



INTERIM MISSION STATEMENT

**BY THE
SADC PARLIAMENTARY FORUM ELECTION OBSERVATION MISSION TO
THE 2013 MADAGASCAR SECOND ROUND PRESIDENTIAL &
LEGISLATIVE ELECTIONS HELD ON 20 DECEMBER 2013**

**DELIVERED BY
HONOURABLE AGNESS LIMBO, DEPUTY MISSION LEADER AND
MEMBER OF PARLIAMENT OF THE REPUBLIC OF NAMIBIA**

**MONDAY 23 DECEMBER 2013 AT HOTEL COLBERT, ANTANANARIVO,
MADAGASCAR**

SALUTATIONS

- Commissioners of the Independent National Election Commission for Transition(CENI-T);
- The Secretary General of the SADC PF, Dr Esau Chiviya;
- Fellow Members of the SADC PF Mission;
- Esteemed Members of various Election Observation Missions;
- Members of the Diplomatic Corps;
- Representatives of Civil Society Organisations;
- Representatives of the Media;
- Distinguished Guests;
- Ladies and Gentlemen.

I welcome you all to this Press Conference to present the SADC Parliamentary Forum Election Observation Mission's Interim Statement on the 2013 Madagascar Second Round Presidential and Legislative Elections in my capacity as Deputy Mission Leader. The Mission Leader, Honourable Abdool Razack Mahomed Peeroo, Speaker of the National Assembly of Mauritius had to leave yesterday due to urgent business back in Mauritius.

1. INTRODUCTION

The SADC Parliamentary Forum,¹ constituted an Election Observation Mission to observe the 2013 Madagascar Elections of 20 December 2013, following an invitation from the CENI-T. The 30-Member Mission was in Madagascar from 11 to 24 December 2013 and it comprised male and female Parliamentarians from ruling and opposition political parties from Angola, Democratic Republic of Congo, Malawi, Mauritius, Namibia, Tanzania, Zambia and Zimbabwe. SADC PF Secretariat and staff from SADC Parliaments serviced the Mission.

The SADC PF Election Observation Mission to the 2013 Madagascar Second Round Presidential and Legislative Elections marks the 2nd time the Forum has observed elections in Madagascar and is the 33rd Observation Mission to be deployed by SADC PF since 1999 when the Forum started observing elections in SADC Member States.

This Interim Statement is aimed at sharing the Mission's Observations, Findings and Recommendations with stakeholders including the CENI-T, the Government and People of Madagascar and other SADC Member States. The recommendations herein are aimed at deepening democracy through improving the credibility, professionalism and integrity of the electoral processes in Madagascar and the entire SADC Region. A more detailed Final Report will be compiled and published within 90 days from the date of this Interim Statement.

¹ The SADC Parliamentary Forum is a Regional inter-parliamentary forum that was established in 1996 and was approved by the SADC Summit as a consultative and deliberative body in accordance with Article 9 (2) of the SADC Treaty. It is composed of 14 National Parliaments, namely Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

2. TERMS OF REFERENCE

In undertaking its election observation work, the SADC PF's Mission was guided by the following Terms of Reference which are premised on the Forum's *Norms and Standards for Elections in the SADC Region* and the *SADC Principles and Guidelines for Democratic Elections*:

