



**AFRICAN UNION ELECTION OBSERVATION MISSION TO THE 4 DECEMBER 2021
PRESIDENTIAL ELECTION IN THE GAMBIA**

STATEMENT OF PRELIMINARY FINDINGS

6 DECEMBER 2021

I. INTRODUCTION

1. At the invitation of the Government of the Republic of The Gambia and the Independent Electoral Commission (IEC), the Chairperson of the African Union Commission (AUC), **H.E. Moussa Faki Mahamat**, deployed the African Union Election Observation Mission (AUEOM) to the country's presidential election that was held on 4 December 2021.
2. The Mission was charged with the responsibility of observing, assessing, and reporting on the preparations for the election in line with the relevant AU instruments for democratic elections.¹ The main objective of the AUEOM was to conduct an impartial, independent, and objective assessment of the 2021 election, in line with the African Union (AU) and international principles for democratic elections and the national legal framework governing elections in The Gambia.²
3. The AUEOM was led by **H.E. Kgalema Petrus Motlanthe**, former President of the Republic of South Africa, and comprised nine (9) long-term observers (LTOs) and 60 short-term observers (STOs). The observers were drawn from African Ambassadors accredited to the AU, election management bodies (EMBs), independent electoral and governance experts, and civil society organizations (CSOs) from 30 African countries.³ It was supported by the technical team from the AUC and the Electoral Institute for Sustainable Democracy in Africa (EISA).
4. To achieve its objectives, the AUEOM undertook the following activities: Before the deployment of observers, the AU deployed a Pre-Election and Needs Assessment Mission from 12 to 17 September 2021 to assess the context within which the 4 December 2021 election will take place. The assessment mission recommended that long and short-term observers be deployed in The Gambia, and financial and technical assistance provided to the IEC.
5. Based on the assessment report, the AU deployed a long-term mission on 20 October 2021. The LTOs were joined by short-term observers on 22 November 2021. Before their deployments, both the long- and short-term observers undertook three days of

¹ The relevant AU instruments, include- (a) the African Union Guidelines for Elections Observation and Monitoring Missions (2002); (b) the OAU/AU Declaration on Principles Governing Democratic Elections in Africa (2002); African Charter on Human and Peoples Rights (1981) and (c) African Charter on Democracy, Elections and Governance (2007), among others.

² These Instruments include; the AU/OAU Declaration on the Principles Governing Democratic Elections in Africa (AHG/Decl. 1 (XXXVIII)); the African Charter on Democracy, Elections and Governance (ACDEG-2007) which came into force on 15 February 2012; and the African Union Guidelines for Election Observation and Monitoring Missions – adopted in July 2002. Other relevant national, regional and international standards for election observation, such ECOWAS Protocol on Democracy and Good Governance; and the Declaration of Principles for International Election Observation and its accompanying Code of Conduct- endorsed by AU in 2005.

³ Algeria, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Comoros, Congo, DRC, Ethiopia, Ghana, Kenya, Lesotho, Malawi, Mauritania, Morocco, Mozambique, Namibia, Niger, Nigeria, Senegal, Sierra Leone, Somalia, South Africa, South Sudan, Togo, Tunisia, Uganda, Zambia, Zimbabwe

briefing and orientation¹ on the use of technology in election observation and election observation methodology. They were briefed by Gambian electoral stakeholders on the political and security environment, the legal framework for the election, election dispute resolution mechanisms, the state of preparedness of the IEC, the role of CSOs, women, and youth participation in elections.

6. This Preliminary Statement reflects the AUEOM's assessment of the 2021 Presidential Election up to the close of polling on 4 December 2021 and the immediate post-election period. A final and comprehensive report will be released within a month from the official announcement of the final election results.

II. PRELIMINARY FINDINGS

(a) General Political Context

7. The Presidential Election held on 4 December 2021² is The Gambia's sixth election since the return to democratic rule after the 1994 military coup and the first since the defeat of the former President Yahya Jammeh in 2016.
8. The election took place against the backdrop of double failure at crafting a new constitution and passing a new electoral law.
9. The election also took place within the context of the covid-19 pandemic. However, it did not affect the timelines and preparations for the election.

(b) Legal Framework

10. A comprehensive legal and constitutional framework, without ambiguities, is essential to the administration of democratic elections and ensuring that a country upholds its domestic, regional, continental, and international obligations.
11. The legal framework for the conduct of elections in The Gambia includes Chapter V of the Constitution (1997) and the Electoral Act (previously Decree 78 of 1996). The Elections Act (2001), Elections (Amendment) Act (2015), and Elections (Amendment) Act (2017) regulate political parties' registration and major electoral activities. The AUEOM notes that the legal framework for the 2021 Election is generally in line with international and regional norms and standards for the conduct of democratic

¹ Briefing and orientation for STOs took place from 28- 30 November 2021.

². The presidential election will be followed by the legislative and local government elections on 22 April 2022 and 13 May 2023, respectively. Some of the abuses under the Jammeh rule include in murder, torture, rape, among others.

elections as it protects fundamental freedoms of association, assembly, and political participation.

