities and undertook their duties professionally. The mission commended the IEC and the police for providing sufficient security to all candidates.

The mission however noted that the lack of campaign regulation opens the process to the undue influence of money, leading to an uneven playing field. The lack of safeguards for campaigns also opens up the process to the misuse of state resources.

3.5 PREPAREDNESS OF THE EMB
Pursuant to Sections 43(I)(d) of the Constitution, the IEC published the election calendar. The calendar set the key dates and timelines for the various election milestones until election day. The Commission commenced preparations for the presidential election with voter registration using biometric systems, candidate nominations, civic and voter education, campaigns, and the accreditation of observers, among others. The mission noted initial delays in the implementation of activities like voter registration,
as per the election calendar.\(^43\) This did not ultimately affect the roll-out of activities in the pre-election period.

The IEC set up 1,554 polling stations and recruited and trained 6,078 election staff. It also procured and distributed electoral materials and monitored campaign activities, including ensuring equality in access to and coverage by the public broadcaster.

Four petitions challenging the decisions of the IEC during voter registration and nomination periods were filed in court prior to the 2021 presidential election. The outcome of the cases, as well as the failure by the IEC to implement some aspects of the court rulings, undermines confidence in the IEC’s commitment to adhere to the rule of law. As a body created through the Constitution, the IEC should at all times ensure that rulings handed down through court judgements are respected and implemented in accordance with the law. Also brought to the fore were communication gaps at the IEC. There was limited communication with stakeholders by the Commission. Apart from the few forums convened by the IEC, most of the communication was through press releases. However, not all communication was posted on the IEC website.

\(^{43}\) Voter registration was initially scheduled for the period 14 January to 26 February 2021. It was postponed to 29 May to July 11 2021. The duration for both periods was 44 days.
Election Day Findings

The EISA IEOM observed opening and counting procedures in 10 polling stations and voting at 95 polling stations across six regions in the country.

The election was held in a generally calm and peaceful environment, and EISA observers did not report any incident.

Overall, observers reported that all election day procedures were conducted in line with procedures as stipulated.

4.1 Opening

Most polling stations opened on time with no significant delays reported. The polling stations were laid out in an appropriate manner that allowed the free flow of voters and guaranteed secrecy of the ballot. All opening procedures, including the display of empty ballot drums and the correct sealing and placement of the boxes, were conducted professionally and observers found the conduct of polling staff to be ‘very good’ and ‘professional’.

4.2 Voting Procedures and the Secrecy of the Ballot

Voting procedures were adhered to, with polling staff demonstrating a high level of competency and professionalism. The mission notes with satisfaction that election materials were available in sufficient quantities throughout the voting process. There were isolated incidents of voters being turned away
for showing up at the wrong polling station, and who were then directed to their correct polling station.

Observers reported that over 90% of polling stations visited were accessible to PWDs, further enhancing inclusivity in the process. In two of the polling stations, the grounds were neither levelled nor flattened, thus restricting access to voters with limited mobility. All elderly, pregnant and nursing mothers were given priority at the polling stations

4.3 PARTICIPATION OF WOMEN
Although there was no female candidate contesting the presidential election, the EISA IEoM observed the participation of women as election officials, party agents and observers on an equal basis to the men. The mission however notes the under-representation of women in the election administrative structures.

4.4 OBSERVERS AND PARTY AGENTS
EISA observers reported that in most polling stations visited, party and candidate agents were present and were well informed about the electoral process and their role in promoting the integrity of the process. However, of the six contesting parties, the NPP and UDP were the only parties that managed to consistently deploy agents at all polling stations at which EISA observers were present.

In addition to party agents, the EISA IEOM observed the presence of domestic and international observation groups at most polling places visited, and these contributed significantly to the overall transparency of the process. Observers and agents adhered to their roles and were able to perform their duties without any restrictions.

4.5 SECURITY OF THE BALLOT
Security officials were present in all polling stations visited, adhering to their role of safeguarding the elections without interference or any impediment to the free movement of voters.

4.6 CLOSING AND COUNTING
EISA observers were present at 10 polling stations at the close of polls. The IEOM reported that the process was peaceful, orderly, efficient and
conducted in a transparent manner, free of any irregularities. Polling officials demonstrated adequate knowledge of counting procedures, indicating sufficient training conducted by the IEC.

All polling stations closed on time and there were no reports of voters still in line at the close of the polls or of not being permitted to vote.

Procedures relating to the reconciliation of used and unused tokens were adhered to and uniformly and consistently applied at all polling stations visited.

All party agents present received copies of the result sheets which were also posted at the observed polling stations.
5.1 RESULTS AGGREGATION

In accordance with IEC procedures, vote counting was done at the polling station immediately after the polls were closed. The mission observed that, in line with international standards, results were announced publicly and posted at the various polling stations. After counting the ballots, the results from each voting station were transmitted to the regional collation centres. The results were then verified, certified and faxed to the IEC headquarters.

The IEC established regional collation centres at the seven IEC regional offices and one national collation centre at the head office (Election House). Transmission of results was largely manual. Results of the seven regional collation centres were manual whereas those to the national collation centre were by fax.

The unique and simple counting procedures increased both the trust in and credibility of the results aggregation process.

5.2 ANNOUNCEMENT OF FINAL RESULTS

The law does not provide a specific timeline for the announcement of the final election results. However, owing to the unique and simple voting and counting procedures in The Gambia, the announcement of results takes a short time. The first results were announced before midnight on election
day. Provisional results, per constituency, were announced progressively throughout the next day at the national level.

The final results were announced on 05 December 2021, a day after the elections. The Incumbent president, Adama Barrow of NPP, was declared the winner with 457,519 (53.23%) votes. He was followed by Ousainou Darboe of the UDP who garnered 238,253 (27.72%) votes. Mama Kandeh of GDC came third with 105,902 (12.32%) votes. The other three candidates shared the remaining 57,893 (6.7%) votes, as shown in Table 4 below.

<table>
<thead>
<tr>
<th>Candidate’s Name</th>
<th>Political Party</th>
<th>Votes Received</th>
<th>% Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adama Barrow</td>
<td>NPP</td>
<td>457,519</td>
<td>53.23</td>
</tr>
<tr>
<td>Ousainou Darboe</td>
<td>UDP</td>
<td>238,253</td>
<td>27.72</td>
</tr>
<tr>
<td>Essa Mbye Faal</td>
<td>Independent</td>
<td>17,206</td>
<td>2.00</td>
</tr>
<tr>
<td>Abdoulie Ebrima Jammeh</td>
<td>NUP</td>
<td>8,252</td>
<td>0.96</td>
</tr>
<tr>
<td>Mama Kandeh</td>
<td>GDC</td>
<td>105,902</td>
<td>12.32</td>
</tr>
<tr>
<td>Halifa Boboucar Sallah</td>
<td>PDOIS</td>
<td>32,435</td>
<td>3.77</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>859,567</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

### 5.3 Voter Turnout

The 2021 presidential elections had a voter turnout of 859,567 (89.34%), the second highest in the history of Gambian elections. The highest, 89.83%, was in the 2001 presidential elections.