1. The constitutional and legal framework within which the 2013 Madagascar elections were conducted;
2. The historical, socio-economic and political context and environment within which elections took place;
3. The extent to which the elections were conducted in line with the constitutional and legal framework provisions of Madagascar and in relation to the *Norms and Standards for Elections in the SADC Region*, the *SADC Principles and Guidelines Governing Democratic Elections* and other international Election Instruments;
4. The gender trends and voter turnout in comparison to previous elections;
5. The organisational arrangements of the electoral process by examining the following:
 - a) Independence, impartiality and accountability of electoral institutions, including stakeholders' confidence in the election authorities;
 - b) Secrecy of the ballot and the transparency and legitimacy of the electoral process;
 - c) Voter registration and the state of the voters roll, paying special attention to the inclusiveness and availability of voters roll to stakeholders;
 - d) The campaign process and the conduct of political parties;
 - e) Publication of the election calendar, preparation and distribution of voting materials;
 - f) Civic and voter education including the quality of the education, the role of the CENI-T, political parties and civil society organisations;
 - g) Role of security forces;
 - h) Gender mainstreaming in political activities and manifestos, electoral systems, practices and processes, including the management and administration of elections;
 - i) Role of the media with respect to fair and balanced media reporting and coverage on election activities;
 - j) Polling stations with reference to adequacy, location and voters' access to information on polling stations;
 - k) Polling arrangements with reference to opening of polling stations, availability of voting materials, secrecy of the ballot, and related administrative arrangements;
 - l) Counting, reconciliation, verification, tabulation and announcement of results as well as the legitimacy of results in the views of stakeholders;
 - m) Conflict resolution mechanisms in place with reference to the working relationship between the CENI-T, Government, political parties and other stakeholders;
 - n) Complaints and Appeals Procedures; and

6. Overall assessment of the elections process, drawing some good practices, conclusions and recommendations on the elections in line with principles of election observation.

3. DEPLOYMENT PLAN

The Mission observed the elections in seven Regions of the country, namely Anamalanga, Atsinanana, Boeny, Itasy, Menabe, Sofia and Vakinankaratra. The SADC PF Teams were in the field from 15 to 21 December 2013.

4. OBSERVATION METHODOLOGY

The Mission Teams used an assortment of information gathering methods, which included review of the constitutional and legal framework governing elections in Madagascar, consultations with key electoral stakeholders such as CENI-T, political candidates, civil society organisations, media, academia and the general electorate. The Mission also observed political campaign meetings, witnessed door-to-door campaigns by political parties and candidates and monitored the mainstream media.

Furthermore, the Mission interacted with other Election Observation Missions including the SADC Election Observation Mission, the African Union, and Electoral Commissions Forum of SADC and the SADC Council of NGOs, in order to exchange information and observations.

The above methods enabled the Mission to gather comprehensive information and to critically assess the manner in which the 2013 Madagascar Elections were conducted.

During their deployment in the country's Regions from 15 to 21 December 2013 the Mission's Teams visited 19 districts as well as 153 polling stations prior to polling and during the polling day.

5. GUIDING PRINCIPLES FOR THE SADC PF MISSION

In carrying out its observation work, the Mission was guided by the following principles: impartiality, neutrality, comprehensiveness, transparency, inclusiveness, and objectivity.

6. MISSION FINDINGS

6.1 Political Background

The SADC PF Mission took note of the various political and transitional difficulties that have characterised Malagasy politics since 1960 when the country attained its independence and the negative impact these challenges have had on the socio-economic development of the country.

More recently, the SADC PF has been closely following the political developments in Madagascar since February 2009 when there was a change of Government outside the provisions of the Madagascar Constitution and the subsequent political crisis which negatively affected the country's economy and the welfare of its people.

In this vein, the SADC PF Mission, therefore, welcomed the efforts by SADC, the AU and the international community towards assisting Madagascar to return to political normalcy under the SADC mediated Roadmap of 16 September 2011.

In view of the above, the SADC PF Mission extends its sincere and warm congratulations to His Excellency, Mr. Joaquim Chissano, for the important role he played in facilitating dialogue among the people of Madagascar, culminating in the 2013 Elections. This represents another landmark achievement by SADC and serves as an eloquent example of the effectiveness of African solutions to African problems.

Accordingly, the SADC PF Mission calls upon the people of Madagascar to continue in the same spirit of tolerance and reconciliation in order to ensure that the country returns to political normalcy and redirect national efforts towards socio-economic development for the betterment of the livelihoods of the citizens of this great country.

