



PRELIMINARY STATEMENT

BY

**THE HONOURABLE JUSTICE MS. FLORENCE MUMBA, FORMER
SUPREME COURT JUDGE AND FORMER CHAIRPERSON OF THE
ELECTORAL COMMISSION OF ZAMBIA**

HEAD OF THE SADC ELECTORAL OBSERVATION MISSION (SEOM)

TO

**THE 29TH MAY, 2024, LEGISLATIVE ELECTIONS OF THE REPUBLIC OF
MADAGASCAR
ANTANANARIVO, 31ST MAY, 2024**

Your Excellency Micheline Calmy-Rey, former President of the Swiss Confederation and Head of the Election Observation Mission of the International Organization of La Francophonie (OIF) to the Republic of Madagascar;

Mrs. Karine KAKASI SIABA, Ag. Head of the Democracy and Elections Unit (DEU) of the African Union Commission and Coordinator of the African Union Election Observation Mission (AUEOM) to the Republic of Madagascar;

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

Mr Terry Rose, Senior Officer in the SADC Organ on Politics, Defence and Security Cooperation, representing H. E. Mr. Elias Magosi, the SADC Executive Secretary;

Distinguished Heads and Members of International Electoral Observation Missions and Expert Missions;

Distinguished representatives of the Government of the Republic of Madagascar;

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

Your Excellencies, Representatives of International Organisations;

Chairperson of the SADC Electoral Advisory Council;

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;

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), I am honoured to welcome you all to this significant occasion where I will present the SADC Electoral Observation Mission (SEOM) Preliminary Statement on the conduct of the Legislative Elections in the Republic of Madagascar, which took place on 29 May, 2024.

As the master of ceremonies graciously mentioned, I was appointed as Head of the SEOM to the Republic of Madagascar by His Excellency Mr. Hakainde Hichilema, President of the Republic of Zambia, in his capacity as Chairperson of the SADC Organ on Politics, Defence, and Security Cooperation.

The SEOM comprises the Organ Troika which refers to the three (3) Member States that play a leading role in decision-making and policy coordination within the Southern African Development Community and the SADC Electoral Advisory Council (SEAC). The current Organ Troika consists of the Republics of Zambia, Namibia and the United Republic of Tanzania.

As was stated during the launch, the SEOM to the 2024 Legislative Elections of the Republic of Madagascar consists of fifty-eight (58) observers. The observers hail from ten (10) SADC Member States namely: the Kingdom of Eswatini, the Republics of Angola, Malawi, Namibia, Mozambique, South Africa, Zambia, Zimbabwe, the Democratic Republic of Congo and the United Republic of Tanzania. Among them, thirty-seven (37) were deployed to all six (6) provinces of the country: Antananarivo, Antsiranana, Fianarantsoa, Mahajanga, Toamasina, and Toliara while the remaining twenty-one (21) observers performed specific roles within the SEOM, such as engaging with stakeholders,

coordinating logistics, analysing data, and providing support remotely to the observers.

The Mission engaged with a diverse range of stakeholders, including Legislative Elections candidates and their representatives, Political Parties, the Independent National Electoral Commission (CENI), the High Constitutional Court (HCC), the President of the Senate, Government Institutions, Civil Society Organizations (CSOs), representatives of International Organisations, Religious Leaders, Members of the Diplomatic Corps and Regional and International Observation Missions.

The Mission observed the Election in accordance with the revised SADC Principles and Guidelines Governing Democratic Elections (2021) and the provisions of the various Malagasy Electoral Laws.

This Preliminary Statement addresses the Mission's observations during both the pre-election period and voting day activities. The Mission's final report will encompass observations from the pre-election, election, and post-election phases, aiming to support and bolster 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 observed that the political and security environment during the pre-election period and election day was generally calm and peaceful, without reported incidents of conflict that could negatively affect the conduct of the elections.

The Mission observed various campaign activities, including campaign rallies and roadshows by the contesting parties and candidates. It was further noted that the police were not present at most of the campaign events that the Mission observed. However, the security situation was generally calm and peaceful with no episodes of violence or demonstrations reported at the time of this Statement.

(b) The Legal Framework

The 2024 Legislative Elections are governed by the Constitution of the Republic of Madagascar of 2010. Alongside the Constitution, several other laws apply, including Organic Law 2018-008 on the General Regime for Elections and Referendums, Organic Law 2015-020 on the Independent National Electoral Commission, Organic Law 2018-010 on the Election of

Deputies to the National Assembly, Decree No. 2024-243, Decree No. 2024-582, and judgments of the High Constitutional Court.