Compared to the 2016 elections, there was a percentage increase of 63.46% in voter turnout. The 2016 elections had a turnout of 525,867 (59%) out of 886,578 total registered voters. In 2021, 859,567 (89.34%) voters out of 962,157 total registered voters cast their ballots on election day.

Voter turnout in The Gambia has always fluctuated since the 1996 elections (see Table 5 below). The continued high voter turnout is generally indicative of the vitality of its democracy.
Table 5: Voter Turnout 1996–2021

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Registered Voters</th>
<th>Total Votes Cast</th>
<th>Voter Turnout (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>446 541</td>
<td>394 537</td>
<td>88.35</td>
</tr>
<tr>
<td>2001</td>
<td>509 301</td>
<td>457 484</td>
<td>89.83</td>
</tr>
<tr>
<td>2006</td>
<td>670 336</td>
<td>392 685</td>
<td>58.58</td>
</tr>
<tr>
<td>2011</td>
<td>796 929</td>
<td>657 904</td>
<td>83</td>
</tr>
<tr>
<td>2016</td>
<td>886 578</td>
<td>525 867</td>
<td>59</td>
</tr>
<tr>
<td>2021</td>
<td>962 157</td>
<td>859 567</td>
<td>89.34</td>
</tr>
</tbody>
</table>

Source: IEC

5.4 REJECTION OF ELECTION RESULTS

Before the announcement of the final results, three opposition candidates, Darboe of UDP, Kandeh of GDC, and Faal, who ran as an independent candidate, rejected the partial results. They cited a delay in the announcement of the results and other issues, which were not disclosed, but were reportedly raised by their agents and representatives at the polling stations. However, only Darboe lodged an official complaint at the Supreme Court.

5.5 SUPREME COURT PETITION

In accordance with the law, Darboe of the UDP filed a petition on 14 December 2021 challenging the election of Barrow. A second petition, seeking to amend the first one by enjoining the IEC as a respondent to the petition, was filed on 15 December 2021. The Court also joined the Attorney General to the suit. The petition thus had three respondents: Adama Barrow, the IEC, and the Attorney General as the first, second and third respondents respectively.

The petition sought five reliefs from the Court, namely:

1. that the election of the first respondent (FR), Adama Barrow, was invalid as a result of corrupt practices;
2. Barrow was not duly elected and his election was otherwise invalid;
3. votes cast in favour of Barrow in all regions were void by reason of corrupt and illegal practices;

44 Sections 49 and 127 of the Constitution; Sections 97, 166 and 117 of the Elections Act; and Sections 49 and 1227 of the Supreme Court Rules
4. the election was otherwise invalid by reason of non-compliance with electoral laws, widespread irregularities and improprieties which affected the results in favour of Barrow; and
5. the election was otherwise invalid because of non-compliance with the Constitution and all applicable election laws.

Barrow filed three motions in response. The first two, deposited on different dates, challenged, on different grounds, the competence of the Court to hear the petition. The applicant sought to consolidate the two motions. The request was denied by the Court since the motions had been scheduled for different days and the consolidation request had not been timeously affected. Barrow therefore withdrew the first motion.

The Court ruled that it would hear the second and third motions which, if determined in favour of the First Respondent, would terminate the proceedings; and to suspend the hearings of any other motions until the issues raised in the second and third motions were determined by the Court.

The second motion by the First Respondent sought relief from the Court and that the dismissal of the amended petition (dated 15 December) was on the following grounds:

- Election laws are to be interpreted stringently, particularly with regard to their time lines and their provisions held as mandatory;
- Neither the petition filed on 14 December, nor the amended petition were served on the First Respondent within the period or the manner required by the Election Rules; and such non-compliance with the procedure for service of the petition renders these proceedings a nullity since non-compliance with requirements of the Elections Act is fatal to a petition;
- the joinder of the Second Respondent (IEC) could not be properly effected after the time limit for presenting a petition had elapsed;
- the said joinder could not be properly effected without the service of the application for a joinder, and the hearing of the said application on notice to the First Respondent that all proceedings initiated by the petitioner ex parte following the service of the petition on the First Respondent be set aside as being a nullity for non-compliance
with the principles of fair hearing and with the Election Act and Election Rules;

- as a result of the failure by the petitioner to comply with or of its insufficient compliance with the Election Petition Rules (EPR), the amended petition is a nullity and is incompetent.

In relation to the second motion by the First Respondent, the Court ruled in favour of the petitioner. It found and held that: the petition, the amended petition and the application for joinder were all filed within the time limit prescribed by law; under the special circumstances of the case (the First Respondent was the president) that the First Respondent was properly served personally with the petition by the Court process server; and the joinder of the Second Respondent (IEC) was not vitiated by it being made ex parte, and that the Second Respondent had been properly joined to the suit.

The third motion sought for the dismissal of the petition on the grounds of non-compliance with Rule 11 of the EPR.\(^{45}\) It sought for the following reliefs, among others, from the Court: That the petition be dismissed for non-compliance with the requirement to give notice to the FR of the nature of the security provided within five days after the presentation of the petition in accordance with the requirements of Rule 11 of the EPR; and that such non-compliance is fatal to the proceedings.

The Court dismissed the petition after consideration of the third motion. It found and held that the petition was not in compliance with Rule 11 of the EPR which is mandatory and whose non-compliance is fatal to an election petition.\(^{46}\) The petitioner failed to serve the FA a ‘notice of the presentation of the petition and of the nature of the proposed security accompanied by a copy of the petition’. Whereas this is a requirement of Rule 11, notice of

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\(^{45}\) Rule 11 stipulates that ‘Notice of the presentation of a petition and of the nature of the proposed security accompanied by a copy of the petition shall be served by the petitioner on the respondent within five days after the presentation, exclusively of the day of presentation.’

\(^{46}\) In making its determination on the motion, the Court considered five important elements of rule 11. The Rule: casts a duty on the petitioner, and not on any other person or authority; The duty on the petitioner is to serve the respondent to an election petition with a notice of the presentation, i.e. the filing of the petition; The notice should have attached to it an indication of the nature of the proposed security; A copy of the petition should be attached to the notice of presentation as well; and The presentation of the document consisting of several parts should be served by the petitioner on the respondent within five days of the presentation, i.e. the filing of the petition.
the nature of the proposed security was not personally served on the First Respondent, but only copied to one of his counsel. Indeed, the counsel was copied in communication by the Master and the Registrar, addressed to the Registrar of the Supreme Court confirming deposit of the security for costs. The petitioner thus failed, by delegating his duty, to personally serve the FR, by relying instead on the petition being served by the Court contrary to requirements of Rule 11. In addition, only a notice of deposit of the security for costs was shared contrary to requirements of Rule 11. Compliance with the Rule required the petitioner to serve the notice of the presentation of the petition, with the petition and proposed security as attachments.

Darboe accepted the court ruling and announced that the party had not lost since the appeal had been rejected on a technicality and not on merit.

