



PRELIMINARY STATEMENT

BY

THE HEAD OF THE SADC ELECTORAL OBSERVATION MISSION (SEOM)

TO

**THE 16TH NOVEMBER, 2023, FIRST ROUND PRESIDENTIAL ELECTIONS
OF THE REPUBLIC OF MADAGASCAR**

**AMBASSADOR LAZAROUS KAPAMBWE, ALTERNATE HEAD OF
MISSION**

ANTANANARIVO, 18TH NOVEMBER, 2023

Her Excellency Catherine Samba-Panza, former Transitional President of the Central African Republic, and head of the joint African Union (AU) and Common Market for Eastern and Southern Africa (COMESA) Electoral Observation Mission;

His Excellency, Mr Elias Magosi, the Executive Secretary of SADC;

His Excellency, Dr. Issa Sanogo, United Nations Resident Coordinator to the Republic of Madagascar;

Her Excellency, Micheline Calmy-Rey, former President of the Swiss Confederation and Head of the Organisation Internationale DE Francophonie Electoral Observation Mission;

Your Excellencies, Heads and Representatives of the Diplomatic Missions accredited of the Republic of Madagascar.

Representatives of International Organisations.

Distinguished representatives of the interim Government of the Republic of Madagascar;

Distinguished Members of the Troika of the SADC Organ on Politics, Defence and Security Cooperation;

Representatives of the European Union;

Members of the SADC Electoral Advisory Council;

Representative of the SADC Mediation Reference Group;

Prof. Kula Theletsane, SADC Director of the Organ on Politics, Defence and Security Affairs.

Chairperson and Members of the Independent National Electoral Commission (CENI) of the Republic of Madagascar.

Leaders and Representatives of Political Parties

Religious Leaders and Members of the Civil Society Organisations;

Distinguished Members of the International Electoral Observation Missions.

SADC Election Observers and SADC Secretariat Staff;

Representatives of Local Election Observers;

Partners from the media;

Distinguished Ladies and Gentlemen

I. INTRODUCTION

On behalf of the Southern African Development Community (SADC), it is my distinct honour to welcome you all to this important event where I will present the SEOM's Preliminary Statement on the conduct of the First Round of the Presidential Elections of the Republic of Madagascar that took place on 16th November, 2023.

Following the appointment of Brigadier General Godfrey Miyanda, Former Vice President of the Republic of Zambia was appointed as Head of the SADC Electoral Observation Mission to the Republic of Madagascar, and myself as Alternate Head of Mission, by His Excellency Hakainde Hichilema, President of the Republic of Zambia, who is currently the Chairperson of the SADC Organ Troika on Politics, Defence and Security Cooperation.

The SEOM is comprised of the Organ Troika, currently the Republics of Zambia, Namibia and the United Republic of Tanzania, the SADC Electoral Advisory Council (SEAC) and the Mediation Reference Group (MRG) members.

The SEOM to the 2023 First Round Presidential Elections of the Republic of Madagascar comprises 62 observers, 35 of whom were deployed to all the six provinces of the country, namely, Antananarivo, Antsiranana, Fianarantsoa, Mahajanga, Toamasina, and Toliara. The Observers come from eight SADC Member States, namely, the Kingdom of Eswatini, the Republics of Angola, Malawi, Namibia, South Africa, Zambia and Zimbabwe, and the United Republic of Tanzania.

The Mission engaged with various stakeholders, including the presidential candidates and/or their representatives, political parties, the Independent

National Electoral Commission (CENI), the High Constitutional Court (HCC), the National Assembly, Government Institutions, Civil Society Organisations, Religious Leaders, Members of the Diplomatic Corps, Media, Regional and International Observation Missions, and Professional Organisations.

The Mission observed the Election in line with the revised SADC Principles and Guidelines Governing Democratic Elections (2021) and the relevant laws.

This Preliminary Statement covers the Mission's observations of the pre-election period and voting day activities. The Mission's final report will cover observations of the pre-election, election and post-election phases and is aimed at supporting and strengthening the democratic electoral processes in the Republic of Madagascar as a SADC Member State.

Your Excellencies,

Ladies and Gentlemen

II. SUMMARY OF KEY FINDINGS

The SEOM observed the following:

(a) Political and Security Environment

The Mission noted that the political and security environment during the pre-election period and on polling day was generally calm and peaceful except for incidences of violence reported in some areas, such as in the capital Antananarivo.

The Mission observed that campaign activities which were undertaken by only three candidates were conducted peacefully. The police maintained a presence at the campaign events that the Mission observed and did not interfere with proceedings.

The Mission also received reports that they were some demonstrations spearheaded by a coalition of ten (10) Presidential Candidates and other stakeholders calling for the postponement of the Election. In particular, the Mission received information that some demonstrations in the capital Antananarivo, which some of them were reported to have begun peacefully, however, gradually evolved into conflicts between the law enforcement

agencies and the demonstrators and in some instances, teargas was used to disperse protestors.