The Mission noted that, according to Article 69 of the Constitution, Members of the National Assembly are elected by direct universal suffrage for a term of five years. Additionally, Article 4 of Organic Law 2018-010 on the Election of Deputies to the National Assembly stipulates that Members of Parliament are elected by direct universal suffrage, with the candidate receiving the majority of votes being declared elected.

(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 accordance with Article 5 of the Constitution of Madagascar. It is mandated to organise, implement, coordinate, and conduct elections within the framework of the law.

The Mission noted that Article 15 of the Organic Law on CENI outlines the composition of the Commission, which consists of nine members. Each member is appointed by a specific entity namely; the President of the Republic, the Senate, the National Assembly, the High Constitutional Court, the Supreme Court, the Bar Association and the Order of Journalists; while the remaining two members are appointed from Civil Society Organisations involved in election observation.

The CENI informed the Mission that, Eleven Million Six Hundred Thirty-One Thousand, One Hundred and Fifty Six (11, 631, 156) registered voters, which is an increase of about 5.32%, compared to the voters' roll

of the Presidential Elections of 2023. The Mission also noted that Twenty Eight Thousand One Hundred Twenty Four (28,124) polling stations were established across the country.

(d) Matters arising from the stakeholder engagements:

(i) Registration of candidacy

The Mission noted concerns from stakeholders regarding the administrative and political measures that they considered as exclusionary. For instance, there are reports of candidates being denied tax certificates which were a requirement for their registration as candidates and their candidacy being rejected due to the failure to pay the contribution of 20 million Ariary as required by Decree No. 2024-244, which they considered to be fairly high.

(ii) Voters roll

The publication of the voters' roll has been seen as a significant improvement in the country's electoral system, with the voters' roll now easily accessible in digital format on the CENI website, thereby simplifying the verification process for individual voters. However, stakeholders have expressed concerns over challenges faced in accessing the voters' roll in some Fokontanys (ward levels), whilst some stakeholders, including political parties and independent candidates, informed the Mission of the inability to access the full voters' roll for verification of their party members.

(iii) Civic and Voter Education

The Mission further noted that CENI has been actively organizing civic and voter education campaigns for citizens. However, some stakeholders expressed concern regarding the timing of the voter education, noting that it was left to the very end prior to the elections.

(iv) Transportation of the ballot papers

The Mission noted concerns from stakeholders regarding the time it takes to transport ballot papers from the polling stations to the collection centres. The stakeholders informed the Mission that the country is vast and it may take time for the votes to be transported to the collection centres. The Mission also noted assurances made by State Security Agents that they would provide the necessary support as prescribed by the law to secure the transportation of the ballot papers.

(v) Access to Media

(a) The SADC Principles and Guidelines Governing Democratic Elections enjoin SADC Member States to “*promote necessary conditions to foster transparency, freedom of the media; access to information by all citizens; and equal opportunities for all candidates and political parties to use the state media*”. The Mission noted that the Constitution of Madagascar guarantees the freedom of expression, communication and press. However concerns have been noted during interactions with stakeholders, that the relevant

Government Authorities had unlawfully shut down some private radio stations. The Mission approached the relevant authority and was informed that the affected radio stations had been issued with warning letters for non-compliance with the applicable laws.

(b) The Mission also noted that the National Authority for the Regulation of Media Communication which according to the law has been mandated to ensure that the airtime granted by public radio and television services to candidates is equal. However, this Authority is still not operational. Furthermore, the stakeholders registered concern that the state-owned media was biased towards the candidates from the ruling party.

(vi) Participation of Women in Politics

The Mission noted that women's participation in the electoral process remains low. The Mission noted the perception of stakeholders that this lack of involvement is linked to the economic and social challenges faced by women. The stakeholders reported that, additionally, the contribution of twenty million Ariary (MGA 20,000,000) as provided for by the Decree, has further hindered women's participation.

(vii) Participation of the Youth in Politics

The Mission noted concerns from Stakeholders that youth involvement in politics and electoral processes was minimal. Stakeholders informed the Mission that this was caused mainly by economic challenges.

(viii) Neutrality of the Administration

The Mission noted concerns from stakeholders that Government launched and inaugurated Government works during the campaign period in contradiction to Article 61 of the Organic Law on General Elections and Referendums. This was perceived by some stakeholders as an advantage towards the pro-government candidates.

(xi) Implementation of Past SEOM Recommendations

The Mission observed and noted concerns from 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, the Legislative Elections of 2019 and the Presidential Elections of 2023.

