



Electoral Institute for Sustainable Democracy in Africa

EISA Pre-Election Assessment Mission Report



**REPUBLIC OF ZAMBIA
28 March – 1 April 2016**

ABBREVIATIONS

ADS	Africa Democracy Strengthening Programme
AVAP	Anti-Voter Apathy Project
AU	African Union
CMCs	Conflict Management Committees
CSOs	Civil Society Organisations
ECZ	Electoral Commission Zambia
EISA	Electoral Institute for Sustainable Democracy in Africa
EO2M	Election Observation Mission
FDD	Forum For Democracy and Development
FODEP	Foundation for Democratic Process
MISA	Media Institute of Southern Africa
MMD	Movement for Multiparty Democracy
LAZ	The Law Association of Zambia (LAZ)
NAREP	National Restoration Party
NGOS	non-governmental organisations
OYV	Operation Young Vote
PAM	Pre-election Assessment Mission
PEMMO	Principles for Election Management, Monitoring and Observation in the SADC Region
PF	Patriotic Front
SACCORD	Southern African Centre for the Constructive Resolution of Disputes
SADC	Southern African Development Community
ToT	training of trainers
UPND	United Party For National Development
UNIP	United National Independence Party
ZNWL	Zambia National Women’s Lobby

CONTENTS

1. Executive Summary	4
2. Historical Background And Context Of The 2016 Elections	5
2.1. <i>Context of the 2016 elections</i>	6
3. The Legal Framework	7
3.1. <i>Legal and constitutional reforms ahead of the 2016 elections</i>	7
3.2. <i>The Electoral System</i>	9
3.3. <i>Political party and campaign finance</i>	9
3.4. <i>Election management</i>	10
4. Key Findings About The Pre-Election Phase	10
4.1. <i>Voter Registration</i>	10
4.2. <i>Political party and candidate nominations</i>	12
4.3. <i>Conflict management</i>	12
4.4. <i>Civic and voter education</i>	13
4.5. <i>The media</i>	13
4.6. <i>Gender and minority rights</i>	14
4.7. <i>Civil society</i>	14
4.8. <i>Security</i>	14
4.9. <i>Election campaign</i>	14
4.10. <i>Preparedness of the ECZ</i>	15
Appendix	16
Appendix 1: <i>List of Stakeholders Consulted</i>	16

EXECUTIVE SUMMARY

The Electoral Institute for Sustainable Democracy in Africa (EISA), through its Africa Democracy Strengthening (ADS) Programme, seeks to contribute to the improvement of electoral processes on the continent. In pursuit of this aim it deployed a pre-election assessment mission (PAM) to Zambia from 28 March to 1 April 2016. The overall objective of the PAM was to assess the political and electoral environment ahead of the tripartite elections scheduled for August 2016.

The PAM assessed the pre-election context to ascertain whether conditions were conducive to the conduct of credible elections. In doing so it was guided by the principles and obligations stipulated in the following regional and international instruments: the African Charter on Democracy Elections and Governance; the Principles for Election Management, Monitoring and Observation (PEMMO); the Revised SADC Principles and Guidelines for Democratic Elections and the Declaration of Principles on International Observation.

The mission also looked at the state of readiness for the elections of the Electoral Commission of Zambia (ECZ), political parties, civil society organisations (CSOs) and other stakeholders. The PAM will also provide background information for the EISA Election Observer Mission (EOM) and other international EOMs that will be present in Zambia during the elections.

During its stay in Lusaka, Zambia, the PAM met with key stakeholders in the electoral process (See Appendix 1). EISA thanks these stakeholders for making themselves available to provide the necessary information. EISA also acknowledges the support of the UK Government for the ADS Programme.

The PAM noted that the 2016 general elections in Zambia will be the first held in terms of the amended Constitution and will take place concurrently with a constitutional referendum. The PAM also noted with satisfaction significant changes to the legal framework, which will further contribute to democratic development in

Zambia. Furthermore, the PAM commends the Zambian authorities for taking into account in implementing recent legal and constitutional reforms recommendations made by EISA and other international observer groups. These reforms are expected to contribute to the integrity of the elections.

Judging by the outcome of the 2015 presidential by-election, the 2016 elections will be a tight contest between President Edgar Lungu's ruling Patriotic Front (PF) party and the Hakainde Hichilema-led opposition, the United Party for National Development (UPND). While the election calendar has been issued, some stakeholders were concerned that the ECZ had not yet received funds for the elections. There were also doubts about the accuracy of the voters' roll.

Political parties consulted by the EISA PAM highlighted the lack of resources for large scale campaigns and indicated that they would channel the available resources into small scale meetings and door-to-door campaign activities. The parties were also concerned that the increase in the election fees will add to their financial commitments and have an impact on the limited resources available for the elections.

The final reports of EISA EOMs deployed in 2008, 2011 and 2015 recommended that the legal framework should be revised to include provision for equitable public funding of electoral campaigns and political parties and provide a mechanism for parties to disclose private funds received for campaigning in order to build the capacity of parties to engage in politics and to level the playing field. The PAM noted that this recommendation does not appear to have been addressed ahead of the 2016 elections.

Civil society organisations in Zambia continue to play an important and active role throughout the electoral process. Ahead of the 2016 elections the EISA PAM noted that there is a good level of cooperation between the ECZ and CSOs. A number of CSOs will deploy local monitors¹ across the country on election day. The PAM noted that the ECZ has set aside 10 weeks for accreditation of election observers. See Table 5 for the election timetable.

¹ Citizen observers in Zambia are called citizen/local monitors.

The EISA PAM comprised two staff drawn from its head offices in Johannesburg, South Africa, namely: Ms Ilona Tip, EISA Operation Director and Mr Naphtaly Sekamogeng, Assistant Programme Officer in the Elections and Political Processes Department.