Following the upholding of his re-election by the Supreme Court, President Barrow was sworn in on 19 January 2022 in Banjul for his second five-year term.

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47 According to Rule 11, a petitioner has a duty to serve the respondent to an election petition with a notice of the presentation, that is, the filing of the petition. The notice should have attached to it an indication of the nature of the proposed security. A copy of the petition should be attached to the notice of presentation as well.
6.1 ROLE OF CIVIL SOCIETY

Civil society organisations play a significant role in strengthening the quality of democracy through their active civil participation. They provide critical support to key electoral institutions and activities.

The Gambia has a robust civil society which operates in a relatively free space in the current political context. CSOs actively participated in the electoral process through voter education, peacebuilding. They were also accredited to conduct domestic observation and set up situation rooms to support their observation work.

In the pre-election period, several CSOs were co-opted by both the IEC and NCCE for civic and voter education. Accredited CSOs also observed voter registration and nomination processes. The reports of their assessments were instrumental in helping organisations not on the ground to understand the conduct of these pre-election activities. CSOs also undertook situational analysis on the electoral process to guide their interventions, and held peace campaigns to ensure a peaceful electoral environment.

In order to enhance transparency and ensure timely access to election information, The Gambia Participates, a coalition of organisations working on election issues, developed the Marble Election Application (app). The
mobile app was piloted and first used during the 2018 Local Government Elections (LGE). It gained support in the run-up to and during the 2021 elections as more people sought election information, especially results, in a timely manner.

CSOs also sought to ensure adherence to the law during the electoral process. In particular, they held the IEC to account for its decision to allow the mayor of Banjul to issue attestations for voter registration purposes contrary to the legal provisions.

On election day, CSOs deployed observers to the various regions of the country. They also set up situation rooms to ensure peaceful elections through data collection, analysis and mitigation. Some organisations conducted a Parallel Voter Tabulation (PVT) as an observation tool.

The mission noted that the observer accreditation process was easily accessible, simple and non-discriminatory, allowing for inclusive participation. EISA observers noted the high number of citizen observers encountered upon their deployment and on election day. It further noted that CSOs played a significant role compared to past elections, and that they were able to operate without any undue restrictions.

### 6.2 ROLE OF THE MEDIA

The media play a vital role in elections, with the majority of citizens around the world relying on various media sources for political information. In the electoral context, the media are invaluable as the main source of voter education, and for campaigns and information-sharing by the various election stakeholders, including the election management body, government, political parties, candidates, and the electorate. Freedom of expression and of the media is thus important and integral to a democratic society.

The legal framework for media in The Gambia includes the Constitution, 1997; the Information and Communications Act (ICA), 2009, as amended; and the Gambian Criminal Code 1933, as amended. Some aspects of the Elections Act, 1996, as amended, regulate fair access to media during campaigns. Freedom of speech and of expression, including freedom of the press and other media, is guaranteed in the Constitution.48

48 Article 25 of the 1997 Constitution
The media in The Gambia are regulated under the Public Utilities Regulatory Authority Act, 2001 which established the Gambian Public Utilities Regulatory Authority (PURA) in 2004. In particular, in regard to the broadcasting sector, PURA grants licenses to operators and ensures their compliance with legislation and radio frequencies. It also protects consumers through dispute resolution. PURA regulates broadcast only, that is radio and television, excluding online communication. There is no regulator for print media, however governing laws exist. The Gambia Press Union (GPU) is the umbrella body for media in The Gambia. It provides a media code of conduct which is binding on all media houses and journalists. There is also a media council, established in 2018, which is independent from the GPU and is a self-regulatory body aimed at regulating editorial content across the entire media.

The IEC is mandated to ensure that during an election campaign period, equal airtime is given to each candidate and national party on public radio and television. Section 94 of the Act further provides for the right to use private radio and television stations by all candidates and political parties. The maximum political airtime which may be used by private media is regulated under Rule 2 of the Elections Media Rules.

The mission commends the equal coverage of campaign activities for all contesting candidates, and the overall compliance by the media with the media rules issued by the IEC. Gambia Radio & Television Service (GRTS) allocated each of the six candidates a ‘Party Political Broadcast’ of up to 10 minutes of TV and 10 minutes of radio time (including all languages), free of charge for airtime, during the election campaign period. The candidates met by the mission did not raise any complaints about the public broadcaster. The same time was allocated for the private media which also covered the campaign.

The Gambian media landscape is dominated by the state broadcaster i.e., the GRTS, which broadcasts throughout the country. The mission noted that The Gambia’s media landscape has diversified since Jammeh’s departure. There are presently 13 community radios, 40 private FM radio stations across the

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49 Section 93 of the Elections Act, 1996, as amended
country, six television stations (including the national broadcaster) and two online television stations. There are six newspapers. The media reported that they were able to work without restrictions or state interference.

The mission noted that while freedom of speech and expression by the media was largely respected during the election period, some legal provisions were observed to limit these freedoms, namely the Criminal Code and the Information and Communications Act.

In particular, the provisions in the Criminal Code on sedition, false news and criminal libel restrict journalist’s freedom of opinion and expression as guaranteed in the Constitution. The mission noted that these provisions were declared unconstitutional by the ECOWAS Court in February 2018. The EISA IEOM noted that in May 2018, the Gambian Supreme Court declared Section 173 of the ICA, 2009, as amended, unconstitutional, struck out criminal defamation and narrowed the definition of sedition to apply only to ‘the person of the president’ and ‘administration of justice’, as opposed to the initial definition which included the government of The Gambia. No legal amendments have however been made.

The unchecked surveillance enabled by provisions of the ICA, 2009 may restrict freedom of opinion and expression, contrary to constitutional provisions as well as international treaties.

The mission commended the enactment of the Access to Information Act in 2021. It helps access to information for both the public and media thus ensuring transparency in the electoral process. There were however no

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50 These are covered under the following Sections of the Criminal Code: Section 52 (seditious publication), Section 178 (criminal defamation), Section 181A (dissemination of false news) and Section 173 (false publication on the internet).
51 The Court held that criminal sanctions for sedition, defamation, and false news had “a chilling effect that may unduly restrict the exercise of freedom of expression of journalists” and ordered The Gambia to amend its laws to bring them into conformity with international law.
53 Article 138 of the ICA, 2009 empowers the national security agencies and investigative authorities to monitor, intercept, and store communications. The authority, PURA, is granted powers to intrude communication for surveillance purposes. The Minister is further authorised to order information and communications operators and service providers to implement the capability to allow authorised interception of communications. The circumstances under which all these may take place are not specified.
provisions for special voting for media personnel on duty on election day. It is important to put in place mechanisms to ensure the enfranchisement of all voters, including those on official election-related duties, in future elections.

### 6.3 GENDER AND MINORITY RIGHTS

The Gambia is a signatory to international and regional human rights conventions that protect and promote the rights of the youth, women and People Living with Disabilities (PLWD). These include: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979; the Convention of the Political Rights of Women (CPRW) of 1952, International Covenant on Civil and Political Rights (ICCPR) of 1996; African Charter on Human and Peoples’ Rights; the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa; and Convention on the Rights of Persons with Disabilities (CRPD). In fulfilment of its obligations, these treaties have been domesticated through the Women’s Act, 2010\(^54\), as amended; and Persons with Disability (PWD) Act, 2021.