12. The Constitution (1997) also recognises and guarantees fundamental human rights and freedoms, including freedom of speech, conscience, assembly, association and movement, and political rights. It further provides principles for which, how, and when elections are conducted, universal adult suffrage, and the establishment of an independent electoral body.
13. However, some gaps in the legal framework include the absence of a constitutional provision for presidential term limits; the absence of procedures for announcing final results of a presidential election; and the absence of affirmative action to promote women's and youth's political participation and inclusion.

(c) Electoral system

14. The electoral system in The Gambia is based on the first-past-the-post or a simple majority system.
15. In line with Article 63 of the Constitution (1997), a president serves for a 5-year term once elected. However, the AUEOM notes that the current constitution has no presidential term limit.
16. The home-grown voting system, using drums, tokens, sand, and sieves has been in use since 1960. Although the voting system is simple, effective, and efficient, some stakeholders that the AUEOM consulted have proposed replacing it with paper ballots. The reasons given for proposals to replace the voting system with paper ballots are projected cost and logistic factors if the number of candidates increases.
17. The AUEOM noted the proposals under the Elections Bill to change the electoral and voting systems. The AUEOM is of the view that the voting system is a unique invention and efforts should be made to maintain and improve it.

(d) Electoral Administration and Preparation

18. The IEC is established under Section 42 of the 1997 Constitution (as amended), as an independent constitutional body responsible for organizing the elections.
19. The budget of the IEC is provided by the state upon approval by the National Assembly. It may also receive grants, donations, and fees from groups other than political parties. It is also expected to submit an audited statement of accounts to the National Assembly at the end of each financial year.

20. The AUEOM noted that IEC does not have a legal department and has to hire private attorneys in situations where cases are filed against it in court. This is reactive and not proactive on matters of law that could be addressed by an in-house legal advisor.

(e) Voter Registration and Voter's roll

21. The registration of voters is provided for under articles 39 and 43 of the 1997 Constitution and section 12 of the 2009 Elections Act. Voter registration requirements are: be a citizen of The Gambia, have attained or will attain the age of 18 years at the time of the election; produce an identification document (birth certificate, a Gambian passport, a national identity card, or an attestation certified by a district chief or village Alkalo).

22. Registration is constituency-based, meaning that a person should register in a constituency where they reside or were born.

23. The voter registration was initially scheduled for 14 January to 26 February 2021 as per the elections calendar; however, logistical challenges relating to the procurement of materials and equipment for registration delayed the process.

24. The IEC registered 987,824 voters during the voter registration from 29 May to 11 July 2021. After verification, the final list of registered voters was reduced to 962,157, representing approximately 96.2% of the projected 1 million eligible voters. Of the total registered voters, 545,318 (57%) are females and 416, 839 (43%) males.

(f) Political Party Registration and Nomination of Candidates

25. Article 60 of the 1997 Constitution provides for the registration of political parties by the IEC. There are currently 19 registered political parties in The Gambia, representing a 100% increase from 2016 where only nine political parties were registered. The AUEOM noted that only five registered parties plus an independent contested this election.

26. Article 46 of the 1997 Constitution provides that an election for the office of the President should be conducted three months before the expiration of the term of a sitting president. It further provides for the IEC to determine the date for the nomination of candidates and for holding an election.

27. Nominations for the 2021 Election took place from 30 October to 5 November 2021. In line with the Elections Act (2017), candidates had to pay a deposit of 10,000 GMD (ten thousand Gambian Dalasis). The AUEOM notes that this amount is much lower than the 500,000 GMD (five hundred thousand Gambian Dalasis) paid by aspiring candidates in 2016.

28. The AUEOM noted that, in addition to the *Janjanbureh* Peace Accord signed by all registered political parties in 2021, all six presidential candidates signed the code of conduct pledging commitment to a peaceful election.

(g) Campaigns and campaign finance

29. The official campaigns started on 7 November and ended on 2 December 2021, at midnight, in compliance with the law.

30. The AUEOM observed that the campaigns took place in a peaceful environment. Campaign messages focused on peace and security, infrastructural development, education, health, youth development, vocational training, women empowerment, entrepreneurship support, and economic stability.

31. The Police were equally proactive in monitoring the observance of approved campaign schedules to ensure no political party violated the schedule.

(h) The Media

32. The IEC has the mandate to ensure that each candidate has equal access to the public media, including radio and television.

33. The AUEOM observed that Gambians enjoy an improved, vibrant and diverse media which allow for free expression of opinions, with six print media, over 50 radio stations, and eight television stations.

34. The AUEOM noted that the Information Bill was signed into law on 25 August 2021. The Access to Information Act allows the public to obtain information from state institutions and ensures transparency, accountability, and the opportunity for citizens to participate in the governance of the country.

35. The AUEOM observed that media houses such as the Star TV, the Gambia Radio and Television Services (GRTS), and the Paradise TV covered campaign activities, and aired campaign adverts. The GRTS also provided a 25-minute daily platform to all political parties and candidates to publicise their policies in two languages.