6.2 The Constitutional and Legal Framework

The Mission took note of the constitutional and legal framework governing elections in the Republic of Madagascar, in particular the following legal instruments:

- i) The Constitution of The Republic of Madagascar (2010)
- ii) Law No. 2012-004 on the Composition, Function, Structure and roles of the Independent National Electoral Commission for Transition (CENI-T);
- iii) Law No. 2012-005 on The Electoral Code;
- iv) Law No. 2012-012 on the Creation of the Special Electoral Court;
- v) Law No. 2012-015 on the Election of the First President of the Fourth Republic; and
- vi) Law No. 2012-015 on the Election of the first Legislative Representatives of the Fourth Republic.

In particular, Title II of Madagascar's Constitution of 2010 (Articles 7-15) guarantees fundamental freedoms for the people of Madagascar, including the right to life, personal liberties, freedom from arbitrary arrest and detention, freedom of expression, freedom of assembly and association, freedom of movement, freedom of conscience and religious belief, as well as freedom to form political parties and participate in elections.

The Mission was satisfied that the afore-described rights and freedoms were generally respected and exercised without undue hindrance prior, during and after the 2013 Madagascar Elections.

The Constitution of Madagascar also provides for direct, equal and universal suffrage as the basis for the country's electoral system as well as a framework for the establishment, composition and powers of the three arms of State, namely the Executive, the Legislature and the Judiciary.

The above legal framework also provides for the finer details regarding the conduct of elections in Madagascar. These include procedures and regulations for voter registration, the voting age, conduct of voter education, election of the first President and Legislators for the Fourth Republic, collation, verification and declaration of election results as well as the composition, functions, powers and responsibilities of the country's transitional Election Management Body, the CENI-T.

The SADC PF Mission is satisfied that the legal framework governing elections in Madagascar largely augurs well for the election of political representatives in a transparent manner to ensure the country's smooth transition to constitutional and political normalcy.

6.3 The CENI-T and Election Administration

The Mission took note of the legal framework on the establishment, organisation, functions and responsibilities of the Independent National Electoral Commission for Transition as the sole transitional authority responsible for the conduct of elections at all levels in Madagascar. In particular, the SADC PF Mission welcomed the provisions in the law, of the composition of the CENI-T by politically impartial and competent Madagascar citizens who are of great integrity and high morals; and are nominated by an inclusive cross-section of stakeholders in the country.

Overall, the Mission is satisfied that the legal framework within which the CENI-T is established and operates, generally augurs well for the independence and autonomous functioning of the Commission in line with the *Norms and Standards for Elections in the SADC Region* and the *SADC Principles and Guidelines for Democratic Elections*.

In addition, the SADC PF Mission welcomes the decentralised structure of the CENI-T from national to regional, district and commune levels. This structure enabled the Commission to effectively execute its mandate and interface with electoral stakeholders at all levels.

The Mission welcomed the financial support extended to the CENI-T by SADC countries and other members of the international community, towards the organisation and management of the 2013 Madagascar Elections.

The SADC PF Mission heartily welcomes the expression of confidence in the CENI-T by various stakeholders in terms of its independence, impartiality, openness, transparency and capacity to organise and conduct credible elections.

On the preparedness of the CENI-T for the 2013 Madagascar Presidential Second Round and Legislative Elections, the Mission observed that the CENI-T was manifestly prepared as evidenced by the printing of ballot papers and procurement of election materials in time. The CENI-T also carried out voter education programmes and timely distributed both sensitive and

non-sensitive voting materials to the 22 Regions of Madagascar in accordance with the electoral calendar.

It also organised and transparently moderated political debates among presidential candidates in the mainstream media, which helped to increase public awareness of not only the elections but the policies on offer from each of the Presidential Candidates who participated in the Second Round of the 2013 Madagascar Presidential Elections.

From our observation, it was evident that the CENI-T trained electoral staff in time and was consulting and communicating with electoral stakeholders, including civil society, political parties and candidates as well as the media throughout the process. The SADC PF Mission's Observation Teams, however, encountered cases where some members of the public complained of not having received adequate voter education.