The Constitution, 1997, provides for equality before the law. Section 26 guarantees the political rights of all persons, including women, youth and PWDs, on a non-discriminatory basis. Section 28 provides that women should be accorded full and equal dignity with men, as well as the right to equal treatment with men, including equal opportunities in political, economic and social activities.

The 1218,124 million women in The Gambia comprise 50.41\% of the total population\(^55\) and 57\% of the total registered voters. Despite their numerical dominance, their political participation was noted to be low. None of the six presidential candidates was female and women comprise only 10.34\% of the national assembly members.\(^56\)

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\(^{54}\) The Act is titled, ‘An ACT to implement the legal provisions of the National Policy for the Advancement of Gambian Women and Girls, and to incorporate and enforce of the United Nation Convention on the Elimination of all Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa and for other matters connected therewith’.


\(^{56}\) Among the aspirants who presented their nomination papers was one woman, Marie Sock (an independent). Her nomination was however disqualified for not fulfilling the nomination requirements. There are six women in the 58-member National Assembly. Three are elected and three are nominated, including the Speaker.
Similarly, political participation of PLWD is low. The mission noted that the enactment of the PWD Act is a first step towards protecting their rights and promoting their political participation. The mission further noted the nomination of the first-ever parliamentarian living with disabilities to the 2017 National Assembly. In addition, PLWD were given priority on election day, and assistance was given to those in need, in line with election procedures.

The Gambia has a youthful population with a median age of 17.8. Voters in the 18 to 35 age bracket comprised 57% of the total registered voters. The mission noted that the 1997 Constitution sets inclusive minimum age limits for elective positions at 21 and 30 years for parliamentary and presidential positions respectively, allowing for the participation of the youth.\(^\text{57}\) It further noted the existence of the National Youth Council which supports the participation of youth in national development. One of the strategic pillars of the National Youth Council is youth leadership and political participation.

The mission noted that, while several laws and policies to facilitate the political participation of these groups are in place, they have not been able to propel their numbers in the political sphere. There is therefore a need to consider broadening the legal framework to include special provisions that expressly promote and guarantee their political inclusion and representation. These include the introduction of a quota system for each of the groups as proposed in the 2020 draft Constitution.

The mission noted the IEC’s positive steps to include women in the electoral process. It observed their participation as election officials, party agents and observers on an equal basis to that of men.

### 6.4 SECURITY

Security institutions play an important role in the electoral process by maintaining a peaceful election environment. The Gambian Police Force (GPF) is responsible for election day security, a duty derived from their constitutional mandate.\(^\text{58}\) The police played three key roles during the

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\(^{57}\) Articles 89 and 62 of the 1997 Constitution.

\(^{58}\) Section 178 of the 1997 Constitution mandates the GPF to maintain peace and security at all times in accordance with established democratic norms and values.
electoral period: static function of the protection of sites dealing with electoral operations; dynamic function of securing presidential candidates, IEC commissioners and staff, voters as well as transportation of election materials; and standby function whereby they ensured that there was a standby force that could be mobilised whenever the need arose.

As part of the security plan ahead of the elections, the police undertook an analysis of the hotspot areas which then received security reinforcement during the electoral period. The police also trained the integrated personnel which included the National Intelligence, Armed Forces, ECONEC forces, Gambia Fire Department, and Immigration and Prison departments. They put in place a joint command centre headed by the Inspector General of Police (IGP) and an integrated election task force led by the regional commandants.

EISA observers reported the provision of security during campaigns and transportation of election materials. On election day, the presence of security personnel at all visited polling stations was reported. Their presence was described as discreet and professional.

The mission observed that the pre-election, election day and post-election periods were generally calm and peaceful. Security officers ensured that peace and order were maintained throughout and undertook their duties in a professional manner; there were no reported incidences of police overstepping their mandate.


7.1 ELECTORAL INTEGRITY SCORECARD

The IEOM used the Electoral Integrity Scorecard developed by EISA to assess the integrity of the elections. The scorecard assesses the electoral process according to 20 thematic areas that are considered to be the most significant phases and key to the integrity of an election.\textsuperscript{59} The thematic areas are weighted according to their relevance (high, medium or low) in contributing to the integrity of an election.

Among the highly-rated thematic areas are the electoral system, campaign conduct, procurement and operations, civic and voter education, polling and counting, results management, role of the media, role of security forces, role of CSOs, and involvement of election observers. These are most of the reference points/indicators of integrity in the electoral process.

Among the lowly-rated thematic areas were the legal framework, party and

\textsuperscript{59} These are: Legal Framework, Electoral System, Political Parties and Candidate Nominations, Party and Campaign Financing, Boundary Delimitation, Procurement and Operations, Election Management, Voter Registration, Civic and Voter Education, Conduct of Election Campaigns, Polling and Counting, Results Management, Inclusion and Participation of Women, Inclusion and Participation of Minorities, PWDs and Vulnerable Groups, Role of the Media, Role of Security Forces, Role of CSOs, Management of Complaints and Appeals, Use of Technology and Involvement of Observer Groups.
campaign financing, inclusion and participation of women, and inclusion and participation of minorities, PWDs and vulnerable groups. These areas were found to be lacking critical indicators/ reference points for electoral integrity and included: the lack of presidential tenure limit in the constitution; provisions for affirmative action to increase participation and representation of marginalised groups such as women, youth and persons with disabilities; regulatory provisions on political finance (sources of funding, ceilings and disclosure); provisions for state funding for parties and independent candidates; as well as a specific time frame for results announcement.

Overall, the mission rated the Gambian elections at 71% (reviewer) 75% (coordinator). This indicated that they complied to a considerable extent with electoral integrity indicators that demonstrated conformity to the principles of universal suffrage and political equality; and that they were conducted in a professional, impartial and transparent manner in accordance with international standards for the conduct of democratic elections.
8.1 **Conclusion**

The mission observed that the 2021 elections were conducted within a largely peaceful and calm environment.

The elections were also conducted within a legal framework that partially provided for democratic elections. While the country is a state party to various international and regional human rights instruments that guide the conduct of democratic elections, critical gaps and restrictive provisions in the national laws which do not conform with these international instruments were noted.

The key players in the process conducted themselves professionally and in accordance with laws and guidelines as stipulated. Issues arising from the process were addressed by the various mandated institutions, including the courts of law. The mission however noted a lack of compliance with some of the rulings by the IEC, thus impacting on the transparency and credibility of related electoral activities.

