



**SADC ELECTORAL OBSERVER MISSION
TO THE KINGDOM OF SWAZILAND**

PRELIMINARY STATEMENT

BY

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AND

HEAD OF SADC ELECTORAL OBSERVER MISSION

TO THE

**NATIONAL ELECTIONS OF THE KINGDOM OF
SWAZILAND, HELD**

ON 20 SEPTEMBER 2013,

EZULWINI, SWAZI CONVENTION CENTRE 22 SEPTEMBER 2013

- Distinguished members of the Election and Boundaries Commission (EBC) of the Kingdom of Swaziland;
- Traditional Leaders;
- Your Excellencies, High Commissioners and Ambassadors accredited to the Kingdom of Swaziland and other Members of the Diplomatic Corps;
- Members of Observer Missions;
- Esteemed Members of the Media;
- Distinguished Guests;
- Ladies and Gentlemen

It is indeed an honour and pleasure to welcome you all to this important event, the presentation of the SADC Electoral Observation Mission (SEOM) Preliminary Statement on the recently concluded election process in the Kingdom of Swaziland.

1. INTRODUCTION

In line with the Southern African Development Community (SADC) *Principles and Guidelines Governing Democratic Elections*, the Government and the Election and Boundaries Commission of the Kingdom of Swaziland invited SADC to observe its National Elections, which were held on 20 September 2013.

Following the invitation, the Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, His Excellency Hifikepunye Pohamba, President of the Republic of Namibia, constituted the SADC Electoral Observer Mission (SEOM) to the Kingdom of Swaziland and mandated the SADC Executive Secretary, Dr Stergomena Lawrence Tax to facilitate the administrative and logistical support for the Mission.

The Chairperson of the SADC Organ on Politics, Defence and Security Cooperation appointed Hon. Netumbo Nandi-Ndaitwah, Minister of Foreign Affairs of the Republic of Namibia to head the Mission.

The SADC Electoral Observer Mission was officially launched on 15 September 2013, by Hon. Netumbo Nandi-Ndaitwah, in the presence of Mrs Emilie Ayaza Mushobekwa, Deputy Executive Secretary for Finance and Administration of SADC, SADC Observers as well as other stakeholders in the Kingdom of Swaziland.

After days of intensive work, the SADC Electoral Observer Mission has the honour to announce its preliminary report on the outcome of its observation of the electoral process in the Kingdom of Swaziland. A final report in line with the *Principles and Guidelines Governing Democratic Elections* shall be released within thirty (30) days after the announcement of the election results.

2. THE ROLE OF THE SADC ELECTION OBSERVER MISSION (SEOM)

The Mission derives its mandate from the *SADC Principles and Guidelines Governing Democratic Elections*, which in turn emanates from the *OAU/AU Declaration on the Principles Governing Democratic Elections in Africa* and the *AU Guidelines for African Union Electoral Observation and Monitoring Missions*. Furthermore, as a point of reference, the Mission worked within the legal framework of the Kingdom of Swaziland.

In developing the nature and scope of its observation, the Mission sought to determine the existence of the following pre-conditions for free and fair elections and in accordance with *Article 4 of the SADC Principles and Guidelines Governing Democratic Elections, which provides for:*

- (i) Constitutional and legal guarantees of freedoms and rights of citizens;
- (ii) Conducive environment for free, credible, transparent, fair and peaceful elections;
- (iii) Non-discrimination in voter registration;
- (iv) Existence of an updated and accessible voters' roll;

- (v) Timeous announcement of the election date;
- (vi) Where applicable, transparent funding of political parties based on the agreed threshold in accordance with the laws of the land;
- (vii) Neutral location of polling stations;
- (viii) Establishment of the mechanism for assisting the planning and deployment of electoral observation missions.

Before the launch of the SEOM, SADC Observers underwent a refresher training session conducted by the Electoral Institute for the Sustainability of Democracy in Africa (EISA) on 11 September 2013. The training, among other things, focused on the following:

- (i) SADC's Role in Election Observation;
- (ii) Election Observation Methodology;
- (iii) Code of Conduct for Election Observers;
- (iv) International and Regional Election Observation Benchmarks; and

- (v) Understanding the electoral-political landscape of the Kingdom of Swaziland.

During the launch of the SEOM on 15 September 2013, Observers were urged to adhere to the *SADC Principles and Guidelines Governing Democratic Elections* in the performance of their duties. Emphasis was placed on the following areas:

- That the observers must comply with the laws and regulations of the Kingdom of Swaziland;
- That they should maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties and candidates in contention of the election process. Furthermore they will not display or wear any partisan symbols, colours or banners;
- That they will base all reports and conclusions on well documented, factual and verifiable evidence from a multiple number of credible sources as well as their own eye-witness accounts; and
- That they should work harmoniously with each other and other observer missions/organisations in their areas of deployment.

3. DEPLOYMENT OF SEOM OBSERVERS

The Mission deployed twenty four (24) teams of observers in the four (4) Regions of the Kingdom of Swaziland. The SEOM constituted field teams and gave them the responsibility to cover their areas of deployment so that the Mission could obtain a comprehensive understanding of the electoral process in the country and be in a position to provide an informed opinion.