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Ladies and Gentlemen**

(III) OBSERVATIONS ON ELECTION DAY

On Election Day, 29th May 2024, the Mission observed the voting process in all 6 Provinces of Madagascar. The deployed observer teams covered one hundred and ninety two (192) polling stations in their respective areas. The voting process was generally peaceful, free of irregularities with no reported incidents at the polling stations that were observed. The Mission observed as follows:

- (a) the environment at the polling stations observed was peaceful and the voting proceeded in an orderly manner;
- (b) 79% of the polling stations observed were accessible to disabled people while 21% was not accessible;
- (c) SADC observers were granted access to all polling stations which they observed;
- (d) the voters roll was displayed outside in 64% of the polling stations observed and 36% did not have the voters roll displayed outside;
- (e) party and candidate agents and observers were present before opening and at the opening, at all the polling stations that were observed during opening time;
- (f) 57 % of the polling stations observed opened on time and 43% did not open on time. The reasons given for the late opening included late arrival of polling officials, late setting up of polling stations, power outage at one of the polling stations and slow opening procedures;
- (g) ballot boxes at 93% of the polling stations observed were locked and sealed before voting while at 7% did not;
- (h) during voting, all the ballot boxes at all the polling stations observed were locked and sealed;

- (i) voters were allowed to vote in 99% of the polling stations that were observed. In 1% of the polling stations observed, voters were not allowed to vote as their names did not appear on the voters' roll;
- (j) 98% of the polling stations observed were adequately laid out and 2% was not due to the small spaces in the polling stations;
- (k) 57% of the observed polling stations closed on time while 43% did not;
- (l) 100% of the observed polling stations allowed the voters present at the closing time to cast their votes; and
- (m) minutes of the closing of the polling stations were completed in 100% of the observed polling stations.

(IV) BEST PRACTICE

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*”, CENI accommodated the visually impaired to vote in secret through the use of Braille Ballot Papers.

RECOMMENDED IMPROVEMENTS IN THE ELECTORAL PROCESS

At this point, 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 recommendations or qualifications of the election

at this stage. However, the Mission has observed the following areas of the electoral process and system that the stakeholders may wish to consider improving:

(a) Management of the Electoral Process

- (i) CENI should ensure that the voters roll is available for inspection by voters and candidates at all Fokontany as envisaged in Article 19 of the Organic Law on the General Law on Elections and Referendums.
- (ii) CENI should enhance its civic and voter education in a timely manner to ensure that the electorate fully understand electoral procedures.
- (iii) CENI should implement past and present recommendations made by the SEOM which would enhance the quality of the electoral systems in Madagascar.

(b) Transportation of the ballot papers

CENI is encouraged to consider factoring the need to expeditiously transport ballot papers to the collection centres and the use of technology.

(c) Access to Media

Government is urged to expedite the operationalisation of the National Authority for the Regulation of Media Communication to ensure equal coverage of political parties and candidates by the public media.

(d) Participation of Women in Politics

Government and Political stakeholders are urged to improve the social, cultural and political environment to enhance the participation and inclusion of female candidates in the political process, and to increase the representation of women in elected offices in line with the SADC Protocol on Gender and Development.

(e) Participation of Youth in Politics

In line with Article 4.1.1 of the revised SADC Principles and Guidelines Governing Democratic Elections (2021), which encourages full participation of all citizens in democratic and development processes, the Government and Political stakeholders are urged to develop policies that will create a more conducive environment to facilitate full participation of youth in politics and electoral processes.

(f) Neutrality of the Administration

Government is urged to ensure full compliance with Article 61 of the Organic Law on General Elections and Referendums and avoid activities such as launches or inaugurations which may appear to be in contravention with the law.

(g) Implementation of Past SEOM Recommendations

Government and CENI are urged to implement the Recommendations made by SEOM in the Report of the First and Second Rounds of the 2018

Presidential Elections, the Legislative Elections of 2019 and the Presidential Elections of 2023. The implementation of those Recommendations will improve the electoral process in Madagascar.

(V) CONCLUSION

In conclusion, the Mission observed that the pre-election phase and the voting day, of the 29 May 2024 Legislative Elections were peaceful and calm. The Mission commends the Malagasy people for maintaining a peaceful political environment during the pre-election and on voting day. It is our most fervent wish that this peace is maintained throughout the post-election period.

The Mission will release its final report after the validation and proclamation of final results, as provided for in the *revised SADC Principles and Guidelines Governing Democratic Elections (2021)*. The final report will be issued within thirty (30) days of this Preliminary Statement.

In the event of any electoral disputes and grievances, the Mission appeals to all concerned parties to lodge their concerns through established legal procedures and processes.

Merci beaucoup

Thank you very much