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ABBREVIATIONS

ACDEG | African Charter on Democracy, Elections and Governance
ACDP | African Christian Democratic Party
ANC | African National Congress
AU | African Union
AUC | African Union Commission
AUEOM | African Union Election Observer Mission
COPE | Congress of the People
CSOs | Civil Society Organizations
DA | Democratic Alliance
FFP | Freedom Front Plus
EMB | Election Management Bodies
ICCPR | International Covenant on Civil and Political Rights
EFF | Economic Freedom Fighters
IEC | Independent Electoral Commission
EISA | Electoral Institute for Sustainable Democracy in Africa
PAP | Pan-African Parliament
PRC | Permanent Representatives Committee
PWDs | Persons with Disabilities
SADC | Southern African Development Community
STO | Short-Term Observation
UDM | United Democratic Movement
ACKNOWLEDGEMENTS

The African Union Election Observation Mission (AUEOM) to the Republic of South Africa’s 2019 National and Provincial Elections is grateful for the support it received from various institutions, stakeholders and individuals that ensured the successful execution of its mandate.

The AUEOM wishes to thank the Government and the Independent Electoral Commission (IEC) of the Republic of South Africa for inviting the African Union (AU) to observe the elections, which is a demonstration of openness and willingness to subject their electoral processes to regional and international scrutiny.

The AUEOM is grateful to His Excellency Jakaya Mrisho Kikwete, the former President of the United Republic of Tanzania for his guidance and leadership. The AUEOM is further grateful to all observers and technical and administrative team for their commitment and contribution.
EXECUTIVE SUMMARY

The Republic of South Africa held general elections for members of the National Assembly and Provincial Legislatures on 8 May 2019. These were the sixth consecutive general elections held since the introduction of multiparty democracy in 1994 and, therefore, represent an effort by South Africans towards the consolidation of democracy in the country.

At the invitation from the Government and the Independent Electoral Commission (IEC) of South Africa, the African Union Commission (AUC) deployed the African Union Election Observation Mission (AUEOM) from 28 April to 14 May 2019. The Mission was part of AU’s efforts to promote transparent and credible elections and deepening of democratic governance in Africa.

Following its deployment, the AUEOM held consultations with key stakeholders and directly observed pre-election activities and Election Day operations. Based on its consultations and direct observation of the process, the AUEOM issued a Statement on 10 May 2019 highlighting its key preliminary findings and conclusions on the conduct of the elections.

This report presents the AUEOM’s overall and final assessment of the 8 May 2019 elections in South Africa. It contains detailed findings and recommendations for improvement of future of elections in the country.

a. Summary of Key Findings, Conclusion and Recommendation

The Elections took place in a generally calm and peaceful environment, except for few isolated disturbances noted, particularly in KwaZulu-Natal, which were not directly related to the conduct of the electoral process.

There was a significant broadening of the political space as evidenced by the high number of registered voters and political parties that took part in the elections: about 26.7 million voters were registered and 48 political parties contested the elections at the national level. This was an increase in terms of political participation compared to the 2014 elections, which recorded about 25.4 million registered voters and 29 political parties.

Notwithstanding, the increase in voter population and number of political parties voter turnout dropped from 73.5% in 2014 to 66.99% in 2019. Turnout among the youth was particular was notably low: This was attributed to disillusionment with politics due to the prevailing circumstances, including high number of youth unemployment, weak economic
performance of the state, poor service delivery, corruption and grievances over land redistribution.

The legal framework is generally conducive to the conduct of democratic elections. However, the 2018 Political Party Act, which could have advance transparency in the funding of political parties and ensured a levelled playing field for all political parties, is still not operational. The AUEOM also noted that the legal framework does not allow independent candidates to contest national and provincial elections, despite the fact that section 19(3) (b) of the Constitution provides that: “Every adult citizen has the right to stand for public office and, if elected, to hold office.”

Despite concerns by some stakeholders regarding the competence of ad hoc staff at the local level, the elections were managed professionally and transparently at all levels and in accordance with the relevant laws governing elections in South Africa. Voting procedures were consistently adhered to in all polling stations visited by AU observers.