(b) The Legal Framework

The 2023 Presidential Elections were regulated by the Constitution of the Republic of Madagascar of 2010. In addition to the Constitution, there are other applicable laws, and these include Organic Law 2018-009 Governing the Election of the President; Organic Law 2018-008 on the General Regime for Elections and Referenda, Organic Law 2015-020 on the Independent National Electoral Commission and judgments of the High Constitutional Court.

The Mission noted that according to Article 45 of the Constitution, the President is elected by universal direct suffrage for a mandate of five years that is renewable once. According to Article 47 of the Constitution, a candidate who obtains an absolute majority is elected President. If the absolute majority is not achieved, the President is elected in a second round by the majority of the suffrage expressed between the two candidates who would have obtained the highest votes in the first round.

(c) The Management of the Electoral Process

The CENI is established by Article 1 of the Organic Law on the Independent National Electoral Commission in implementing Article 5 of the Constitution of Madagascar with a mandate to organize, implement, coordinate and conduct elections within the framework of the law.

The Mission noted that Article 15 of the Organic Law on CENI provides for the composition of the CENI. CENI comprises nine (9) members, each appointed by a specific entity. These members are appointed as follows, one each from the following; the President of the Republic, the Senate, the National Assembly, the High Constitutional Court, the Supreme Court, the Bar Association, the Order of Journalists; and two persons from the Civil Society Organisations working in the field of election observation.

(d) Matters arising from the stakeholder engagements:

I. Independence of the High Constitutional Court (HCC)

In the Mission's interactions with stakeholders, concerns were expressed by most of the stakeholders that some of the laws that govern the elections are not

adhered to by the relevant institutions of the state, such as the High Constitutional Court (HCC). The Mission noted that the issue surrounding the immediate former President's eligibility to stand as a candidate for election to be President of the Republic due to his nationality status recurred as a concern.

The Mission noted that there was no decision from a court of competent jurisdiction which had decisively cleared the issue, except that the HCC accepted the candidacy of the immediate former President following the submission of the application for candidacy accompanied by the relevant documentation.

II. Independent National Electoral Commission (CENI)

i. The Voters Roll

The Mission took note of concerns from stakeholders in relation to the credibility of the voters roll. The concern was that there were major discrepancies and irregularities in the voters roll as it did not capture the youths, thereby excluding a significant segment of that population. The Mission also took note of the concern that the voters' roll had duplications and errors in the details of registered voters. The stakeholders informed the Mission that the issues related to the voter's roll were attributed to the lack of a data base for the national identity cards.

The Mission further noted concerns that the voters' roll was not availed to the presidential candidates. However, the Mission also observed that CENI had published the voters roll on its website for inspection by the voters.

ii. Funding for CENI

The Mission noted concerns in relation to the budget of CENI. The stakeholders believed that CENI did not have enough funds to organise credible elections. Be that as it may, the Mission noted reports from the CENI that although the budget was initially an issue, it had received funding to allow the CENI to organise the elections.

The Mission also noted concerns from some stakeholders that due to limited funding, CENI had no adequate human resources and was relying on government officials to assist in the conduct of elections, and according to the stakeholders, this could compromise the integrity and credibility of the elections.

The Mission further noted concerns from some stakeholders regarding the lack of information on the source of the election funds that CENI had secured.

iii. Civic and Voter Education

The Mission noted that CENI had been organising regular civic and voter education for citizens, particularly targeting women and youth, through state and private media advertisements. However, stakeholders expressed concern that the period of voter education and sensitization was too short and cited the lack of funding and collaboration with relevant election stakeholders such as civil society organisations.

III. Participation of Women in Politics

The Mission observed that the participation of women in the electoral process remained minimal compared to the demographics due to economic and social issues, high levels of illiteracy among women, lack of national documents such as records of birth and national identity cards, especially for those living in rural communities.

Out of the thirteen (13) Presidential Candidates in the 2023 elections, none of them were women.

IV. Access to Media

The Mission noted that the Constitution of Madagascar guarantees the freedom of expression, and the Organic Law on the General Regime of Elections and Referenda provides that the National Authority for the Regulation of Media Communication shall ensure that the speaking time and the airtime granted by public radio and television services to candidates is equal. Despite that provision, the Mission has noted that the National Authority for the Regulation of Media Communication has not been operationalized. Complaints have been noted during interactions with stakeholders , that the state owned media were favoring some candidates.

V. Role of the Security Agencies

The Mission observed the role played by the Security Agencies during the pre-election phase.

In particular, the Mission noted the assurances by the security agencies to ensure the protection of all Malagasy citizens during the elections. The Mission also noted the submission by some stakeholders regarding the disproportionate use of force by the security agencies against some of the group of 10 presidential candidates and their supporters, which resulted in injuries, especially in the capital Antananarivo. The SEOM took note of the media reports of the alleged detention and arrests of some of the opposition presidential candidates and their supporters.