SEOM deployed ninety (90) observers from nine (9) SADC Member States (Republic of Angola, The Kingdom of Lesotho, Republic of Malawi, Republic of Mozambique, Republic of Namibia, Republic of South Africa, United Republic of Tanzania, Republic of Zambia and the Republic of Zimbabwe) consisting of Members of Parliament, political and electoral experts, Civil Servants, and members of Civil Society. The activities of the Mission were coordinated at the Operations Centre, which was based at Lugogo Sun Hotel, Ezulwini in the Kingdom of Swaziland. The Operations Centre was staffed with officials from the Troika of the Organ and the SADC Secretariat.

4. CONSULTATIONS WITH STAKEHOLDERS AND VARIOUS INSTITUTIONS

In the discharge of its duties, the SADC Electoral Observer Mission interacted with various stakeholders in order to gather information on various aspects of the electoral process. The stakeholders and various institutions included *inter alia*:

- Election and Boundaries Commission of the Kingdom of Swaziland;
- Ministry of Foreign Affairs of the Kingdom of Swaziland;
- Ministry of Justice of the Kingdom of Swaziland;
- Royal Swaziland Police;
- Traditional Leaders;
- African Union Electoral Observer Mission;
- COMESA Electoral Observer Mission;
- SADC Parliamentary Forum Observer Mission;
- Commonwealth Electoral Observer Mission;
- European Union Electoral Experts;

- People’s Union Democratic Movement (Swaziland);
- Swaziland Youth Council;
- MISA Swaziland;
- SADC Non-Governmental Organization; and
- SADC Lawyers Association.

These interactions have assisted the SADC Electoral Observer Mission to understand the prevailing political environment in the country and to share the extent of its mandate with them.

5. MAJOR ISSUES RAISED BY THE STAKEHOLDERS AND INSTITUTIONS

The SADC Electoral Observer Mission wishes to highlight issues of concern expressed by some stakeholders and institutions on the electoral process. These include, *inter alia*, the following:

- Partiality of the EBC;
- Participation of women;
- Electoral disputes;
- Civic and voter education;
- Voters roll;
- Campaigning and political tolerance;

- Freedom of Association;
- Primary elections and Special Voting process;
- Counting of ballot papers;
- Security of ballot boxes;
- Media freedom and coverage; and
- Improved communication with EBC.

The SADC Electoral Observer Mission (SEOM) pursued some of these concerns in a systematic manner by conducting further investigations and at times sought clarification from relevant parties. Some of the responses provided were as follows:

(I) PARTIALITY OF THE EBC

Concerns were raised about the partiality of the EBC. The Mission considered the fact that EBC is a body constituted by law, which provides for its composition, role, finances and functions. Despite these concerns the evidence suggests that the Elections and Boundaries Commission managed and delivered on the elections as per its mandate.

(II) PARTICIPATION OF WOMEN

The participation of women in the electoral process is provided for in the laws of the Kingdom of Swaziland. During its observations the Mission learned that women's

participation as candidates has declined since the 2008 elections.

The Mission also learned for example that a widow was excluded in the nomination process, and that she lodged a case with the High Court. This matter has since been adjudicated and concluded by the courts.

(III) ELECTORAL DISPUTES

The Mission took note of the uniqueness of the electoral system in the Kingdom of Swaziland, which has now been titled Monarchial Democracy and the use of *chiefdoms* and *Tinkhundla* (constituencies) for the nomination and ultimate election of representatives. The Mission also took note of the legal provisions for dealing with electoral infringements and the lodging of such complaints with the courts of the Kingdom of Swaziland. There were allegations that during the primary elections, unfairness and non-procedural conduct was practiced. The matters were referred to the EBC or alternatively to the courts for adjudication.

(IV) FREEDOM OF ASSEMBLY AND ASSOCIATION

Concerns were raised on the freedom of assembly and association. The SEOM pursued this matter and found that these freedoms are guaranteed by the Constitution under Article 25 (1).

(V) CIVIC AND VOTER EDUCATION

The overall responsibility to educate the electorate is vested in the Elections and Boundaries Commission.

Some civil society organizations also played a part in this process. The Mission was informed that although civic and voter education was conducted through the media it was not adequate because both print and electronic media could not reach every potential voter.

(VI) VOTERS ROLL

The Mission has learned that during the registration and inspection of the voters roll, the names of some voters were indicated in different Chiefdoms from where they reside. The EBC confirmed that the Voters Roll was issued timeously and enough time was afforded for validation and that these anomalies were rectified.

(VII) PRIMARY ELECTIONS AND SPECIAL VOTING PROCESS

Concerns were raised regarding issues that transpired during the primary elections some of which have ended up in court.

The Ministry of Justice and the EBC have confirmed that the court cases would be concluded prior to the National Elections. The SEOM has learned that these cases were since finalized.

Concerns were also raised regarding the fact that some observers were not alerted on the special voting date for the uniformed forces/services hence bringing into question the issue of transparency. The SEOM had observers at the polling station when this process took place.