On the whole, the Mission commends the CENI-T for the professional and efficient manner in which it prepared for and conducted the 2013 Madagascar Presidential Second Round as well as Legislative Elections in compliance with the country's electoral laws

6.4 The Role of Security Forces

The Mission welcomed the impartial role played by the Security Forces of Madagascar in securing the electoral process prior, during and after the Election Day. Despite the absence of security forces in most polling stations, the electoral process was conducted in a calm and peaceful environment.

6.5 Voter Registration

The SADC PF Mission noted that the CENI-T is legally mandated with the responsibility to carry-out voter registration on an annual basis between 1 December and 31 January each year and that there is no specific legal requirement for a special voter registration before an election. For the 2013 Madagascar Elections, the Mission was informed that voter registration stretched from 9 July 2012 to 9 October 2013, resulting in a cumulative registered voter population of approximately 7,832,305 as at the First Round of the Presidential vote. According to the CENI-T, the Commission conducted an intensive door-to-door voter registration exercise and delivered voting cards to prospective voters in the process, to ensure that as many citizens as possible would be afforded the opportunity to vote. The CENI-T also carried-out a voters roll updating exercise to ensure the inclusion of 143,304 citizens who had been excluded from the Voters' Roll in the run-up to the 25 October 2013 First Round Presidential Election. However, according to our findings in certain regions, the above exercise was not performed to expectation as many people did not receive their voting cards and may have been disenfranchised.

Nevertheless, the SADC PF, commends the CENI-T for their effort in ensuring that as many citizens as possible are afforded a chance to register as voters. However, the SADC PF Mission recommends the inclusion in the law, of continuous voter registration and updating of the Voters Roll in order to improve the comprehensiveness of the country's Voters' Roll.

6.6 Voters' Roll

The SADC PF Mission learnt that copies of the updated Voters' Roll were made available for the elections on 18 December 2013, two days before voting. The SADC PF Mission took note of the decision by the CENI-T not to avail the updated Voters' Roll for public inspection prior to the Presidential Second Round and Legislative Elections. This position was based on the fact that the same Voters Roll that was used during the Presidential Elections First Round was going to be used for the Presidential Second Round and Legislative Elections, save for the additional 143,304 voters who were added with the consent of stakeholders, having been left out from the Voters' Roll for the First Round Presidential Elections.

The SADC PF Teams observed that copies of the Voters' Roll were available in all polling stations visited by the Mission's Teams on voting day and the Mission did not encounter any significant complaints from stakeholders regarding the state of the Voters' Roll.

6.7 Voter Education

The Mission noted that the CENI-T is legally mandated to oversee voter education in Madagascar. The Mission commends the CENI-T and its civil society partners for providing intensive voter education prior to the 20 December 2013 Elections. However, in view of the introduction of a new voting system and its attendant procedures, there is need for more education to be provided to voters in order to ensure adequate knowledge of voting procedure among voters.

6.8 Election Campaign

The Mission noted that campaigns for the 2013 Madagascar Presidential Second Round and Legislative Elections stretched for 21 days from Thursday 28th November to Thursday 19 December 2013 in line with the official electoral calendar published by the CENI-T. The campaigns manifested themselves in a variety of forms including rallies, road shows, door-to-door campaigns, advertisements in the mass media, TV debates, as well as the posting of campaign posters in various places accessible to the public.

The Mission commends the people of Madagascar for the calm and tolerant manner in which they conducted themselves during the electoral process. This created an electorally conducive atmosphere that enabled most citizens to freely express themselves in campaigning and voting for Presidential and Legislative candidates of their choice without undue hindrance. The Mission, furthermore, welcomes the exemplary public expression of tolerance and reconciliation exhibited by most of the candidates during campaigns, in particular the two Presidential candidates for the Second Round Vote who shook hands and embraced in front of national television, further demonstrating the spirit of tolerance.

6.9 Campaign Funding

The Mission noted that there is no provision of public funding for political parties in Madagascar. The Mission further noted that the law does not regulate campaign expenditure

and sources of campaign funding, other than forbidding the use of public resources during political campaigns.