2. HISTORICAL BACKGROUND AND CONTEXT OF THE 2016 ELECTIONS

Zambia gained its independence from Britain in 1964 and held its first multiparty elections in January 1964. The United National Independence Party (UNIP) under Dr Kenneth Kaunda won the election and Dr Kaunda became the first president of the Independent Zambian Republic.

Dr Kaunda and UNIP remained dominant and introduced a one-party political system in 1973, marking the beginning of Zambia's Second Republic. During this period all opposition parties were banned. UNIP followed socialist Marxist ideals, but, by the 1990s, the economy had deteriorated and there was widespread social and political unrest, spearheaded by the labour movement².

The 1991 elections marked the official reintroduction of a multiparty political system. In those elections Frederick Chiluba, leader of a coalition of civic organisations called the Movement for Multiparty Democracy (MMD), emerged as the winner, with 75.8% of the vote. The MMD dominated politics in Zambia during the 1990s. The 2011

tripartite elections brought the MMD's domination to an end and Michael Sata of the PF was declared the winner of the presidential election, with 42.24% of the votes cast. Rupiah Banda of the MMD obtained 35.63% and Hakainde Hichilema of the United Party for National Development (UPND) 18.28%³.

The 2015 presidential by-election was necessitated by the sudden death of President Sata on 28 October 2014. Article 38 of the 1996 Constitution requires that a by-election be held within 90 days of the death of a sitting president and the by-election was scheduled for 20 January 2015.

Although 11 candidates contested the by-election, regrettably, only one of them was a woman – Edith Nawakwi of the Forum for Democracy and Development (FDD).

Zambia is divided into 105 districts spread across 10 provinces: Central, Copperbelt, Eastern, Luapula, Lusaka, Muchinga, Northern, North-Western, Southern and Western provinces and Edgar Lungu won six of the ten: Eastern, his home area; the five provinces from which the populist and Bemba-speaking Sata drew most of his support; Lusaka, the capital; Copperbelt and three Bemba-speaking rural communities of Luapula, Muchinga and Northern provinces. Hichilema won four, namely the Southern province, from which he comes, and the neighbouring Western, North-Western and Central provinces⁴.

Table 1
Results of the 2015 presidential by-election

Candidate	Party	No votes	% Votes
Edgar C Lungu	Patriotic Front (PF)	807 925	48.84
Hakainde Hichilema	United Party for National Development (UPND)	780 168	47.16
Edith Z Nawakwi	Forum for Democracy and Development (FDD)	15 321	0.93
Nevers S Mumba	Movement for Multiparty Democracy (MMD)	14 609	0.88
Tilyenji C Kaunda	United National Independence Party (UNIP)	9 737	0.59
Eric M Chanda	4th Revolution Party (4R)	8 054	0.49
Elias C M Chipimo	National Restoration Party (NAREP)	6 002	0.36
Godfrey K Miyanda	Heritage Party (HP)	5 757	0.35
Daniel M Pule	Citizens Democratic Party (CDP)	3 293	0.20
Ludwig S Sondashi	Forum for Democratic Alternatives (FDA)	2 073	0.13
Peter C Sinkamba	Green Party of Zambia (Greens)	1 410	0.09
Total		1 654 349	100.02

Source: Electoral Commission of Zambia. Available at: www.elections.org.zm/media/28092011_public_notice_-_2011_presidential_election_results.pdf

² www.eisa.org.za/pdf/zameom2006.pdf

³ www.elections.org.zm/media/28092011_public_notice_-_2011_presidential_election_results.pdf

⁴ See African Arguments: <http://africanarguments.org/2015/12/15/can-zambias-opposition-unseat-president-lungu-in-the-2016-elections/>

Since 2006 the voter turnout in Zambia has never reached the heights it reached in that year, a factor that the EISA EOM noted in its report on the 2015 by-election. The figures are given in Table 2.

Table 2
Voter turnout

Election	Voter turnout
2006 Tripartite Elections	70.77
2008 Presidential By-Election	45.4
2011 Tripartite Elections	53.65
2015 Presidential By-Election	32.36

Source: Electoral Commission of Zambia. Available at: www.elections.org.zm/

2.1 Context of the 2016 elections:

Zambia will hold its seventh multiparty elections on 11 August 2016 in a context characterised by political uncertainty. After years of relative peace and stability these elections will take place amidst conflict between the ruling party, the PF, and the main opposition party, the UPND.

Stakeholders informed the PAM that the presidential election would be a contest between the leaders of these two parties, the incumbent president, Edgar Lungu of the PF, and Hakainde Hichilema of the UPND.

The 2016 elections will be another keen contest between the two main candidates because they are key to their future in the Zambian political space. For the incumbent, President Lungu, who was elected in the January 2015 presidential by-election to complete the last 18 months of the late president, Michael Sata's term, the elections present an important opportunity to stand for his own tenure in office. Hichilema has contested presidential elections unsuccessfully four times (in 2006, 2008, 2011 and 2015) and the 2016 elections are considered crucial for his political career. It would appear that neither Lungu nor Hichilema enjoys outright national support. Party coalitions in the first or second round of the presidential elections may be needed to determine a winner.

The PAM noted that both candidates have started to display signs of desperation, manifested in recent reports of violence and intimidation ahead of the elections⁵. The pre-election period has been characterised by increasing public concern about intimidation of Lungu's opponents and opposition parties have, in some instances, been prevented from addressing rallies, due to what has been seen as selective misinterpretation by security forces of the Public Order Act.

The EISA PAM also notes that the 2016 elections take place in the context of legal and constitutional reforms. President Lungu assented to the Constitutional Amendment Bill in a ceremony held at Heroes Stadium on Tuesday 5 January 2016. The PAM noted that the recent reforms took into account recommendations made by different international observer groups in previous elections. These reforms will be discussed in detail in the section on legal and electoral reforms.