The mission noted the high voter turnout which demonstrated the eagerness of the people of The Gambia to participate in public affairs as guaranteed in the Constitution. It commended the resolve by the UDP candidate to use the laid-down procedures in challenging the election results.
8.2 RECOMMENDATIONS

Government of the Republic of the Gambia

To revisit the constitutional review process in order to address the gaps in the legal framework for elections, as follows:

- Consider the introduction of presidential term limits.
- Review the suitability of the current FPTP system and consider a majority system (50%+1) as an alternative.
- Respond to calls for fundamental reforms of the Elections Act in line with regional and continental standards.
- Provide for affirmative action to promote the participation and representation of vulnerable and underrepresented groups such as women, youth and PWDs.
- Consider public funding of political parties and campaigns.
- Consider the regulation of campaign financing by providing for ceilings and disclosure clauses to level the playing field in political contests.
- Consider amending or repealing some parts of the Criminal Code and Information and Communication Act, especially those related to sedition, criminalisation of libel and spreading of false news in order to protect freedom of speech as well as aligning the law to international standards.
- Implement the TRRC report recommendations to ensure justice and restitution for the victims of Jammeh’s era.
- Fast-track implementation of Security Sector Reforms and the report of the Anti-corruption commission and consider the establishment of a permanent Anti-Corruption Commission.

IEC

To consider:

- Putting in place requisite mechanisms to allow for diaspora voting.
- Adjustment and extension of timelines between various electoral activities, especially between nomination and the start of campaigns, to ensure adequate time is granted for exhaustive dispute resolution for those who feel that their rights have been violated.
• Putting in place provisions to have professionals on official duty, other than IEC staff, ensuring the right to vote, including for media.
• Restructuring the Commission’s organisational structure to include legal and communication departments with dedicated staff. This will address litigation, compliance and communication gaps, ultimately enhancing the capacity of the IEC.
• Improving civic and voter education on the nomination procedures and requirements to ensure that candidates have a better understanding of the process, thus minimising the number of disqualifications.
• Enhancing communication with stakeholders as a means of ensuring transparency not only between the Commission and stakeholders but also in the entire electoral process.

**Political parties**

• Promote participation of underrepresented groups including women, youth and PWDs in decision making organs within the party. This will prepare them for elective positions.

**Civil Society**

• Ensure targeted civic and voter education especially in regard to the rights of the underrepresented groups including women, youth and PWDs. This will increase their chances of participation and of being elected.
• Undertake holistic civic and voter education exercises to ensure that citizens have an understanding of each of the processes throughout the electoral cycle.
• Lobby for accelerated electoral reform to address the legal gaps as well as implementing the recommendations arising from the TRRC and other reform processes in the country.
ANNEXURES

ANNEXURE A
EOM GROUP PHOTO
## ANNEXURE B

### EOM DEPLOYMENT PLAN

<table>
<thead>
<tr>
<th>Location</th>
<th>Coverage</th>
<th>Name and Surname</th>
<th>Hotel</th>
<th>Hotel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Team 1: Banjul/Kanifing</td>
<td>Greater Banjul</td>
<td>Maria Brito</td>
<td>African Princess Hotel</td>
<td>BOLIE JALLOW -7908601</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mmapitsi Raphala/Faisal Warsame</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 2: Brikama-Mansakonko</td>
<td>Brikama-Mansakonko</td>
<td>Yvonne Muriel</td>
<td>Soumaoro Guest House, Busumballa-2811699</td>
<td>YUSUPHA JATTA -7344004</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Djeri Akpo</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 3: Brikama-Mansakonko</td>
<td>Brikama-Mansakonko</td>
<td>Rejas Zoujmore</td>
<td>Soumaoro Guest House, Busumballa</td>
<td>MUSA SANYANG -3990408</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Martin Omwange</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 4: Brikama-Mansakonko</td>
<td>Jarra West</td>
<td>Ericino de Salema</td>
<td>Mansa Konko Area Council Conference Centre, MansaKonko Highway-2036458</td>
<td>SUTAY SANNEH -7789010</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mamba Kibambe</td>
<td></td>
<td></td>
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<tr>
<td>Team 5: Kerrewan</td>
<td>Lower Niumi</td>
<td>Camus Mbaigusuedem</td>
<td>Mandela Guest House, LowerNiumi -7104057</td>
<td>MODOU KAH -3153129</td>
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<td></td>
<td></td>
<td>Agnes Babatunde-Kareem</td>
<td></td>
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<tr>
<td>Team 6: Janjanbureh</td>
<td>Lower/Upper Saloum</td>
<td>Samira Ble</td>
<td>Mansa Konko Hotel and Conference Hall, Mansa Konko Highway-2036458</td>
<td>MALICK BITTAYE -7511168</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lang Albert</td>
<td></td>
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<tr>
<td>Team 7: Basse</td>
<td>Basse Santa Su/Jimara</td>
<td>Aseye Nani</td>
<td>Happiness Guest House (AGIB Guest House)</td>
<td>SAMBA CAMARA 1-3455267</td>
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<td></td>
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<td>James Lahai</td>
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ANNEXURE C
EOM DEPLOYMENT MAP
# ANNEXURE D

## EOM TRAINING AND BRIEFING PROGRAMME

**EISA ELECTION OBSERVER MISSION**  
**TO THE 2021 PRESIDENTIAL ELECTIONS IN THE GAMBIA**

**Observer Briefing and Orientation Programme**  
**28–29 November 2021, Metzy Residence Hotel**

## DAY ONE – Sunday 28 November 2021

<table>
<thead>
<tr>
<th>TIME</th>
<th>TOPIC</th>
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<tbody>
<tr>
<td>08:30 – 08:45</td>
<td>Arrival and registration</td>
<td>EISA</td>
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<tr>
<td>08:45 – 09:00</td>
<td>Welcome remarks and introductions</td>
<td>EISA</td>
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<tr>
<td>09:00 – 09:20</td>
<td>Mission Background, ToR &amp; Code of Conduct (signing observer pledge)</td>
<td>EISA</td>
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<tr>
<td>09:20 –10:00</td>
<td>Pre-election political context</td>
<td>CepRass</td>
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<tr>
<td>10:15 - 11:00</td>
<td>The constitutional and legal framework for the elections in Gambia – Presentation and discussion</td>
<td>Emmanuel Daniel JOOF, Chairperson, National Human Rights Commission</td>
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<tr>
<td>11:00–11:30</td>
<td>Tea/Coffee Break</td>
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<tr>
<td>11:30 – 12:30</td>
<td>Media Landscape and role of the Media in elections</td>
<td>President of Gambian Press Union Mr Sheriff Bojang Jr</td>
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<tr>
<td>12:30 – 13:30</td>
<td>Briefing by the Electoral Commission</td>
<td>Independent Electoral Commission [IEC]</td>
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<td></td>
<td>- Overview of the Commission’s mandate</td>
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<td></td>
<td>- The Commission’s interaction with stakeholders and involvement of stakeholders in the electoral process (political parties and civil society)</td>
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<td>- Preparedness for the elections (procurement, personnel recruitment and training, logistics and operations)</td>
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<td>- Election Media rules and regulations</td>
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<tr>
<td>13:30 – 14:30</td>
<td>Lunch</td>
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</table>
### 14:30 – 15:30 Perspectives from Civil Society Organisations