There was enabling environment for persons with disabilities to enjoy their right of participation in the electoral process, as enshrined in the South African Constitution. The AUEOM observed that the IEC put in place special mechanisms for the effective participation of visually impaired voters and persons with physical disabilities.

The campaign was peaceful and competitive. Political parties and candidates were able to campaign freely throughout the country. Most campaigns were done through rallies, distribution of leaflets and flyers, and on the media. Land reform, unemployment, the economy, corruption, rising domestic crimes and other social challenges were the key campaign issues.

The media is diverse, free and vibrant. The state broadcaster played a critical role in the electoral process in a professional and unbiased manner. The IEC made effort to combat disinformation on digital platforms.

The Election Day proceeded peacefully, except few areas in KwaZulu-Natal where community unrest derailed operations at some polling stations. Most polling stations visited by AU observers opened on time, except for a few which did not for reasons related to late arrival of polling materials. Opening, voting, closing and counting procedures were generally adhered to by polling staff and the process was done transparently and in accordance with the IEC procedures. Staff competence and professionalism was assessed positively.
The tabulation of votes was accurate and transparent and final results of the elections announced on 11 May 2019. The African National Congress (ANC) won the elections with 57.51% of votes cast, while the two main opposition parties – the Democratic Alliance (DA) and Economic Freedom Fighters (EFF) – got 27.76% and 10.79%, respectively.

b. Key Recommendations

This report offers the following recommendations for consideration by relevant stakeholders in South Africa: the AUEOM’s priority recommendations relate to expediting the implementation of the 2018 Political Party Funding Act to enhance transparency and fairness in the electoral process; introducing legislation that facilitates contest in national and provincial elections by independent candidates; developing better strategies to enhance youth participation in the electoral process; and addressing key social and economic challenges to avoid disenchantment and alienation of youth and other sections of society in political processes.

c. Conclusion

In view of its findings and overall assessment, the AUEOM concludes that the 8 May 2019 National and Provincial Elections in South Africa were peaceful, transparent, inclusive and credible and met South Africa’s regional and international commitment and obligations for democratic elections.
I. INTRODUCTION

Following an invitation from the Government of South Africa and IEC, and based on the AU’s mandate of promoting democratic elections in Africa, the Chairperson of the African Union Commission (AUC), His Excellency Moussa Faki Mahamat, approved the deployment of a short-term African Union Election Observation Mission (AUEOM) to South Africa to observe the 8 May 2019 elections from 29 April to 14 May 2019. It was led by His Excellency Jakaya Mrisho Kikwete, former President of the United Republic of Tanzania, and consisted of a seven-member core team based in Johannesburg and 28 short-term observers (STOs) deployed throughout the country on 6 May.¹

The main objectives of the AUEOM were to provide an accurate, impartial and objective assessment of the preparations and conduct of the elections and offer recommendations for improvement of future electoral processes in the country. In view of its objectives, the AUEOM assessed the compliance of the electoral process with AU commitments enshrined in relevant instruments such as the 2000 Constitutive Act of the Union, the 2007 African Charter on Democracy, Elections and Governance, the 2002 OAU/AU Declaration on Principles Governing Democratic Elections in Africa, and the African Peer Review Mechanism (APRM). The AUEOM also assessed the compliance of the electoral process against other regional and international obligation and standards for democratic elections, as well as South Africa’s national legal framework for elections.

Pursuant to its objectives, the AUEOM held series of consultations with several stakeholders, including government officials, the Chairperson and members of the IEC, representatives of political parties, civil society organisations, and other international observer groups to get an understanding of the preparation and political context of the elections. It undertook a review of the legal framework, and direct observation of some pre-electoral activities, including the last-day campaign rallies of the ANC and EFF in Johannesburg and preparation of voting stations by IEC staff. It also held a 3-day briefing and orientation session with its observers on AU observation methodology and the general context of the elections, including the country’s political history and legal framework. On Election Day, the AUEOM deployed observers in teams of two to observe voting, closing and counting processes in 7 provinces across the country.

This report presents the AUEOM’s overall findings, conclusion and recommendations on the 8 May 2019 elections in South Africa based on consultations held with key stakeholders during the immediate period before the elections, a review of the legal and regulatory framework, and direct observation of the voting and counting processes.