Stakeholders consulted raised concerns about some of the recent changes to the legal framework. Specifically, the requirement that candidates must have a minimum education qualification of a grade 12 certificate is viewed negatively by several stakeholders who consider it a discriminatory provision in the absence of free education in Zambia.

Also in question is the newly increased election fees⁶. The ECZ has raised the fee for presidential candidates from K10 000⁷ to K75 000, while that of parliamentary candidates has been increased from K5 000 to K10 000. The fees for candidates for the office of council chairperson is K5 000, candidates for the office of city and municipal councillor will pay K2 000, while those standing for councillor for rural will pay K1 500 and mayoral candidates will pay K10 000. In recent elections candidates for local government positions paid between K50 and K100⁸.

⁵ See Lusaka Times. Available at: www.lusakatimes.com/2016/04/07/upnd-accuse-pf-killing-one-members/ and Zambia Reports. Available at: <http://zambiareports.com/2016/05/09/pfupnd-cadres-clash-in-rhodes-park/>

⁶ Articles 71(a) and 100(1)(i) of the Constitution Amendment Act, 2016 lists the payment of election fees as requirements for nomination. The fees are determined by the ECZ.

⁷ Exchange rate as at 20 April 2016 was 1 USD = 9.2 KMW.

⁸ On 28 May 2016 the ECZ issued a press release stating that the nomination fees had been revised. The fees are now: K60 000 for presidential candidates, K7 500 for parliamentary candidates, mayors K5 000 council chairpersons K2 000, city and municipal councillors K750 and district and rural councillors K400.

The 750% increase in the presidential election fee has triggered complaints from opposition parties and civil society organisations. While some believe the increment is a negative development, the ECZ and other stakeholders argue that it will keep ‘frivolous’ candidates from making light of the highest public office in the country. Those opposing the increase point out that its impact was not considered and that it discriminates against smaller political parties and parties whose candidates will be unable to afford it.

3. THE LEGAL FRAMEWORK

3.1. Legal and constitutional reforms ahead of the 2016 elections

The EISA PAM noted with satisfaction the implementation of some of the recommendations made by EISA EOMs. In its 2011 EOM report the EISA Mission recommended the introduction of a fixed date for elections. This recommendation was addressed in Article 56 of the new Constitution, which provides for an election to be held on the second Thursday of August in an election year. The date of the constitutional referendum and the 2016 Zambia tripartite elections, the country’s third since 2006, is therefore 11 August.

In line with the recommendations made by the EISA EOMs in 2011 and 2015⁹, Article 47 of the 2016b Constitution Amendment Act provides that the president is elected by an absolute majority. This will strengthen the legitimacy and credibility of the office of the president. Furthermore, Article 110 of the 2016 Constitution Amendment Act provides for a presidential running mate. As suggested in the EISA EOM 2015 report, the introduction of a presidential running mate will help to avoid costly and potentially disruptive presidential by-elections. Zambians will also know in advance who the successor would be should the office of the president become vacant.

The EISA 2011 and 2015 EOM reports raised concerns about Article 34(9) of the 1996 Constitution, which provides for the president-elect to be sworn in within 24 hours of the announcement of results. The EOMs noted

that this does not leave enough time for complaints and appeals to be addressed adequately before the president-elect takes office. This is addressed by Article 105 of the 2016 Constitution Amendment Act, which provides that the president-elect should assume office seven days after the declaration of election results if there are no petitions or seven days after the Constitutional Court has declared the election results valid.

In its 2015 EOM report EISA recommended that the election management structure be decentralised to give the commission stronger oversight at constituency level. The PAM notes with satisfaction that this has been addressed in Article 229 of the amended Constitution.

3.1.1 The Constitution creates the basis for the country’s multiparty democracy. In its preamble it establishes Zambia as a ‘Sovereign Democratic State’. Part III reflects on fundamental human rights and the freedoms of the individual. The EISA PAM assessed it as providing a sufficient foundation for the conduct of democratic elections.

In keeping with the provisions of the Constitution, and in conformity with international best practice, Zambia has also enacted a number of laws and regulations guiding election management and administration.

3.1.2 The Electoral Process Act of 2016¹⁰, which repeals and replaces the Electoral Act, 1996, comprehensively regulates the conduct of the general elections. The Act provides in detail the procedures for nomination of candidates, political campaigns, polling, counting, tallying, declaration of election results and election petitions in presidential and parliamentary elections. The Mission notes that the amended Act gives the commission more power. It now has the power to disqualify political parties and candidates who breach the Electoral Code of

⁹ See EISA 2011, 2015 EOM Reports.

¹⁰ The president assented to the Bill on 6 June 2016, less than 10 weeks ahead of the elections, which may make implementation problematic for stakeholders, especially the ECZ.

Conduct and to correct mistakes made by election officers in the tabulation of results.

3.1.3 The Electoral Commission Act of 2016¹¹, which repeals and replaces the Electoral Commission Act, 1996, sets out the composition of the commission, its term of office, the establishment of a secretariat for the commission and the commission's mandate and responsibilities. It also provides for its financing and functions.

3.1.4 The Electoral (Code of Conduct) Regulations of 2016 promotes conditions conducive to free and fair elections, including tolerance of democratic political activity and free political campaigning and open public debate. The mission believes that for the 2016 tripartite elections and constitutional referendum the content of the Code of Conduct needs to be disseminated more broadly, especially in urban areas, where cases of isolated violence during political party gatherings have been reported in the media.