36. The AUEOM received concerns about hate speech and misinformation, particularly on social media platforms.

(i) Participation of Women

37. In The Gambia, women represent more than half of the population (50.5%) and comprise 57% of voters. The AUEOM noted that although there is a demographic

advantage for women in The Gambia, this does not translate to their nomination in leadership positions.

38. Of the six presidential candidates, none was a woman. Marie Sock, an independent presidential aspirant, became the first Gambian woman to file nomination for the presidency, although her application did not meet the required criteria for nomination.

III. ELECTION DAY FINDINGS

The voting process was peaceful with polling staff and voters showing commitment and professionalism. Party agents were present in some of the polling centers visited while the presence of citizen observers was inconsistent. International observers were also present where the AUEOM was deployed. Party agents and observers were given access to the polling stations without restrictions. Significant participation of women as polling staff was observed. There was no consistent compliance with covid-19 prevention measures.

39. The AUEOM deployed 70 observers in 19 constituencies across the country. On Election Day, the observers visited 298 polling stations to observe the opening, voting, closing, and counting procedures in urban (55%) and rural (45%) areas. The atmosphere in all polling stations visited on Election Day was peaceful.

a. Opening of polling

40. The AUEOM observed opening procedures at 24 polling stations across 19 constituencies. The AUEOM noted that 87.0% of the polling stations visited opened on time, at 08h00. The polling staff followed the required opening procedures and guidelines. The AUEOM also noted that security officers were present at polling stations visited, and acted professionally.

41. The AUEOM observed that there were well-controlled queues outside all the polling stations visited before and during the opening of the poll.

b. Election materials

42. The AUEOM noted that materials were delivered in advance in most polling stations visited and were in sufficient quantities.

c. Polling stations

43. The AUEOM noted that most polling stations were easily accessible to the voters. The layout of the polling stations promoted the easy flow of voters. In some polling stations,

voters were divided into streams in a manner that protected the secrecy of the ballot and also allowed for easy flow.

d. Election personnel

44. The polling staff were generally competent in carrying out their duties and demonstrated a sense of commitment. The AUEOM commends the IEC and party/candidate for deploying women and youth as polling officials and agents, respectively.

e. Observers and party/candidate agents

45. The AUEOM noted the presence of other international observers at some polling stations visited. The AUEOM also noted the presence of citizen observers in most stations visited. The participation of citizen observers contributed to enhancing the credibility and transparency of the electoral process.

46. The AUEOM noted that party and candidate agents were present at most polling stations visited and could carry out their mandate without hindrances and with a high degree of tolerance.

f. Voting procedures

47. The AUEOM noted that voting proceeded uninterrupted in most polling stations visited throughout the day. Where there was an interruption, it was for less than 10 minutes. The reason for the interruption was usually because the bell was not heard, prompting verification by the polling staff accompanied by party/candidates agents and the concerned voter.

48. The secrecy of the vote was guaranteed in all polling stations visited. The AUEOM noted that priority and assistance were extended to persons with disabilities (PWDs), the elderly, expecting women, mothers with infants, and other persons with special needs.

g. Closing of the polls

49. Most stations closed at 17h00. All voters in the queue at the closing time were allowed to cast their vote. The AUEOM also noted that ballot reconciliation was done at the polling station at the end of polling.

h. Counting of votes

50. Counting took place in a peaceful atmosphere at all polling stations visited by the AUEOM. All the necessary documentation was completed, and results were posted at the polling station after candidate agents were provided with copies of the results form.
51. The AUEOM noted the presence of both citizen and international observers during the closing of the Election Day operations.

VI CONCLUSION

52. The AUEOM commends the Government and the people of The Gambia, the IEC, political parties, candidates, and their supporters for peaceful conduct before and during polling. The AUEOM encourages all stakeholders to sustain the prevailing peace in the remaining phase of the electoral process.
53. The AUEOM is hopeful that the peaceful character of the 2021 Presidential election will consolidate this tradition.
54. Based on its pre-election assessment and Election Day findings, the AUEOM concludes that the 4 December 2021 Presidential Election was conducted in a peaceful and democratic environment and conforms to national and international standards.

V. RECOMMENDATIONS

55. The AUEOM offers the following preliminary recommendations for improvement of future electoral processes in The Gambia:
- The National Assembly and Government should make efforts to pass the Electoral Bill and continue with constitutional revue.
 - National Assembly should introduce legal requirements such as mandatory quotas to enhance women's political participation.
 - The Government should enact laws that provide for public funding and enforce regulations governing private financing of political parties.
 - Political parties should take more deliberate steps to adopt affirmative action to increase the participation of women, youth, and people with disabilities in decision-making.
 - The IEC should establish a legal department to attend to litigations speedily.
56. Finally, the AUEOM urges any stakeholder dissatisfied with the electoral process to seek redress through the established legal and institutional mechanisms.