¹ See Annexes 1 & 2: List of AUEOM Delegation and Deployment Plan, respectively.
II. PRE-ELECTION FINDINGS

a. Background and Political Context

The 8 May 2019 National and Provincial Elections were the sixth consecutive general elections held in South Africa after the end of Apartheid system and the introduction of multiparty democracy in 1994. The elections took place in a generally peaceful environment. However, they were characterized by increased public disillusionment over issues of land reform, unemployment, corruption and inadequate social services delivery by the state, such as water and sanitation, electricity and housing. This public disillusionment over social and economic conditions has often manifested in violent protests and demonstrations even during the election period.

The ruling ANC went into the elections against the background of allegations of corruption, mostly during the tenure of former President Jacob Zuma. President Zuma and his allies had been accused of appropriating state funds. Although the government established a Commission to probe some of these allegations, it was widely thought to be ‘too little too late’. The pervasive nature of corruption may have contributed to the low voter turnout of the ANC supporters, resulting in the drop in its overall performance compared to previous elections.

The elections were also held within the context of a struggling economy and growing inequality. The economy had not experienced real GDP per capita growth for five years prior to the elections. Inflation has been high for the same period and the rate of unemployment was high. This had left more than half of the population living below the poverty line.

The run-up to the elections was also characterized by widespread protests in relation to poor service delivery across the country. This attracted significant attention, particularly from the three main political parties as they tried to take advantage of the situation and

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2 The OECD’s 2018 report found that GDP in South Africa was the lowest among countries in the G20 area by the end of the second quarter. The report said the country was also the only one that was in a recession among the more than 30 economies the organization tracks.

3 GDP growth for the last five years has averaged 1.5%, and given the population growth is 1.5% per year there has been no real GDP per capita growth at all.

4 Inflation has been close to 6% for the last five years, and the IMF forecasts that it will remain at that rate going forward.

5 Youth unemployment recently peaked at over 55% of the workforce, and general unemployment has been stuck at around 25% of the workforce for the last decade.

6 According to a study by the National Data Agency, Statistics South Africa, released in August 2017, more than 30.4 million South Africans, 55.5% of the population live below the poverty line (on less than $75 per person per month).
win support from the affected population. The protests started in Alexandra and Tshwane and spread to other major cities across the country. While the ANC accused the DA of not effectively delivering services to the protesting communities, the DA and EFF accused the ANC of instigating the protests as an election tactic to win the support of the protesters.

The issue of land reform featured prominently in the election debates with the three main parties presenting reform proposals that reflected the demands of their core supporters. The ruling ANC, supported in part by the EFF, proposed to change the Constitution to speed up the expropriation of land without compensation to address racially skewed ownership patterns dating back to apartheid and colonial rule. But the DA campaigned against such a change, arguing rather for the protection of property rights while putting in place a land reform programme that would increase access to ownership, create jobs and grow the economy.

Notwithstanding the challenges outlined above, the political context remained generally peaceful and conducive throughout the elections, saved for few instances in some areas where electoral operations were affected by protests and demonstrations.

b. Legal Framework


The legal framework establishes a democratic state founded on universal suffrage, and multi-party politics with every citizen having the right to participate in free, fair and regular elections. Freedoms of expression, assembly, association, access to information and the right to a court for dispute resolution are also guaranteed.

The AUEOM noted that amendments were made to the electoral laws on 6 March 2019 concerning electoral regulations, voter registration, submission of lists of candidates, and electoral timetable. These set of changes were made to enhance the credibility of the electoral process and ensure it is more inclusive by enabling diaspora voting and allowing for special voting through home visits and at voting stations between 6 and 7 May 2019 for physically incapable persons.

Overall, the AUEOM assessed that the legal framework was conducive to the conduct of democratic elections. However, the lack of enforcement of the 2018 Political Party
Funding Act had the potential of undermining transparency and fairness in the electoral process. The lack of relevant legislation for independent candidates to contest national and provincial elections contravenes with section 19(3) (b) of the Constitution, which guarantees the right of every adult citizen to vote and be voted for in public office.

c. Electoral System

South Africa operates a parliamentary system of government, with a bicameral legislature consisting of the National Assembly and nine (9) Provincial Legislatures. The National Assembly comprises 400 members, who are elected through a closed-list proportional representation (PR) system – half of these are from national party lists and the other half from provincial party list. Parliamentary seats are allocated to parties based on the proportion of votes each received. The IEC uses the highest remainder method to allocate seats won at the provincial and national level.