3.1.5 The Local Government Elections Act Cap 282 as amended governs the conduct of local government elections.

3.1.6 The Referendum Act 2016 provides for the conduct of referenda.

3.1.7 Various ECZ regulations. In line with its mandate the ECZ issues regulations and guidelines that address the technical details of different aspects of the electoral process such as the registration of voters and voting procedure. The ECZ also issues codes of conduct to guide the conduct of electoral stakeholders during elections. Stakeholders include election observers and monitors and political parties¹².

3.1.8 Constitutional amendments

- Article 56 provides for a fixed election date. General elections will be held every five

years, on the second Thursday of August.

- Article 47 provides that a presidential election shall be conducted directly, under a majoritarian electoral system and the winning candidate must receive more than 50% of the valid votes cast.
- Article 110 provides for a running mate for a presidential candidate who will be the vice-president and take over in the case of a leader's death.
- Article 70 disqualifies any presidential, parliamentary or council candidate who is not in possession of a Grade 12 certificate of education or its equivalent.
- Articles 82 and 100 disqualify persons holding dual citizenship from standing in the presidential election or holding the office of the Speaker of the National Assembly.
- Article 50 provides that a political party and a candidate contesting an election must have access to the media, especially during election campaigns.
- A member of Parliament who is expelled from the political party which sponsored him/her for election to the National Assembly can challenge the expulsion in the Constitutional Court. If the court finds against the party there shall be no by-election for that seat and the member may opt either to remain in the party as a member or to resign but continue to sit in Parliament as an independent MP.
- Article 45 provides that citizens are free to exercise their political rights. ,
- Article 51 allows a person to stand as an independent candidate if such person unless that person is not a member of a political party and has not been a member of a political party for at least two months immediately before the date of the election;
- Article 105 provides that the president-elect shall be sworn into office on the Tuesday following the seventh day after the date of the declaration of the presidential

¹² www.elections.org.zm/media/electoral_code_of_conduct_2011.pdf

election results, if no petition has been filed or the seventh day after the date on which the Constitutional Court declares the election to be valid.

- Article 127 establishes the Constitutional Court, which will hear and rule timeously on election petitions.
- Article 229 provides that the ECZ shall have offices in provinces and, progressively, in districts.

3.1.9 Electoral amendments

- Section 76 of the Electoral Process Act empowers the ECZ to correct within seven days after the declaration of the results a mistake made by an electoral officer in the tabulation of results.
- Section 110 (2) of the Electoral Process Act empowers the commission to disqualify a political party or candidate who is in breach of the Electoral Code of Conduct.
- Section 11 of the Electoral Commission Act provides for criminalisation of the disclosure or publication of ECZ documents by unauthorised persons.
- Section 13 of the Electoral Commission Act provides ECZ officials with immunity from prosecution for any decisions taken in the exercise of their duties.

3.2 The electoral system

The president, in accordance with the 2016 constitutional amendment, is elected by an absolute majority of votes, that is, 50% plus one vote. A run-off election will be conducted should no candidate attain this majority. The president is elected for a term of five years and is limited to two terms in office. The law is, however, not specific on whether the terms are consecutive or non-consecutive.

Members of Parliament and councillors are elected using the first-past-the-post (FPTP) electoral system. Table 3 summarises the positions that will be contested in the upcoming elections.

Table 3
2016 elections

Presidential Elections	President and running mate
National Assembly Elections	156 constituencies
Mayoral/ Council Chairperson Elections	105 districts
Council elections	1 624 wards

Voters will be issued with five ballot papers – one each for president, members of Parliament, councillors and mayor or council chairperson and one for the constitutional referendum.

The PAM notes that the Referendum Act provides for eligible voters to vote in constitutional referenda. To address possible human error at polling stations the ECZ has indicated that each polling station will have two voting streams, one for voters who are voting in the general elections, including the referendum, the other for those who are voting in the referendum only.

The PAM further notes that the referendum question has not yet been finalised and circulated as the ECZ is consulting with the Ministry of Justice to formulate the question¹³. The PAM notes that Zambians should be informed of the referendum question well in advance so that they have sufficient time to consider their response. The mission recommends that the ECZ and Ministry of Justice expedite the process to allow Zambians to familiarise themselves with the question.

3.3 Political party and campaign finance

Zambian law does not provide for public funding for political parties and election campaigns, nor does it provide for regulation of political finance. The PAM notes that this presents serious challenges for candidates who are not adequately funded and places them at a disadvantage in comparison to other candidates. Furthermore, the absence of a regulatory framework for political finance leaves the electoral process open to the undue influence of money.

¹³ The ECZ recently announced the purported “Two-in-One” referendum question with the EYE and EAR symbolising the YES and NO answers. The referendum question is on whether “you agree that the Constitution be amended to expand the Bill of Rights and to amend Article 79 of the Constitution?” - Not exact text.

The PAM noted the following gaps in the Zambian legal framework:

- There is no ceiling on campaign finance;
- There is no provision for mandatory public disclosure of sources of funding and campaign expenditure; and
- No institution, even the ECZ, is mandated to audit party finances.

The PAM Mission reiterates the recommendation made by EISA in its 2008, 2011 and 2015 EOM reports that consideration be given to the establishment of a regulatory framework for political finance and the framework for public funding for political parties and campaigns.

3.4 Election management

The Electoral Commission of Zambia is established by article 229 of the Constitution of Zambia. Section 5 of the Electoral Commission Act sets out the composition of the commission. The ECZ has six full-time members – a chairperson, who is a judge of the superior court; a vice-chairperson and four commissioners. Members are appointed by the president, subject to ratification by the National Assembly. The commissioners are appointed for a term not exceeding seven years and may be re-appointed for a further term of seven years.

Section 9 of the Electoral Commission Act provides for the commission to appoint a chief electoral officer, an ex-officio member of the commission tasked with the day-to-day administration and management of the commission and implementation of its decisions. In terms of section 14 of the Electoral Commission Act the commission is funded by parliamentary appropriations and donations.