The EBC assured the Mission that envelopes containing the special votes would be opened and added to the regular votes during the counting process in a transparent manner.

(VIII) MEDIA FREEDOM AND COVERAGE

Concerns were raised on the limited number of print and electronic media in the country and the coverage of the elections in the region and beyond. Questions were also raised on the impartiality of the existing media in terms of its coverage and providing opportunity for candidates to

campaign. Campaigns on State media reportedly posed a challenge to candidates standing for election.

The fact that the EBC had powers to approve campaigns prior to their broadcast on public media was allegedly considered as an infringement on the freedom of expression of the candidates.

The EBC explained that it does not have the alleged powers but has put measures in place to facilitate ethical campaigning and to allow candidates to focus on their specific portfolios.

(IX) COUNTING OF BALLOT PAPERS

Concerns were raised about the EBC decision to count ballot papers in a central location in the constituency and not at the polling station. The EBC assured the Mission that the decision was taken following consultation with the stakeholders and that it is a means to deal with the logistics of space and possible victimization of Chiefdoms, which may not have voted for a specific candidate.

(X) SECURITY OF BALLOT BOXES

Concerns were also raised regarding the security of the ballot boxes prior and post polling. Both the EBC and the Royal Swaziland Police assured the Mission that round the clock security will be available to provide for the transportation of the ballot boxes, ballot papers and ultimately the casted ballot papers to the counting centers.

6. PRE – ELECTION PHASE

The National Elections consisted of two phases - a primary electoral phase, which culminated in elections on 24 August 2013 and a secondary electoral phase, which culminated in the elections on 20 September, 2013. The Mission did not observe the primary elections. However, during the secondary elections the Mission obtained feedback on the first leg of the latest election despite certain complaints.

Overall, the Election and Boundaries Commission of the Kingdom of Swaziland conducted its work in a transparent, orderly and professional manner. Isolated incidences of last minute changes to polling stations were reported but these were explained as practical arrangements to make voting more orderly and successful.

The run up to the National Elections was characterised by a largely tolerant and peaceful political atmosphere. No violence was reported before the polling day or after the elections.

7. POLLING PROCESS

In general, with a few exceptions, distribution of the electoral materials was on time. Most polling stations opened and closed on time. The electoral officials explained the procedures and assisted the voters who did not understand the voting process.

SEOM was impressed by the patience of voters who were able to express their franchise peacefully, freely and unhindered in all polling stations. Polling Officials were very helpful.

There was cooperation between election officials and other institutions (including local chiefs) in providing explanations on election related matters.

The presence of vigilant candidate agents and observers in the polling stations assured all stakeholders the integrity of the electoral process.

8. COUNTING PROCESS

The SEOM observed that the counting process began after the closing of the polling stations at the designated counting centres in the *Tinkhundla*. The Mission noted instances of displeasure on the part of the electorate towards the decision to count ballots at a central location in the constituency but is pleased that these concerns were resolved amicably and that the counting process was conducted procedurally.

In the counting centres, candidates' agents, electoral officers, international observers witnessed and followed closely the counting of votes together with the electoral officials without any intervention.

9. SADC ELECTORAL OBSERVER MISSION RECOMMENDATIONS

SEOM recommends:

- Possible establishment of an electoral tribunal to timeously attend to all electoral disputes, complaints as and when they occur;
- Establishment of an Electoral Committee comprising of major stakeholders to attend to issues arising from the electoral process;
- Greater participation of women in leadership positions in line with the SADC Protocol on Gender and Development; and
- Counting of ballot papers at each polling station as provided for in the electoral law.

10. BEST DEMOCRATIC PRACTICES AND LESSONS LEARNED

In the course of observing the elections, the Mission noted the following best practices as lessons learned in the Kingdom of Swaziland's electoral process:

- Use of Biometric Technology for registration;
- Improved security features on the ballot papers;
- Coding of ballot papers to Tikhundla and regions;
- Voters Rolls with voters' photos for each Inkhundla;
- Efficient transport was provided for more remote voters to travel to and from polling stations; and
- Foreigners resident in Swaziland can also vote provided they satisfy the legal requirements.

11. CONCLUSION

The Mission is pleased to share its observations with the people of the Kingdom of Swaziland and all relevant stakeholders.

The SADC Electoral Observer Mission has come to the conclusion that although some of the concerns raised are pertinent, they are nevertheless not of such magnitude as to affect the overall electoral process.

The Mission noted the high state of preparedness on the part of the EBC in its preparations and conduct of the electoral process.

In line with *SADC Principles and Guidelines Governing Democratic Elections* and the Electoral laws of the Kingdom of Swaziland, the Mission would like to urge all candidates to respect the will of the people.

In the event of any grievances, the SEOM advises all candidates to seek redress in line with the relevant laws of the Kingdom of Swaziland.

On behalf of the Chairperson of the Organ on Politics, Defence and Security Cooperation and on behalf of the entire SADC family, I congratulate the people of the Kingdom of Swaziland on their orderly and peaceful elections.

The SEOM would like to express gratitude to the people and Government of the Kingdom of Swaziland for their hospitality and cooperation during the deployment of the Mission.

I Thank You