The AUEOM noted that the electoral system ensures inclusivity and guarantees that every vote count. Notwithstanding this, the system does not allow for independent candidates to contest the elections, despite the fact that section 19(3) (b) of the Constitution guarantees right of every citizen to stand for public office and, if elected, to hold office.

d. Electoral Administration

The South African Constitution establishes the IEC under chapter 9 as an independent body that is only subject to the Constitution and the law, although it has a reporting responsibility to the National Assembly. It is mandated to manage elections, conduct voter education, register voters and political parties, and adjudicate electoral disputes. It is comprised of 5 members one of whom must be a judge.

Despite concerns about the competence of the IEC’s temporary staff at the local level to deliver electoral materials and conduct voting, counting and transmission of results effectively, the AUEOM observed that the elections were well administered and that there was a conducive environment in which fundamental freedoms were upheld, which enabled voters to make free and informed choices. The IEC performed its mandate professionally and independently. It enjoyed broad satisfaction among stakeholders. It had sufficient resources to implement all phases of the election process.

e. Political Parties and candidates

Political parties and candidates are important stakeholders in an electoral process. For this reason, the Constitution of South Africa allows for the formation and registration of political parties and candidates to participate in national and provincial elections. The
Constitution empowers the IEC to register political parties and regulate their activities. Parties can either register at national level or provincial level or both.

To contest in the elections, political parties are required to submit an application on a prescribed form, and other details such as: the name and abbreviation of the party (for national level registration only); copy of the party’s Constitution; a Deed of Foundation signed by a number of registered (500 registered for national level registration and 100 registered voters for provincial level registration); two sets of the party’s logo or symbol in colour; and a registration fee (R500 for national level registration and R100 for provincial level registration).

Once registered and before elections, political parties draw up a list of candidates for each of the legislatures – national or provincial assembly – they wish to contest. For the national assembly, parties can submit half their candidates on a national list and half on provincial lists. All registered political parties are required to sign the Code of Conduct prescribed in the legal framework and also pledge their commitment to free and fair elections.

The AUEOM noted that both the legal framework and IEC’s handling of the registration process provide a conducive environment for political parties to function. It further noted that political parties and candidates in the 2019 elections were allowed to operate freely without inhibition. This reflected in the record number of 48 parties that registered to participate in the national assembly election, compared to 29 in 2014.7

f. Political Party Funding

The Public Funding of Represented Political Parties Act, 1997 allows for both public (by the State) and private funding (from other sources) of political parties in South Africa. However, only political parties with representation in the National Assembly or Provincial Legislatures or both receive public or state funding. The funds allocated may be used for any purpose deemed compatible with the party’s functioning in a modern democracy.

The AUEOM noted that a Political Party Funding Act was passed in 2018 but never enforced during the 2019 elections. Unlike the 1997 Public Funding of Represented Political Parties Act, the Political Party Funding Act aims to ensure transparency, accountability and the creation of a levelled or fair electoral playing field by providing for, among other things, the disclosure and reporting of both public and private funds received by political parties. The Act also sets limits for the source, size and use of private funds

7 See Annex 3: List of participating political parties.
by political parties. It further mandates the IEC to manage, monitor and report on party spending and to impose sanctions for non-compliance with the regulations.

g. Participation of Women, Youth and Persons with Disabilities

The AUEOM noted progressive efforts to ensure that the rights of participation of women, youth and persons with disabilities in the political processes are guaranteed. According to data by IEC, women constituted 55% of the registered voters, 43.7% of candidates and 73% of polling officials. A report by the non-governmental organisation Gender Link, which carried out a gender audit of the 8 May 2019 elections, shows 46% of the elected members of the National Assembly and Provincial Legislatures in the 2019 elections were women – an increase of 6% and 13%, respectively, from the 2014 results. The report also indicated that 50% of the new cabinet ministers appointed after the elections were women. The proportion of women in the National Council of Provinces was also high – about 36%, an 8% increase from the 2014 elections.8 While there was generally an increase in the proportion of women representation in the 2019 elections, the AUEOM observed that women occupied less top positions and decision-making bodies within political parties in South Africa. It also observed that almost all the parties did not meet the gender parity requirement stated in both the 2008 SADC Protocol of Women and Development and the 2004 AU Declaration on Gender Equality in Africa.