Functions of the ECZ as specified in the Constitution are to:

- a. Implement the electoral process;
- b. Conduct elections and referenda;
- c. Register voters;
- d. Settle minor electoral disputes, as prescribed;
- e. Regulate the conduct of voters and candidates;
- f. Accredit observers and election agents, as prescribed;

- g. Delimit electoral boundaries; and
- h. Perform such other functions as prescribed.

Further duties prescribed by legislation are:

- To conduct and supervise the local government elections (Local Government Elections Act 282);
- To conduct voter education (Electoral Commission Act 2016);
- To conduct referenda (Referendum Act CAP 14); and
- To adjudicate disputes that may arise from the organisation, administration or conduct of elections, which are of an administrative nature (Electoral Commission Act 2016).

The PAM noted that the ECZ displayed a degree of transparency in the management of the electoral process and its chair is highly regarded. The ECZ's commitment to a transparent electoral process is demonstrated by the establishment of the 2016 Consultative Elections Committee, which includes all electoral stakeholders, therefore widening the communication channels. The committee will meet as and when the need arises in liaison with the office of the ECZ director of elections. The PAM noted, however, that suspicions arising from the outcome of the 2015 presidential by-election continue to loom over the commission as the main opposition party, the UPND, believes the by-election was stolen, thus creating doubts about the neutrality of the ECZ.

The EISA PAM noted that the establishment of a decentralised election management structure as provided for in Article 229 of the amended Constitution strengthens the capacity of the ECZ to deliver its mandate effectively.

4. KEY FINDINGS ABOUT THE PRE-ELECTION PHASE

4.1 Voter registration

Voter registration in Zambia is guided by Section 7 of the Electoral Process Act and the Electoral (Registration of Voters) Regulations, Statutory Instrument 38 of 2010.

Section 7(1) of the Electoral Process Act provides for continuous registration. The ECZ has not been able to

comply with this provision, partly because of the high volume of by-elections and the financial implications of such an undertaking. To be eligible to vote in an election a person must be a Zambian citizen, at least 18 years old, in possession of both a national registration card and a voter card, and have his/her details included in the voter register.

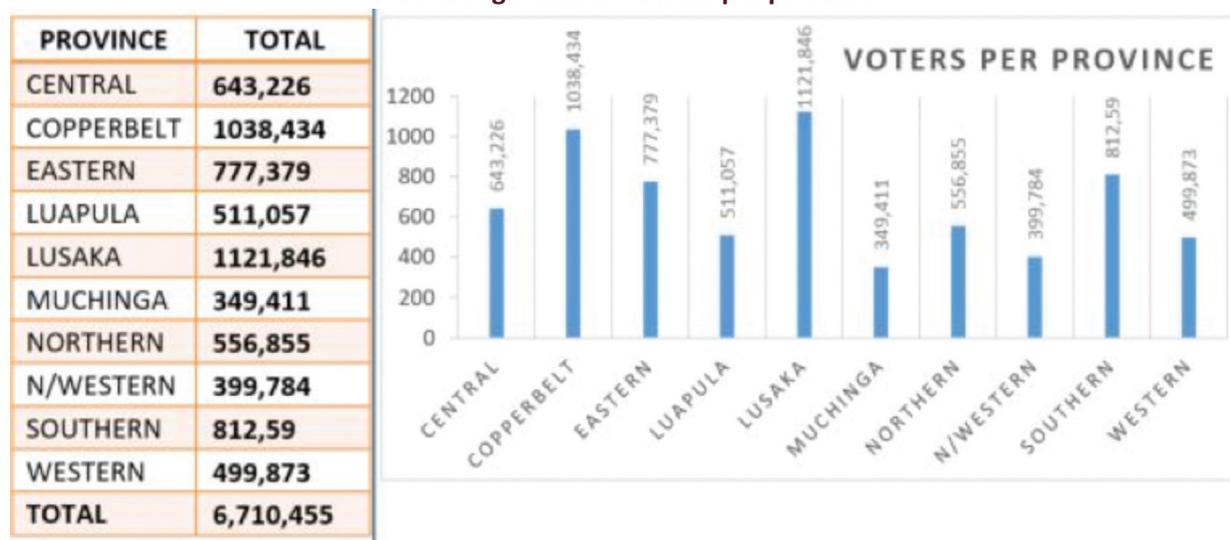
The ECZ conducted two mobile voter registration exercises for the forthcoming elections, from 14 September to 11 November 2015 and from 16 to 29 February 2016. Young people who will have turned 18 by 31 July 2016 also qualified to be registered. Replacement of cards misplaced by voters was also allowed.

The provisional voters' register was displayed for public inspection at 7 700 registration centres (polling stations) from 15 to 21 May 2016 and other means of verification include via mobile phones and through the ECZ website. People wishing to obtain a copy of the register can purchase one from the ECZ offices at K25 per polling stream booklet.

As at the time of the PAM the voters' roll recorded a total of 66 710 455 registered voters, **3 335 446** of them males and **3 375 009** female. The PAM commends this high registration of women and hopes that it will reflect in the voter turnout.

