



EUROPEAN PARLIAMENT

ELECTION OBSERVATION DELEGATION TO THE GENERAL ELECTIONS IN SUDAN

(11-15 April 2010)

**Report by
Mrs Ana Gomes, Chair of the Delegation**

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Introduction

The April 2010 elections were the fifth multi-party national elections held in Sudan since the country gained independence in 1956. No elections were held in the last 24 years.

These elections were a key element of the power-sharing deal included in the Comprehensive Peace Agreement (CPA), signed in 2005 by the ruling National Congress Party (NCP) and the Southern Sudan Liberation Movement (SPLM), bringing an end to decades of armed conflict and paving the way to the next step for a settlement of the conflict, according to the CPA, which is due to happen via a referendum to be organized in 2011 on the possible separation of South Sudan and other referenda foreseen in Abyei, Blue Nile and Southern Kordofan states .

According to the CPA and the subsequent Interim Constitution of 2005, the people of Sudan was to elect the President of the Republic of Sudan, the President of the Government of Southern Sudan (GoSS), the Governors of 25 states, the members of the National Legislative Assembly, the members of the Southern Sudan Legislative Assembly and the members of State Legislative Assemblies.

The European Parliament was invited on 22 February 2009 by the Ministry of Foreign Affairs of the Republic of Sudan to send a delegation to observe the general elections of Sudan. The Conference of Presidents authorised the sending of this delegation on 4 March 2010.

Consequently, a European Parliament Delegation lead by Mrs Ana GOMES and composed of Mr José Manuel GARCIA MARGALLO Y MARFIL, Mr Franck ENGEL, Mr Juan Fernando LOPEZ AGUILAR, Mr John ATTARD-MONTALTO and Mr Jacek WLOSOWICZ, travelled to Sudan to observe the general elections to be held from April 11 to 13. On April 12, polling was extended until April 15.

In line with usual practice, the EP Delegation work took place in articulation with the EU Election Observation Mission (EU EOM), which was on Sudanese territory from 27 February onwards and was chaired by the MEP Véronique De Keyser (PSE). The EU mission, as a whole, comprised 134 observers from 25 member states of the European Union, as well as from Norway, Switzerland and Canada, plus the 6 MEPs.

The EP delegation was in Khartoum from 9 April 2010 onwards. In addition to several meetings with the Chief Observer of the EU EOM and her team, the delegation met candidates, the National Election Commission, civil society, EU Ambassadors and the EU Head of Mission in Khartoum and EU Head of Office in Juba. During the observation in Juba, the Head of the EP Delegation together with the Chief Observer met Mr Salva Kiir, Head of Government of South Soudan. The delegation also met with human rights lawyer and 2007 Sakharov Prize Winner Mr. Salih Mahmoud Osman. (*Annex II provides a summary of the main meetings that took place.*)

The EP delegation highlights the fact that working relations with the EU EOM were excellent.

International Election Observation

Aside from the EU and national observers, a broad range of international entities observed these elections, among others The Carter Center, African Union, Arab League, Russian Duma and China.

Political Environment

On 17 March the Carter Center in its pre-election report emphasized that the electoral *“process remains at risk on multiple fronts including the ability of candidates to campaign freely and the impact of delayed logistical preparations by the NEC”*. The report suggested that *“with a series of delays and changes in polling procedures, a minor delay in polling for operational purposes may be required”*.

The NEC on 19 March opposed any possibility of postponement. On 22 March, President Al-Bashir threatened to expel foreign election observers if they interfere in internal Sudanese affairs by saying:

“We brought these organizations from outside to monitor the elections, but if they ask for them to be delayed, we will throw them out. (...) We wanted them to see the free and fair elections, but if they interfere in our affairs, we will cut their fingers off, put them under our shoes and throw them out.”

The EU EOM took this as a warning to all international observers and issued a press release on 6 April stating that *“These remarks do not correspond to the agreed standards which apply to international election observers and do not reflect the traditional hospitality that I have always enjoyed in the Arab world and in Sudan.”* The Chief Observer recalled that the EU observers, as well as other international observers, are in Sudan at the invitation of the Sudanese authorities and to support the peace process initiated by the Comprehensive Peace Agreement.

On 7 April the EUEOM removed its observers from Darfur considering that insecurity rendered proper electoral observation impossible, given the continuing state of emergency, recurring armed clashes and the impossibility of obtaining any electoral first hand information outside urban areas.

A number of political parties, supported by the SPLM, questioned the conduciveness of the overall political environment for holding elections in North Sudan and expressed concerns about the security and criminal laws imposing restrictions on media, free expression and campaigning, and on the level playing field at all stages of the electoral process, including the appointment of NEC members, voter registration process, constituency demarcation and the overall legal environment.

Ten days prior to the first day of polling, SPLM withdrew its presidential candidate from that race and from all elections in Darfur. This was followed by an announcement that it would withdraw from all races in all 13 Northern states. At least three other parties withdrew also. Some other opposition parties, despite expressing similar concerns, opted to contest the elections. The late withdrawals created confusion amongst voters and greatly reduced the

competitiveness of the elections. Nevertheless, boycotting parties and candidates names remained on the ballots, due to the late withdrawal dates.

Election Days

The delegation split into three groups to observe polling stations in Khartoum (two teams) and Juba (one team).