In the lead up to the 2019 elections, the AUEOM was informed that the IEC carried out series of campaign drive and initiatives to encourage youth to register and vote. Despite this, reports by local think tanks and non-governmental organisations indicate that many young, eligible voters did not register or vote. The lack of effective government response to youth needs, high unemployment, poor quality education, lack of equal opportunities and disenchantment and disillusionment with political parties are among the main reasons advanced for youth disengagement in the 2019 electoral process. The AUEOM views youth disengagement in political processes as inimical to the peace and democratic development of the state.

Regarding participation of persons with disabilities, the AUEOM noted that IEC made significant improvement in the infrastructure that enabled them to participate effectively in the electoral process. These included provision of voting aids such as the Universal Ballot Template (UBT) at each voting station for visually impaired voters; redesigning ballot papers to enable easy identification of the party of choice by voters; and special voting arrangements which benefitted persons with physical disabilities.

h. Election Campaign

The AUEOM observed that political parties' campaign activities were generally peaceful but competitive and had the opportunity to communicate their messages without hindrance. Most campaigning was done through rallies, distribution of leaflets and flyers, and on the media. The AUEOM also observed that the campaign messages of the political parties were mostly based on policy issues that reflected the needs and expectations of the electorate. Land reform, unemployment, the economy, corruption, rising domestic crimes and other social challenges were the key campaign issues.

i. Media Environment

The media in South Africa is diverse, free and vibrant. It played a critical role in informing and educating the general public and communicating the messages of political parties. The AUEOM lauds the prevailing press freedom in South Africa and noted with appreciation the way state broadcaster accorded equitable coverage to the political parties throughout the electoral process. The AUEOM also commended efforts made by the IEC in ensuring effective communication with political parties and electoral stakeholders, and combating disinformation on digital platforms.

j. Diaspora and Special Voting

On 27 April 2019, registered South African citizens in the diaspora cast their votes at the country’s 121 missions across the world. On 6 and 7 May 2019, Special Voting was conducted inside South Africa for citizens who had successfully applied to cast their votes through home visits or designated voting stations.

The AUEOM observed Special Voting at 20 stations across the country. Overall, the process proceeded well with just few isolated issues observed, such as late opening due to ongoing protests in the locality of the voting stations and inability to find the address of some voters who had reportedly relocated or passed away at the time of voting.
III. ELECTION DAY FINDINGS

On Election Day, the AUEOM observed the opening and counting in 11 polling stations and voting in 140 polling stations in 7 provinces across the country. Generally, the process was conducted in a calm, peaceful and orderly manner, which afforded the people of South Africa the opportunity to exercise their democratic rights of choosing their leaders.

a. Opening

Most voting stations opened on time, except for a few which did not, for reasons related to late arrival of polling materials. Opening procedures were observed and ballot boxes were correctly sealed and placed in clear view of all voters.

b. Voting

Voting stations were laid out in a manner that allowed for easy flow of voters. Procedures for identification of voters were followed correctly and those who did not meet the qualification were not allowed to vote. Persons with disabilities, the elderly, and expectant and nursing mothers were given consideration. As high as 93% of the voting stations visited were accessible to persons with disabilities. Voters requiring assistance were assisted by persons of their choice or by the presiding officers in the presence of party agents. There was noticeable presence of party agents from different political parties at the voting stations. AU observers reported that party agents seemed conversant with their role and were unimpeded while discharging their duties. International and domestic observers were also present at voting stations visited. Difficulties were however observed in some polling stations where the rooms were small. The AUEOM also noted the existence of a few isolated incidents where voting was disrupted. These include: 4 polling stations (Avhatondi Primary, Tshirunzanani Primary, Tshinavhe Secondary and Siwadawada Primary School) in Vuwani Town, Limpopo province which had to be closed following service delivery protests. Concerns were also raised by election officials in Musunduzi/ Pietermaritzburg to the AUEOM that some batches of the indelible ink used in that area were faulty and could easily be removed, raising the possibility of attempts to vote multiple times. The provisions of section 24A of the Electoral Act were interpreted as making this possible as they permitted a voter to cast his or her ballot outside his or her voting district or province.