Table 4

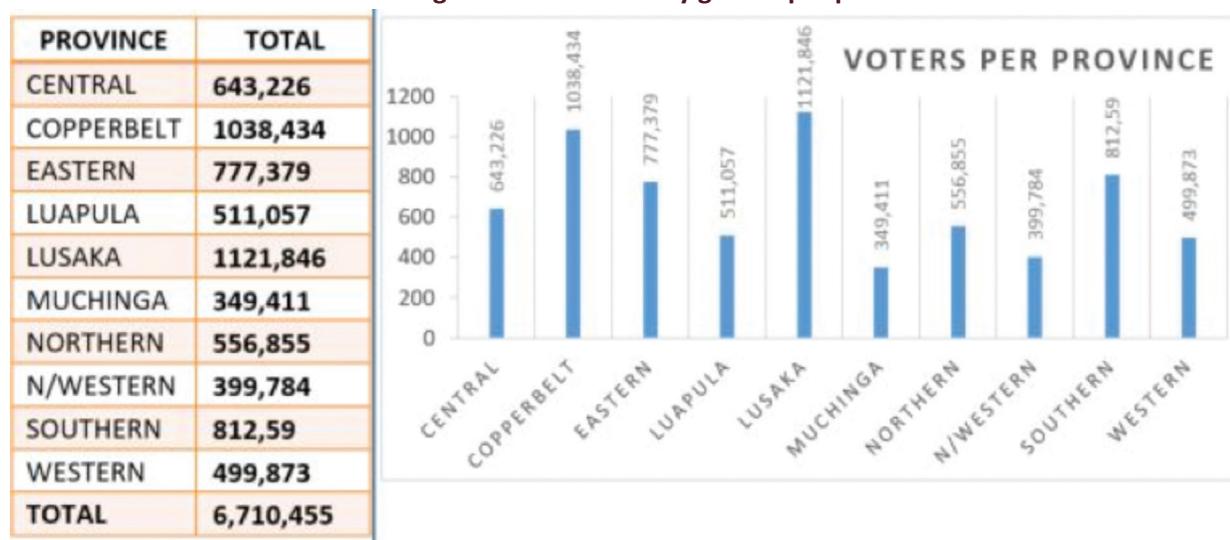
Voter registration statistics per province



Source: Electoral Commission of Zambia

Table 5

Voter Registration statistics by gender per province



Source: Electoral Commission of Zambia

4.2 Political party and candidate nominations¹⁴

Article 226 of the Constitution defines a political party as ‘an association whose objectives include the contesting of elections in order to form government or influence the policy of the national or local government’.

Political parties in Zambia register under the Societies Act. Article 13(1) of the Act provides that the minister may cancel the registration of a party at any time, if he/she believes that the party is being used for illegal activities or activities prejudicial to law and order.

Nominations took place from May to June 2016 with the nomination of presidential candidates taking place from 30 May to 3 June. Nominations fees had to be paid from 5-9 May. To qualify as a presidential candidate candidates must:

- Be a Zambian citizen;
- Be 35 years old or older;
- Be a member of or sponsored by a political party;
- Qualify to be elected as a member of the National Assembly;
- Have been domiciled in Zambia for at least 20 years;
- Have no fewer than 200 supporters who are registered voters (pre-processing of supporters took place from 19 to 23 May 2016).
- Make a statutory declaration of assets and liabilities;
- Produce a letter or certificate of adoption from a political party;
- Produce an oath of affirmation of parents being Zambian citizens by birth or descent;
- Hand in a duly completed and signed nomination form;
- Have a photograph taken at the nomination centre;
- Sign a declaration of compliance with the Electoral Code of Conduct; and
- Pay a non-refundable nomination fee of K75 000.

The nomination of parliamentary candidates and local government councillors took place on 31 May 2016. To qualify as a parliamentary candidate a candidate must meet the following requirements:

- Be a Zambian citizen;
- Be 21 years old or older;
- Be literate in and conversant with the official language of Zambia;
- Have no fewer than nine supporters who are registered voters within that particular constituency;
- Sign a statutory declaration form;
- Produce a letter or certificate of adoption if sponsored by a political party;
- Sign a declaration of compliance with the Electoral Code of Conduct;
- Hand in a duly completed and signed nomination form;
- Have a photograph taken at the nomination centre;
- Pay a non-refundable nomination fee of K10 000.

To qualify to stand in the local government elections a candidate must meet the following requirements:

- Be a Zambian citizen;
- Be 21 years old or older;
- Be ordinarily resident in the area of the council;
- Not owe any local authority rates or taxes;
- Have a proposer, a seconder and no fewer than seven other supporters who are registered voters within the particular ward (nine supporters in total);
- Sign a statutory declaration form;
- Produce a letter or certificate of adoption if sponsored by a political party;
- Sign a declaration of compliance with the Electoral Code of Conduct;
- Hand in a duly completed and signed nomination form;
- Have a photograph taken at the nomination centre;
- Pay a non-refundable nomination fee as prescribed by the commission. Council chairperson candidates will pay K5 000, city and municipal councillor candidates K2 000, rural district councillor candidates K1 500 and mayoral candidates K10 000.

4.3 Conflict management

Section 113 of the Electoral Process Act provides for the ECZ to manage election disputes through conflict management committees (CMCs). Articles 96-109 of the

¹⁴ See the ECZ press release on the revision of nomination fees. Available at: www.elections.org.zm/news/press_release%253A_revision_of_100259.php.

Act provides for election petitions to be heard by the High Court. In line with Article 73 of the Constitution, for parliamentary elections petitions must be filed at the High Court within 30 days of election day. The High Court has 90 days within which to deal with the petition. A person may appeal against the decision of the High Court to the Constitutional Court and a candidate-elect whose election is questioned will hold the seat in the National Assembly pending the determination of the petition.

Article 103 of the Constitution provides for petitioning in presidential elections. Petitions must be filed with the Constitutional Court within seven days of the declaration of the election results. The petition will be heard within 14 days of being filed. A presidential election shall be held within 30 days from the date of the nullification.