6.10 Media Coverage of the Elections

The Mission noted the role played by the media in enhancing awareness on the election process including voter registration, voter education and candidate nominations. This went a long way in promoting public interest and encouraging public participation in the elections. The Mission also noted and welcomed efforts by CENI-T to ensure equitable access to public media by all candidates who contested the elections including the approximately 2,054 legislative candidates.

In addition, the SADC PF Mission welcomed the collaboration between the CENI-T, the media and development partners in promoting the upholding of media ethics during the coverage of the 2013 Madagascar Elections, including the media's coverage of live TV debates. The SADC PF Mission, however, noted complaints from some candidates and other stakeholders against some media houses which were evidently biased in their coverage of the election campaigns.

6.11 Participation of Women in the 2013 Madagascar Presidential and Legislative Elections

The Mission noted that out of the 33 Presidential Candidates who took part in the First Round of the Presidential Elections, only two were women and none in the Second Round. The Mission, furthermore, was informed that out of the approximately 2,054 legislative candidates who contested the 2013 Madagascar Elections, only approximately 207 of the candidates, representing 10 percent, were women.

In view of the above, the Mission, therefore, notes with concern that the outcome of Madagascar Elections is set to fall far too short of the Regional target of 50 percent representation of women in political and decision making positions by 2015 as set forth in the SADC Protocol on Gender and Development.

6.12 Conflict Resolution Mechanisms in Place

The Mission noted that the law mandates the CENI-T to resolve election-related disputes among stakeholders. Aggrieved parties are, however, free to appeal to the Special Electoral Court (CES) in the event that they are not satisfied with the decision of the Commission.

The Mission also noted the existence of Conflict Resolution Commissions at district level which are charged with the responsibility to mediate and resolve political conflicts at that level before forwarding such cases to the CENI-T at provincial and national levels.

Furthermore, the Mission acknowledges the role played by the Malagasy Reconciliation Council in promoting peace and reconciliation which helped to foster a culture of dialogue and tolerance among the Malagasy citizens during election time.

6.13 Elections Appeal Mechanisms in Place

The Mission noted the existence of the Special Electoral Court within the High Constitutional Court of Madagascar, which is the highest electoral authority in the Republic with the final say on all election matters, including proclamation of final election results and resolution of electoral disputes.

According to law, in the event of an electoral dispute, aggrieved parties are free to lodge complaints with Special Electoral Court on any election-related matter within 20 days from the date of election. The law, however, is silent on the period within which the court ought to have resolved election related petitions.

6.14 Election Day, Voting and Counting

The Mission observed that most polling stations opened and closed at legislated times of 0600 hours and 1700 hours, respectively. The Mission's Teams observed that voters that were still in the queue by 1700 hours were allowed to cast their votes in line with the law.

Voting materials including ballot papers, copies of the Voters' Roll and indelible ink were observed to be available in adequate quantities and this allowed voting to proceed smoothly throughout the day. The Mission also noted the presence of Local and International Observers and the police at some polling centres. The voting process was observed to have been conducted in a generally peaceful environment across the country.

The SADC PF Mission also noted with satisfaction that all the 153 polling stations visited by the Mission's Teams across seven of the country's regions were adequately manned and the polling officers were evidently conversant with the polling procedures.

At close of voting, ballot boxes were transparently sealed and counting ensued immediately at the respective polling stations in accordance with the law. The Mission observed that counting of ballot papers was conducted in a peaceful and transparent manner and in most cases in the presence of observers, and party/candidate agents.

The Mission also observed that most of the polling stations visited by Mission's Teams in the regions were in places readily accessible to the public, including persons living with disabilities.

The Mission also noted that according to Malagasy law and the official electoral calendar announced by the CENI-T, the Commission has up to 7 January 2014, to announce the provisional Presidential Election Results and up to 9 February 2014, to announce the provisional results of the Legislative Elections. Both these results would have to be validated by the Special Electoral Court within 30 days of announcement by CENI-T to become final and effective.