- The role of civil society in the electoral process
- The Participation of Minorities in the electoral process
- Youth representation and participation in the electoral process

**John Charles, TANGO**

**Muhammed Krubally, Federation for the Disabled (confirmed)**

**Alagie Jarju, National Youth Council (confirmed)**

### 15:30 – 16:00 Understanding the concept, rationale and methodology of election observation

**Justin Doua**

### 16:15 – 17:00 Briefing by the Gambia Police Force

- Role of security agencies in the elections
- State of Preparedness for the elections
- Overview of Hotspots

**IGP, Bojang**

### 17:00 Tea/Coffee Break

**End of Day 1**

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**DAY TWO – Monday 29 November 2021**

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<tr>
<th>TIME</th>
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<tbody>
<tr>
<td>08:30 - 09:30</td>
<td>Political and Historical Context of the 2021 Elections – Presentation and discussion</td>
<td>Jeggan Grey Johnson, Open Society Foundation (OSF)</td>
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<tr>
<td>09:30 – 10:30</td>
<td>Benchmarks for credible elections</td>
<td>Magdalena Kieti</td>
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<tr>
<td></td>
<td>□ International and Continental and sub-regional instruments</td>
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<td>□ Principles for democratic elections</td>
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<tr>
<td>10:30 – 11:00</td>
<td>Tea/Coffee break</td>
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<td>11:00 – 12:00</td>
<td>Introduction to the use of tablets for data collection on and post E-Day</td>
<td>Lenny Taabu</td>
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<tr>
<td>12:00 – 13:00</td>
<td>Introduction to the use of ODK for data collection and transmission on and post E-Day</td>
<td>Lenny Taabu</td>
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<tr>
<td>13:00 – 14:00</td>
<td>Lunch</td>
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<tr>
<td>14:00 – 15:00</td>
<td>Use of checklists on tablets and reporting</td>
<td>EISA</td>
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<tr>
<td>15:00 – 15:45</td>
<td>Election Day guideline</td>
<td>Grant Masterson</td>
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<tr>
<td>15:45 – 16:00</td>
<td>Tea/coffee break</td>
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<tr>
<td>16:00 – 16:30</td>
<td>Security briefing</td>
<td>Security Expert</td>
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<tr>
<td>16:30 – 17:00</td>
<td>Deployment briefing &amp; distribution of supplies</td>
<td>Rianna Henley, Mmapitsi Raphala</td>
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End of Day 2

**Tuesday 30 November 2021**

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<tr>
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<tbody>
<tr>
<td>09:00 – 10:00</td>
<td>Meeting with the Mission Leader</td>
<td>EISA</td>
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<tr>
<td>10:00</td>
<td>Departure to areas of deployment</td>
<td>EISA</td>
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End of Day 3
I. INTRODUCTION


The mission was composed of 15 international observers from 13 African countries, drawn from Election Management Bodies (EMBs), Civil Society Organisations (CSOs), and academia. The EISA IEOM is led by His Excellency John Dramani Mahama, former president of the Republic of Ghana, deputised by EISA’s Executive Director, Baidessou Soukolgue and supported by a coordination and technical team. Observer teams were deployed in seven (7) teams to six (6) regions to observe key processes including the electoral campaigns, pre-polling, election day and limited post-election activities. The mission will remain in The Gambia until 09 December 2021.

Since its arrival in The Gambia, the EISA IEOM has interacted with various stakeholders including the Independent Electoral Commission (IEC), The Judiciary (Chief Justice), the Gambia Police Force, presidential candidates, National Human Rights Commission (NHRC), the Gambia Press Union (GPU), Civil Society Organisations (CSOs), West African Network for

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1 The six regions are Banjul, Kanifing Municipal Council (Kanifing), West Coast (Brikama), North Bank (Kerrewan), Central River (Janjanbureh) and Upper River (Basse).
Peacebuilding (WANEP), and CSO Coalition on Elections. The EISA Mission closely coordinated with other IEOMs in the country.

The EISA IEOM's assessment of the electoral process is based on the principles and obligations for democratic elections stipulated in the following international benchmarks: the African Union (AU) Declaration on the Principles Governing Democratic Elections; the African Charter on Democracy, Elections and Governance (ACDEG); the Principles for Election Management, Monitoring and Observation (PEMMO); and the legal framework for elections in The Gambia. EISA's observation methodology is guided by the Declaration of Principles for International Observation (DOP) and its attendant code of conduct for observers.

This statement presents a summary of the preliminary findings, conclusions and recommendations of the EISA IEOM. It is being issued when the final results have been announced. The Mission notes however that the final results sheet was only signed by representatives of two candidates. EISA will issue a final report covering the entire electoral process and recommendations for future improvements at a later stage.

2. POLITICAL ENVIRONMENT

The 04 December 2021 presidential elections were the sixth elections to be held since the return to democratic rule following the 1994 military coup and the first in the post Jammeh era. Voters cast their ballots for six presidential candidates, whom were all male.

The Mission notes the constitutional, electoral, institutional, transitional justice and security sector reforms initiated by the government since 2017, and priorities for the government.

Despite progress in initiating reforms, the mission notes that some of these reforms remain outstanding at the time of the 2021 election. Discussions regarding a new Constitution appear to have stalled, and the EISA EOM also notes that implementation of both security sector reforms, and the recommendations of the Janneh Commission remain unresolved. The delay in submission of the TRRC report to the government has stalled delivery of justice, reparations and overall reconciliation processes for the victims of atrocities allegedly committed by the Jammeh regime.
The Mission applauds progress in the provision and protection of human rights in the country. This was through the establishment of the National Human Rights Commission to promote and protect human rights. An Access to Information law was also enacted in August 2021. In the context of elections, granting the right of access to information enhances transparency in the process.

The pre-electoral environment has been largely peaceful with a few skirmishes reported. However, the Mission did receive reports of an increase in incidences of hate speech along tribal lines in the period preceding the elections. While the law provides for freedom of speech, rhetoric from political leaders incited supporters to hostility and violence.

3. **LEGAL FRAMEWORK**

The 2021 presidential election was governed by the Constitution of 1997, as amended in 2001; the Electoral Act of 1996 as amended and other guidelines which include the Code on Election Campaign Ethics and Election petition rules.

The Constitution recognises and guarantees fundamental rights and freedoms necessary for democratic participation of citizens in an electoral process.

The Elections Act makes provisions for all technical aspects of the electoral process including registration of political parties, the registration of voters, nomination of candidates, the conduct of polls, election campaigns and announcement of the results. The Mission therefore acknowledges that this Act provides for citizen participation, equality in voting by an informed electorate and sufficient basis for the conduct of competitive elections.

The legal framework does not make provision for public funding of political parties and campaigns as anticipated in section III (g) of the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa.