c. Closing and Counting

All polling stations witnessed closed on time, and counting was commenced immediately in the presence of party agents and observers. The set procedures for closing of the polls
and counting of the votes were also followed. Copies of the results protocols were posted at each polling station for public scrutiny.

Overall, polling officials demonstrated a high level of professionalism and competence in discharging their duties on Election Day.
IV. POST-ELECTION DEVELOPMENTS

a. Complaints

A number of ‘small’ political party leaders led by COPE and African Content Movement (ACM) raised concerns about the results of the elections, which they said were incorrect. They claimed that some of their votes were not reflected in the results for the districts they voted in, and also cited the number of people arrested by the police for “double voting” in KwaZulu-Natal as evidence that the process was unfair. They therefore demanded the IEC to take proper and independent audit of the process and threatened legal action to stop the process if their objections and complaints were not taken seriously.

The AUEOM noted that central to the parties’ claim of double voting was the issue of indelible ink that could easily be removed from voters’ fingers. While both the Police and IEC conducted investigations and found no evidence to show double voting took place, the AUEOM believes that, in future, the quality of the indelible ink needs to improve to allay stakeholder concerns.

b. Tabulation and Announcement of Results

The tabulation was accurate, transparent and prompt. On 11 May 2019, within the legal deadline, the leadership of IEC announced the final results of the elections. According to the results announced, the ANC won the elections with 57.5% of votes cast, while the two main opposition parties – the Democratic Alliance (DA) and Economic Freedom Fighters (EFF) – got 27.77% and 10.80%, respectively.⁹

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⁹ See Annex 4 for the complete official results announced by the IEC.
V. CONCLUSION AND RECOMMENDATIONS

a. Conclusion

In view of its findings and overall assessment, the AUEOM concludes that the 8 May 2019 National and Provincial elections were peaceful, transparent, inclusive and credible. They were conducted in a manner that satisfied AU and other international obligations and standards for democratic elections. The people of South Africa were given full opportunity to elect leaders of their choice. The AUEOM noted that South Africa’s democracy is young compared to other countries in the continent. Yet, it is among the advanced democracies in Africa.

The AUEOM highly commends the various stakeholders for their invaluable contribution to achieving this outcome. In this regard, it would like to recognise specifically the Government and people of South Africa, the Independent Electoral Commission, political parties, security agencies, civil society, the media and others.

b. Recommendation

The following recommendations are offered with a view to enhance the conduct of elections in the Republic of South Africa, and to bring them further in line with AU and other international obligations and standards for democratic elections:

**The Government of South Africa**

- Introduce legislation that facilitates contest in national and provincial elections by independent candidates; and
- Address key social and economic challenges to avoid disenchantment and alienation of youth and other sections of society in political processes.

**The Independent Electoral Commission**

- Expedite the implementation of the 2018 Political Party Funding Act to enhance transparency and fairness in the electoral process;
- Work with the government and other entities, such as youth-led organisations, to develop better strategies to enhance youth participation in the electoral process;
- Ensure high standard quality indelible ink to allay concerns about double voting;
- Continue with special voting measures to ensure inclusivity in the electoral process;
Strengthen civic and voter education programs targeting particularly young voters; and
Ensure that staff uphold the independence and impartiality of IEC at all times, in accordance with the core values of the institution.

**Political Parties**

Strengthen measures to increase youth and women representation within political parties across at all levels. In particular, treat youth and women as priority groups who need to be engaged strategically and substantively on national issues rather than as target groups to be used for electoral advantage.

**The Media**

Continue to play a constructive role in the electoral process by ensuring equitable coverage of all political parties and candidates.

**The Youth**

Remain actively engaged in electoral and political processes to strengthen the democratic credentials of the country, and also to ensure your voice is heard in decision-making process.