The mission notes with satisfaction that the recommendation made by the EISA 2014 PAM to Zambia and the EISA 2015 EOM report calling for a review of the provision that the successful presidential candidate be sworn in within 24 hours has been redressed by Article 105 of the amended Constitution which provides that the president-elect shall be sworn into office on the Tuesday following the seventh day after the date of the declaration of the presidential election results if no petition has been filed or the seventh day after the date on which the Constitutional Court declares the election to be valid.

4.4 Civic and voter education

Articles 79-80 of the Electoral Process Act provide for the ECZ to provide voter education. In line with this provision the ECZ established the National Voter Education Committee, consisting of representatives of CSOs and public institutions. The ECZ had not embarked on civic and voter education by the time of this Pre-election Assessment Mission owing to a lack of funds, as reported above.

Noting that the last time voter registration was conducted was in 2012, it is expected that there will be a considerable number of first-time voters in the coming election. The mission recommends that special attention be paid to this category of voters. Thus, voter education programmes should not focus only on voting procedures

but should incorporate general information about democracy, elections and governance, particularly in view of the fact that the elections will be held alongside the constitutional referendum.

The ECZ informed the PAM that training-of-trainers was to be held in April 2016.

The PAM noted that CSOs continued to provide some education and information to voters while the ECZ provided oversight. Voter education is mainly done through community radio stations, especially for voters in rural areas.

4.5 The media

Articles 11 and 20 of the Constitution provide for freedom of expression, including freedom to hold opinions and freedom of communication, including sending and receiving information without interference. Section 29 of the Electoral Process Act provides for all parties and candidates to have their campaigns and manifestos covered and reported in a balanced manner by all public media.

The PAM notes that the Zambia National Broadcasting Corporation, which has two television stations and three radio stations, is the public broadcaster and the only media organisation with national coverage. There is also a plethora of private TV stations and more than 70 radio stations owned by business people.

Like many other countries, Zambia does not yet have a law regulating social media such as Facebook and Twitter. Social media have become very popular and are difficult to regulate, mainly because they operate from private individual accounts.

Many stakeholders expressed concern about the lack of professionalism of the media. The national broadcaster is said to be pro-PF, while private media are pro-UPND and other opposition parties.

All stakeholders consulted cited the sour relations between the media and political parties as a real threat to the holding of successful elections and raised concerns

that this has contributed to the polarisation of parties. The PAM notes that media on each side of the political divide use inflammatory language which could trigger violence. All stakeholders believe there is a need for journalists to be trained in responsible reporting.

4.6 Gender and minority rights

In its preamble, the Constitution recognises that men and women have equal rights to participate in and freely determine and build the political, economic and social system.

In its 2011 report the EISA EOM noted the difficulties faced by women aspiring to positions in office in raising funds for election campaigns and pointed to societal barriers to women's participation in decision-making as some of the structural impediments to the representation of women in elective politics, despite the fact that women constitute more than 50% of the voting population. The report further highlighted that the electoral system in place, the single-member constituency system, contributed to the marginalisation of vulnerable groups¹⁵. The PAM notes that the recent increase in nomination fees and the minimum academic requirement set out in the amended Constitution will further exclude minority groups.

The SADC Protocol on Gender sets a 50% benchmark for the level of representation of women in political life and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa also sets as a goal the equal representation of women at all levels in all electoral processes. Nominations were yet to take place at the time of this mission and it could not be established whether the parties conformed with this requirement.

4.7 Civil society

The PAM team noted the active participation of Zambian civil society in the electoral process. CSOs in the country have played a critical role in stabilising the political and electoral landscape and are at the centre of civic and voter education activities ahead of the 2016 elections.

EISA is also working with local partners¹⁶ to carry out voter and civic education and deploying election monitors in a co-ordinated and synchronised manner to ensure that no effort is spared to inform voters about electoral issues and their rights and responsibilities and that there will be election monitors in every polling station.

4.8 Security

As stated above, there have been clashes between PF and UPND members, escalated by the uneven application of the Public Order Act. The media reported isolated cases of violence during political party gatherings in and around Lusaka. On 19 March 2016 church mother bodies, the Council of Churches in Zambia, the Evangelical Fellowship and the Zambia Episcopal Conference spearheaded the signing of a peace pact by leaders of 18 political parties. The leaders agreed to use existing structures to encourage their members to desist from violent acts and to urge them to exercise political tolerance.

The PAM believes that before the elections the contents of the Code of Conduct and the peace pact should be more widely disseminated. The PAM also notes that there is a lack of consensus amongst stakeholders about whether the police have acted strongly enough against perpetrators of election violence. At the time of the PAM's visit, official electoral campaign period had not begun.

4.9 Election campaign

The dates of the campaign period are 16 May to 10 August. Campaigning is governed by two main instruments: the Public Order Act (1955) and the Electoral Code of Conduct Regulations of 2016. At the time of the mission campaigning had not officially started. Concerns were raised that as Article 116(1) of the Constitution provides that the president shall appoint a prescribed number of members of Parliament as ministers, these ministers might use state resources for campaign purposes. Article 72(1) provides that 'A Member of Parliament shall, except the Speaker and the First Deputy Speaker, vacate the seat in the National Assembly upon a dissolution of Parliament.' The PAM was advised that the Law Association of Zambia (LAZ)

¹⁵ EISA EOM Report 2011. Available at: <https://eisa.org.za/pdf/zam2011eom.pdf>

¹⁶ Caritas, the Foundation for Democratic Process, the Southern African Centre for the Constructive Resolution of Disputes, Transparency International Zambia and the Young African Youth Leadership Initiative.

has threatened to take the issue to the Constitutional Court.

4.10 Preparedness of the ECZ

The PAM noted that the timetable approved by the ECZ has been respected thus far and that preparations for the elections were well advanced.