VI. Political Party Funding

The Mission noted that the electoral law of Madagascar does not provide for public funding of political parties. However, the law permits political parties and candidates to mobilise funds, which may include loans and gifts.

According to Article 64 of the General Regime for Elections and Referenda, candidates competing in an election must declare the income received and the expenses incurred to the Commission for the Control of the Financing of Political Life. The Mission noted a concern from some stakeholders that some candidates had not made the relevant declarations as required by the law.

VII. Security of Election Materials

The Mission observed that election materials in some places were transported by motorcycles and bicycles without any security escort. It was further observed that some of the materials were stored in undesignated facilities.

The Mission also noted concerns by some stakeholders that the electoral material was transported without any security escort.

VIII. Implementation of Past SEOM Recommendations

The Mission noted concerns by stakeholders that the Government and CENI had not implemented most of the recommendations that SADC made in the Report of the SEOM to the First and Second Rounds of the 2018 Presidential Elections and the Legislative Elections of 2019.

(e) OBSERVATIONS ON ELECTION DAY

On Election Day, 16th November 2023, the Mission observed the voting process in all 6 Provinces of Madagascar. The deployed observer teams covered 209

polling stations in their respective areas. The voting process was generally peaceful and free of irregularities. The Mission observed as follows:

- (a) the environment at the polling stations was peaceful and the voting proceeded in an orderly manner;
- (b) SADC observers were granted access to the polling stations;
- (c) the voters roll was displayed outside in 25% of the polling stations and 75% did not have the voters roll displayed outside;
- (d) 50 % of the polling stations observed opened on time and 50% did not open on time. The reasons given for the late opening included late arrival of polling officials and materials and the slow opening procedures;
- (e) ballot boxes at the polling stations were locked and sealed adequately before voting started;
- (f) 96% of the polling stations were adequately laid out, and 4% were not, due to inadequate space where, in some cases, two polling stations were accommodated in one small room;
- (g) in all polling stations, there were posters educating voters on the steps of voting posted outside;
- (h) In 88% of the polling stations party / candidate agents and observers were present before opening, and at the opening, whilst 12% were not;
- (i) 70% of polling stations had police officers present and 30% did not;
- (j) in 99% of polling stations, voting proceeded in an orderly manner and was free of irregularities;
- (k) 72% of the polling stations were accessible to all voters, including to persons with disabilities whilst 28% were not;
- (l) in 98% of polling stations all voters were allowed to vote whilst in 2% they were not allowed to vote due to lack of proper identification;

- (m) Among the 209 polling stations observed only two had irregularities, and one out of the two was registered as a formal complaint;
- (n) 50 % of the polling stations observed closed on time and 50% did not, in order to among others, allow voters already in the queue by closing time to cast their vote;
- (o) the reconciliation process in 93% of the polling stations took place in full view of party/candidate agents and observers whilst in 7% of the polling stations it did not;
- (p) in 75% of the polling stations, serial numbers of the ballot box seals at closing time were recorded in the polling station journal whilst in 25% of the polling stations they were not;
- (q) in all the polling stations observed, the voters' registers and other sensitive materials were packaged safely before the beginning of counting;
- (r) in 88% of the polling stations, the Presiding Officers reconciled and announced the number of unused, used and spoilt ballots at the end of the day with the number of ballots received, whilst in 12% of the polling stations they did not; and
- (s) in 81% of the polling stations, the minutes of the closing of the polling stations were completed whilst in 19% they were not.

I. Voter Turnout

Whilst our preliminary findings observed relatively low voter turnout, the Mission shall provide a final report in which the actual data on voter turnout would be presented.

III. BEST PRACTICE

CENI accommodated the visually impaired to vote in secret through the introduction of braille ballot papers, which is in line with the spirit of Article 4.1.1, of the Revised SADC Principles and Guidelines Governing Democratic Elections which "*Encourage the full participation of all citizens in democratic and development processes*".

IV. WAY FORWARD

At this juncture, allow me to recall that the SEOM is continuing the process of electoral observation in the post-election phase. As such, the Mission will not be rendering comprehensive and conclusive recommendations or qualifications of the election at this stage.

(VI) CONCLUSION

In conclusion, the SEOM commends the people of Madagascar in how they conducted themselves on the polling day. The SEOM wishes to express its gratitude and appreciation to all stakeholders it engaged during its Mission.

Madagascar is a valued member of the SADC family. Your destiny is our destiny and is inextricably linked to the destiny of each and everyone of us. We are one family. It is in this spirit that we appeal to all stakeholders to do everything in their power to guard jealously the peace and stability of Madagascar.

SADC shall, therefore, remain actively engaged with the unfolding processes and ensure that we render all the necessary support to address any outstanding issues. In the event of any electoral disputes and grievances, the Mission appeals to all concerned parties to channel their concerns through established legal procedures and processes.

In accordance with the revised SADC Principles and Guidelines Governing Democratic Elections (2021), our Final Report will be issued within thirty (30) days of this Preliminary Statement.

Merci beaucoup
Thank you very much