4. **ELECTORAL SYSTEM**

The Gambia employs the ‘First-Past-The-Post’ system (FPTP) with a five-year Presidential mandate.
Elections in The Gambia are conducted using marbles (‘ballot tokens’). Each voter receives a marble and places it in a tube on top of a sealed drum (which serve as a ballot box) that corresponds to the candidate the voter is voting for. The drums are painted in different colours corresponding to the party affiliation of the candidate, and a picture of the candidate is affixed to their corresponding drum. According to the IEC and the other stakeholders met by EISA EOM the system has the advantages of low cost and simplicity, both for understanding how to vote and for votes counting and has extremely low chances of spoilt ballots.

This system of voting is uniquely Gambian, and EISA observers reported that voter’s exhibited high levels of confidence in the system and its operation on Election Day. However, the mission notes that such a system faces challenges in the event of a large number of candidates, as provided for under the multi-party structure outlined in the Gambia’s legislative framework.

5. ELECTORAL ADMINISTRATION

The Constitution provides for the establishment of an Independent Electoral Commission (IEC) and the procedures for appointments of its members, and it operates within the confines of the Constitution (as amended), Elections Act (as amended) and the Local Government Act 2002 (as amended). The IEC is responsible for the conduct and supervision of all electoral activities.

The members of the Commission are appointed by the President of the Republic in consultation with the Judicial Service Commission and the Public Service Commission as an independent body. Commissioners enjoy security of tenure of office and their appointment may only be removed by the President.

The Mission notes that the IEC enjoys a financial autonomy guaranteed by the Constitution with the funds consisting of monies appropriated to it by the National Assembly.
6. PREPAREDNESS OF THE INDEPENDENT ELECTORAL COMMISSION (IEC)

The IEC commenced preparations for the presidential election with voter registration using biometric systems, candidate nominations, civic and voter education, campaigns, accreditation of observers among others. The mission notes initial delays in implementation of activities like voter registration, as per the election calendar. This did not ultimately affect the roll out of activities in the pre-election period.

The IEC set up 1,554 polling stations, recruited and trained 6,078 election staff. It also procured and distributed electoral materials, and monitored campaign activities including ensuring equality in access to and coverage by the public broadcaster.

Four petitions challenging decisions of the IEC during the voter registration and nomination periods were filed in Court prior to the 2021 presidential election. The outcome of the cases as well as failure by the IEC to implement some aspects of the rulings undermines confidence in the IEC’s commitment to adhere to the rule of law. As a body created through the Constitution, the IEC should at all times ensure that rulings handed down through court judgements should be respected and implemented in accordance with the law.

7. VOTER REGISTRATION

The Constitution provides for universal suffrage with citizens who have attained the age of eighteen (18) being eligible to vote. The IEC is responsible for conducting and supervising the registration of voters.

The Commission conducted voter registration from 29 May 2021 to 11 July 2021. On 12 July 2021, the IEC released a provisional voter register with a total of 987,484 registered voters and the register was displayed at the various registration centers from 16 to 29 August 2021. The register was displayed for verification and objections in line with the principle of transparency and access to information in the electoral process. The Mission was informed that no objections and appeals were raised.

The final voter register had a total of 962,157 voters. Of these, 545,318 (56.67%) were female while 416,839 (43.32%) were male. Voters in the 18-35
The age bracket comprised 57% of the total registered voters signifying a youthful voter population in The Gambia. There was a total increase of 75,579 (8.5%) in the number of registered voters compared to 2016 when the total registered voters were 886,578.

The Mission noted the positive step by the IEC to segregate the voter register according to gender and different age sets. This allows for targeted interventions in the electoral process to improve participation.

During the voter registration process, the legality and validity of the authority given to the mayor of Banjul to issue attestations for registration purposes was challenged. The court ruled that the mayor lacked the powers to issue attestations as the act was in contravention of Section 12(2)(e) of the Elections Act. Voters cards that were issued based on the attestations by the mayor were however not annulled. The Mission noted that, while attestation by the various authorities allows for inclusion in the voter registration process, it may be susceptible to manipulation if proper safeguards are not put in place.

The Mission noted that the number of registered voters during a national registration drive for the 2021 election was low. It observed that the 8.5% increase in registered voters over a five-year period was minimal compared to the total population of 2,416,664 and median age of the population which is 17.8.

Section 39 of the Constitution, 1997 provides for the right of every Gambian citizen, even those residing out of the country, to register and to vote. This right has however never been actualized. As a result, the IEC was taken to court over disenfranchisement of the over 200,000 Gambians in diaspora. A Supreme court ruling on 27 January ruled that they should be allowed to vote, but the IEC did not make provisions for this in the 04 December election.

8. CANDIDATE NOMINATIONS
In line with the legal provisions, the nomination of presidential candidates was conducted from 30 October to 05 November 2021. A total of twenty-six (26) candidates, thirteen (13) each from political parties and independents presented their nomination papers.
Section 49 of the Elections Act, 2001, as amended provides for scrutiny of the nomination papers by any registered voter. Accordingly, the date for public scrutiny of the nomination papers was 06 November 2021 from 08:00 to 12:00. The Mission was informed that sixty-six (66) voters scrutinised the candidate nomination papers, and three (3) objections were received and dismissed by the Returning Officer.

The IEC validated the nomination of six (6) candidates all of whom were male. Following the nomination, the Commission received and considered three (3) appeals from disqualified candidates which it dismissed. The three candidates challenged IEC’s decision in the high court and the Court ruled in favour of the appellants by declaring that the IEC acted in contravention of the Elections Act. The IEC was ordered to receive fresh and additional nomination documents from the candidates. The Commission appealed the High Court’s decision on one case which is still pending in court.

For the first time in the history of the country, all the six presidential candidates signed a code of conduct on 11 November 2021. By signing, they pledged their support to peaceful elections in the pre-election, election and post-election periods.

Stakeholders consulted by the EISA Mission expressed concerns about the time allocated to scrutinise the nomination papers before the conclusion of the nomination process, limiting the opportunity to verify the bona fides of all contesting candidates. This restricted the right of access to information and ultimately impacted on the transparency of the process. In addition, the period between nomination and start of campaign was two days, further impacting on the right to effective remedy as it did not provide ample time for filing and adjudication of petitions arising from the nomination process.

9. CAMPAIGNS
The rights of candidates and political parties to campaign are guaranteed by the Constitution and the Electoral Law and the IEC determines the period after nominations for campaigns to be held. Campaigns kicked off on 09 November 2021 and ended on 02 December 2021. Prior to this, the IEC conducted the campaign reconciliation program on 07 and 08 November 2021 together with the candidates’ representatives and the police, to avoid any clashes that would arise.
The Mission notes that political parties and candidates generally conducted their campaigns in a peaceful and orderly manner. Candidates complied with the requirements to submit a request to the IEC indicating the date, time and place of holding of the demonstrations and processions. The Mission commends the IEC and the Police for providing sufficient security to all the candidates.

Police officers were visibly present during most campaigns activities and undertook their duties professionally.

The legal framework does not provide for public funding for political parties or campaigning. There are no ceilings on campaign expenditure and disclosure of candidate campaign funding is not mandatory. There is therefore no safeguard against the undue influence of money in Gambian politics.

The EISA EOM believes that party and campaign finance as well as control of campaign expenditures should be taken into account in the legal reforms, so as to guarantee a level playing field and protect the electoral process from undue funding.