Table 6
Election timetable

Event	Dates
Inspection of the provisional voters' register	15-21 May 2016
Certification of voters' register	31 May-31 July 2016
Campaign period	16 May-10 August 2016
Accreditation for local monitors	23 May-2 August 2016
Accreditation for international observers	23 May-2 August 2016
Accreditation for results centre	3 August-9 August 2016
Nomination	
Payment of nomination fees	5-9 May 2016
Processing of supporters	19-23 May 2016
Presidential election	30 May 2016
Mayors and council chairpersons elections	30 May 2016
National Assembly & local government election	31 May 2016
Publication of validly nominated candidates	6 July 2016
Poll Date	11 August 2016 between 06:00 and 18:00

Source: Electoral Commission of Zambia website. Available at: www.elections.org.zm/

Though planning is underway there have been delays with the budget approval process, which has slowed down some aspects of the commission's planning.

The ECZ informed the mission that it has held several consultative meetings with stakeholders, particularly with the Political Party Liaison Committee and the 2016 Consultative Elections Committee, to discuss various electoral issues. The PAM commends this move as it improves the level of cooperation among stakeholders.

At the time of the PAM's visit the commission had aligned its various training manuals with the provisions of the amended Constitution and was yet to begin the training of trainers for election officers, voter education officers and conflict management officers.

Procurement and delivery of various election materials is ongoing. Non-security materials such as ballot boxes have been procured and distribution to districts has commenced. The commission issued a Notice to Award the contract to Alghurair Printing and Publishing of Dubai, United Arab Emirates.

The ECZ has established 7 700 polling stations to serve 156 constituencies across the country. Counting will begin in the presence of party agents, monitors and observers immediately after polling stations close and signed copies of the results will be given to party agents and monitors, after which a copy will be posted outside the polling station.

APPENDIX 1**List of stakeholders consulted**

Organisation	Name of representative/s	Designation
CARITAS	Sam Mulafulafu	Executive Director
Electoral Commission of Zambia (ECZ)	Priscilla Isaac	Director of Elections
Foundation for Democratic Process (FODEP)	Chimfwembe Mweenge	Executive Director
Anti-Voter Apathy (AVAP)	Richwell Mulwani	Executive Director
Media Institute of Southern Africa (MISA)	Austin C. Kayanda	Executive Director
Movement for Multi-party Democracy (MMD)	Winnie Zaloumis	Act. Secretary General
Patriotic Front (PF)	Charles Banda	Chairperson - Mobilisation
South African Centre for Organizational Development (SACORD)	Boniface Cheembe	Executive Director
The National Restoration Party (NAREP)	Majory Mutakwa	Secretary General
United Party for National Development (UPND)	Chaolwe Biyani	Director of Policy and Research
Young African Leaders Initiative (YALI)	Andrew Ntewewe	Executive Director

ABOUT EISA

INSTITUTIONAL BACKGROUND

EISA has since its inception in July 1996 established itself as a leading institution and influential player dealing with elections and democracy related issues in 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 by striving for excellence in the promotion of credible elections, citizen participation, and the strengthening of political institutions for sustainable democracy in Africa.

Having supported and/or observed over 70 electoral processes in Africa, EISA has extensive experience in formulating, structuring and implementing democratic and electoral initiatives. It has built an internationally recognised centre for policy, research and information and provides this service to electoral management bodies, political parties and civil society organisations in a variety of areas, such as voter and civic education and electoral assistance and observation. Besides its expanded geographical scope, the Institute has, for the past several years, been increasingly working in new in-between election areas along the electoral and parliamentary cycle, including constitution and law making processes, legislative strengthening, conflict management and transformation, political party development, the African Peer Review Mechanism (APRM) and local governance and decentralisation.

EISA provides assistance to inter-governmental institutions, like the African Union, and the Pan-African Parliament, to reinforce their capacity in the elections and democracy field. The Institute has just signed an MOU with the Economic Community of Central African States (ECCAS); the East African Community (EAC); and the Common Market for East and Southern Africa (COMESA). Within the framework of these recently signed memoranda, the Institute will also provide similar assistance respectively these intergovernmental institutions. Its MoU with the African Union was also renewed in 2014.

With its headquarters in Johannesburg (South Africa), EISA has had field offices across the African continent and currently has offices in Central African Republic, Democratic Republic of Congo, Kenya, Madagascar, Mozambique, Somalia, Zambia and Zimbabwe, and a regional liaison office at the secretariat of the ECCAS in Libreville, Gabon.

Election observation activities

EISA has deployed continental witness missions for the past ten years including missions to Angola (2008), Botswana (1999, 2004, 2009), Central African Republic (2010, 2011), Democratic Republic of Congo (2005 referendum, 2006 elections), Egypt (2011, 2012, 2014), Ghana (2008, 2012), Guinea Conakry (2010), Lesotho (1998, 2002, 2007, 2012,2015), Liberia (2011), Madagascar (2005, 2007, 2013), Malawi (1999, 2004,2009), Mauritius (2000, 2005, 2010, 2014), Mozambique (1999, 2004, 2009, 2013, 2014), Namibia (1999, 2004, 2009), Senegal (2012), Seychelles (2011), South Africa (1999, 2004, 2009, 2014), Tanzania (2005, 2010), Uganda (2011), Zanzibar (2005, 2010), Zambia (2005, 2008, 2011,2015), and Zimbabwe (2000, 2002, 2008), Reports on these missions can also be found on our website.



T +27 11 381 60 00 · F +27 11 482 61 63
14 Park Rd · Richmond · Johannesburg
PO Box 740 · Auckland Park 2006 · South Africa

About EISA

EISA is a not for profit organisation established in 1996 based in Johannesburg (South Africa) with field offices in Central African Republic, Gabon, Kenya, Madagascar, Mali, Mozambique and Somalia.

Our 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 the strengthening of political institutions for sustainable democracy in Africa.

Funded by