7. GOOD PRACTICES FROM THE 2013 MADAGASCAR ELECTIONS

The Mission observed the following as good practices from the 2013 Madagascar Elections:

- a) High degree of tolerance which contributed to peaceful and orderly campaigns and generally amicable atmosphere during polling;
- b) The inclusive mechanism for nominating individuals to the CENI-T which helped to enhance the credibility of the body;
- c) Door-to-door registration of voters to ensure that as many citizens as possible are availed an opportunity to exercise their democratic right to vote;
- d) Engagement of the media to promote ethical coverage of electoral issues;
- e) Procurement of and distribution of election materials in time;
- f) Translation of most of the election materials into the local Malagasy language to ensure more effective communication with the majority of ordinary citizens;
- g) Use of transparent ballot boxes;
- h) Use of indelible ink which enhances the credibility of the vote;
- i) Fast-tracking of persons living with disabilities, the elderly and pregnant mothers during voting in order to ensure that they exercise their right to vote;
- j) The adequate number of polling stations provided by the CENI-T which were conveniently accessible to voters in terms of distance and location;
- k) Professionalism and commitment to duty demonstrated by the electoral staff who worked under pressure for long hours prior to and on Election Day;
- l) The Gazetting of the polling day, 20 December 2013, as a public holiday to enable as many Malagasies as possible to exercise their democratic right to vote;
- m) The CENI-T's general logistical preparedness and openness to engage stakeholders prior, during and after the 2013 Madagascar Elections;
- n) The establishment of the Special Electoral Court to enhance speedy resolution of election related disputes;
- o) The invitations extended to various local and foreign observers by the CENI-T which enhances the transparency of the elections; and
- p) Counting of votes at respective polling stations in the presence of party agents, candidates and observers in line with good and transparent electoral practice.

8. AREAS FOR IMPROVEMENT

- a) The need to make provisions for continuous voter registration and updating of the Voters Roll;
- b) The need to provide voters with their voting cards on registration;
- c) The need to develop strong legal and administrative provisions to ensure gender parity in political and decision making positions in line with the SADC Protocol on Gender and Development;
- d) The need to legally empower the Independent National Electoral Commission to declare final results of elections so that the Electoral Court concentrates on handling appeals and petitions in order to expedite the announcement of final election results and avoid anxieties and suspicions which may lead to conflict;

- e) The need to introduce legislation governing access to and application of funding by political parties and candidates in order to promote transparency and accountability in the mobilisation and application of political campaign funds by parties and candidates;
- f) The need to promote a culture of political parties and structures as well as responsible politicians that serve as the basis for Election Manifestos and their messages to the electorate;
- g) The need for a Legislative Assembly rooted in political parties to facilitate the legislative, representational and oversight roles of the Legislature; and
- h) The need to enhance voter interest in the electoral process.

9. MISSION'S OVERALL ASSESSMENT OF THE 2013 MADAGASCAR ELECTIONS

Based on its overall findings, the Mission is of the view that there existed a conducive and peaceful environment in which the elections were conducted. Notwithstanding the observed shortcomings mentioned in this Interim Statement, the people of Madagascar were accorded the opportunity to freely express their will in voting for political parties and candidates of their choice.

The SADC PF Election Observation Mission to the 2013 Madagascar Presidential Second Round and Legislative Elections is, therefore, of the view that the 2013 Madagascar Presidential Second Round and Legislative Elections were, on the whole, a credible reflection of the will of the majority of the people who voted during the elections.

Hence, the SADC PF Mission declares the 2013 Madagascar Presidential Second Round and Legislative Elections as having been free, fair and credible.

In Conclusion, the SADC PF Election Observation Mission to the 2013 Madagascar Presidential Second Round and Legislative Elections commends the people, the electorate, the candidates and all electoral stakeholders in the Republic of Madagascar for the tolerant manner in which they conducted themselves prior, during and after the 20 December 2013 Madagascar Elections.

-End-