10. MEDIA ENVIRONMENT
Freedom of speech and of expression which includes freedom of the press and other media is guaranteed in the constitution. The Mission notes that Gambia’s media landscape has diversified since Jammeh’s departure. Press freedom is now guaranteed and enforced and the legal framework provides for fair access to the media for all political parties and candidates over the electoral period. The Gambian media landscape is dominated by the state broadcaster, Gambia Radio and Television Services (GRTS), which broadcasts throughout the country.

The Mission commends the equal coverage of campaign activities to all contesting candidates and the overall compliance by the media with the media rules issued by the IEC. GRTS allocated to each of the six (06) candidates, free of charge for airtime, a “Party Political Broadcast” of up to 10 minutes of TV and 10 minutes of radio time (including all languages), during the election campaign period. The candidates met by the Mission
did not raise any complaints about the public broadcaster. Private radio also covered the campaign.

However, there was no provisions for special voting for media personnel on duty on election day. It is important to put in place mechanisms to ensure enfranchisement of all voters in future elections.

II. GENDER, YOUTH AND VOTERS WITH DISABILITY
The Gambia is a signatory to international and regional human rights conventions that protect and promote the rights of the youth, women and people living with disabilities, all of which provide for equality before the law.

At 1,218,124 million, women in The Gambia comprise 50.41% of the total population\(^3\) and 57% of the total registered voters. Their political participation is however low. None of the six (6) presidential candidates was female and they only comprise 9% of the national assembly.

Similarly, political participation of Persons Living with Disability (PLWD) is low. The Mission noted the passage of the Persons with Disability Bill in July 2021. This is a first step towards protecting their rights and promoting their political participation. The Mission further noted that PLWD were given priority on election day and assistance given to those in need in line with the election procedures.

12. VOTER EDUCATION
Civic and voter education in The Gambia are the mandates of the National Council for Civic Education (NCCE) and IEC, respectively. In implementing their activities, the two institutions collaborated with one another as well as several CSOs.

Voter education strategies included the use of billboards, jingles, radio and television panels as well as social media.

The Mission noted that the average time to process a voter on election day was between 0-3 minutes. This coupled with the limited number of assisted

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voters and invalid ballots could be indicative of relatively widespread voter education.

13. CIVIL SOCIETY ORGANISATIONS

The Gambia has a robust civil society which operates in a relatively free space, compared to the previous regime. CSOs actively participated in the electoral process through voter education, peacebuilding, domestic observation and setting up of situation rooms to ensure peaceful elections through data collection, analysis and mitigation, and were able to operate without any undue restrictions. EISA observers reported the presence of domestic observers in most polling stations visited.

14. ELECTION DAY OBSERVATIONS

The EISA EOM observed opening and counting procedures in 10 polling stations and voting at 95 polling stations across six (6) regions in the country.

The election was held in a generally calm and peaceful environment with EISA observer’s not reporting any incident.

Overall, observers reported that all election day procedures were conducted in line with stipulated procedures.

Opening

Most polling stations opened on time with no significant delays reported. The polling stations were laid out in an appropriate manner that allowed free flow of voters and guaranteed secrecy of the ballot. All opening procedures including display of empty ballot drums and correct sealing and placement of the boxes, were conducted professionally and observers found the conduct of polling staff to be “very good” and “professional”.

Voting

Voting procedures were adhered to, with polling staff demonstrating a high level of competency and professionalism. The mission notes with satisfaction that election materials were available in sufficient quantities throughout the voting process. There were isolated incidents of voters being turned away for showing up at the wrong polling station, but were then directed to their correct polling station.
Observers reported that over 90% of polling stations visited were accessible to PLWDs further enhancing inclusivity in the process. In two of the polling stations, the ground was not levelled or flattened accordingly thus limiting access to voters with limited mobility. All elderly, pregnant and nursing mothers were given priority at the polling stations.

**Participation of women**
In as much as there was no female candidate contesting the presidential election, the EISA EoM observed the participation of women as election officials, party agents and observers in equal basis as men. EISA EoM however notes the underrepresentation of women in the election administrative structures.

**Observers and Party agents**
EISA observers reported that in most polling stations visited, party and candidate agents were present and were well informed about the electoral process and their role in promoting the integrity of the process. However, out of the six contesting parties, the NPP and the UDP are the only parties that managed to consistently deploy agents at all polling stations where EISA observers were present.

In addition to party agents, the EISA EOM observed the presence of domestic and international observation groups at most polling places visited, contributing significantly to the overall transparency of the process. Observers and agents adhered to their roles and were able to perform their duties without any restrictions.

**Security of the ballot**
Security officials were present in all polling stations visited, adhering to their role of safeguarding the elections without interference or any impediment to the free movement of voters.

**Closing and counting**
EISA observers were present at 10 polling stations at the close of polls. The EOM reported that the process was peaceful, orderly, efficient and conducted in a transparent manner, free of any irregularities. Polling officials demonstrated adequate knowledge of counting procedures indicating sufficient training conducted by the IEC.
All polling stations closed on time and there were no reports of voters in line at the close of the polls or not being permitted to vote.

Procedures relating to reconciliation of used and unused tokens were adhered to and uniformly and consistently applied at all polling stations visited. All party agents present received copies of the result sheets which were also posted at the observed polling stations.

**RECOMMENDATIONS**

**Government of the Republic of the Gambia**

1. To revisit the constitutional review process in order to address the gaps in the legal framework for elections. These include:
   
   - To consider the introduction of Presidential term limits.
   - Review the suitability of the current FPTP system and consider a majority system (50%+1) as an alternative.
   - To respond to calls for fundamental reforms of the Elections Act in line with regional and continental standards.
   - To provide for affirmative action to promote the participation and representation of vulnerable and underrepresented groups such as women, youth and People with Disabilities (PWDs).
   - To consider introduction of laws regulating campaign financing.

2. To implement the TRRC report recommendations to ensure justice and restitution for the victims of Jammeh’s era.

3. To fast-track implementation of Security Sector Reforms and the report of the Anti-corruption commission. To also consider establishment of a permanent Anti-Corruption Commission.

**IEC**

- To put in place requisite mechanisms to allow for diaspora voting.
- To enhance the capacity of the Commission through setting up and staffing Legal and statistics departments in the Commission.
CONCLUSIONS

The EISA EOM commends the people of the Gambia on conducting elections in a peaceful and transparent manner. The mission encourages the country to maintain the good practices observed.

The mission appeals to candidates to maintain peace and use the legally instituted channels to address any grievance that may arise.
ABOUT EISA

EISA is a not-for-profit organisation promoting credible elections, citizen participation, and strong political institutions for sustainable democracy in Africa. Established in 1996 in South Africa, the organisation now has field offices across the continent with our services sought after by national, sub-regional and continental partners.

With the support of our partners, EISA works towards an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment.

Vision
An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment.

Mission statement
EISA strives for excellence in the promotion of credible elections, citizen participation, and strong political institutions for sustainable democracy in Africa.