Polling lasted for 5 days: in view of the logistical difficulties that delayed the opening on many polling stations throughout the country but particularly in the South, on April 12 the NEC decided to extend polling until 15 April.

The mission noted the unprecedented complexity of these elections: each voter in the North was called to vote for 8 different elections, while in the South 12 different votes were to be cast by each elector. This, in a country where more than 50% of the voters are illiterate.

The teams deployed in Khartoum and Juba observed very different realities in terms of behaviour of the political forces, logistical infrastructure, preparation of the elections and election administration, voter education, etc.

- In the North, despite initial difficulties for many voters to know where to vote, due to the fact that the NEC decided to reduce the number of polling stations from the earlier voters registering centers, the process went smoothly, despite the fact that in several places voters were forced to wait for hours in line under the sun and complained they were forced to stay by ruling party officials who had ferried them to the polling stations.

- Voters in the South had much difficulty in finding where to vote and in finding their names in the voters' lists and this caused outbursts of frustration which were sometimes put down with brutality by local security authorities. Moreover, polling stations were poorly prepared for the conduct of the elections in many regards, including the fact that staff received no food or water throughout the 5 polling days, despite the harsh weather conditions.

The counting was extremely difficult and lengthy, as it was to be expected from the multiple polling in an incredibly complicated system. However, it was conducted in a regular and professional manner in the polling stations observed by the delegation in Khartoum.

The EP delegation exchanged views regularly with Mrs De Keyser and the rest of the EU EOM team. The EP delegation also took part in information meetings with the EU Ambassadors and EU Head of Mission before and after the polling.

Press Conference and Presentation of Preliminary Statement

The press conference where the Preliminary Statement was presented on 17 April was very well attended by the media and election stakeholders.

The EU EOM's Preliminary Statement, which the EP delegation endorsed, was entitled "Sudanese Elections Show Significant Deficiencies Against International Standards, But Pave The Way For Future Democratic Progress". It describes in detail the electoral system complexities, Sudan's electoral legal framework, voter registration problems and difficulties related to the

National Elections Commission (NEC). Moreover, the Preliminary Statement pointed out the disparities in financial and logistic campaign resources across the 72 political parties registered to compete in these elections, as well as the constraints on pluralism in the media.

During the press conference, Mrs Ana Gomes stressed that these elections had taken place in a general climate of peace that many thought impossible given the history of war in the country and the ongoing conflict in Darfur. Mrs Gomes praised the civil society involvement in the elections (in particular polling staff, domestic observers, political parties and media), for their professional commitment and their personal investment in democratic procedures.

Mrs Gomes stated the EP Delegation view that elections in Sudan had not met international standards for genuine democratic elections and based that assessment in the different realities observed in the North and in the South of Sudan:

- In the North, there had been limited competition, since main opposition parties had withdrawn prior to the elections, complaining of lack of level playing field, major flaws in registration disenfranchising voters (namely in Darfur IDP camps), the gerrymandering of constituencies to serve the ruling party and the existence of security and criminal laws that denied basic freedoms for political campaigning. Moreover, she underlined that elections in the North were characterized by "too much organization", since the ruling party everywhere had buses and cars to pick up voters at home and shuttle them to the polling stations, and used the extended two days of polling to identify those who had not yet voted and bring them over.

- On the other hand, in the South there had been real competition, but the process was harmed by very poor organisation. Logistical difficulties and the late and insufficient preparation of election officials had led to tense situations during polling days, with voters mistreated by the security forces of the locally ruling SPLM.

Election Results

The European Union Election Observation Mission (EU EOM) remained in the country following the rest of the electoral process. On 25 April 2010 the EU EOM issued a press release urging the NEC to retain the transparency of the electoral process and to express its concern about the aggregation of results.

On 26th April, the NEC announced results of presidential elections as follows - including the names of the candidates that withdrew, given the lack of time to change the ballots- :

1.	Omar Hassan Ahmed Al Bashir	6,901,694 votes	68.28%
2.	Yasir Saeed Arman	2,193,826 votes	
3.	Abdullah Deng Nyal	396.139 votes	
4.	Hatim Al sir	196,668 votes	
5.	Al Sadig Al Mahdi	96868 votes	
6.	Kamil Al Tayeb Idirs	77132 votes	
7.	Mahmoud Ahmed Jiha	71708 votes	
8.	Mubark Al Fadil	49402 votes	
9.	Munair Sheikh Al din Jalab	40277 votes	
10.	Abdulaziz Khalid	34592 votes	
11.	Fatima Abdulmahmoud	30562 votes	
12.	Mohamed Ibrahim Nugud	26442 votes	

South Sudan Elections

Salva Kiir Mayardit	2,616,826 votes	92.99%
Lam Akol Ajawin	197219 votes	

Worth of note is the result engineered by affirmative action quota of 25% of women for all legislative seats: this means that 112 women are now members of the 450 strong National Legislative Assembly, 43 are members of the 170 strong South Sudan LA, and 12 women are in each 48 seats State Assembly.

Conclusion

The EP EOM felt very much welcomed by the people of Sudan at all moments and in all contacts before, during and after the vote, in clear contrast with the hostile statements made by President Omar Al Bashir against international observers.

From opposition parties and civil society organizations, EU observers heard words of gratitude and of expectation that they would tell the truth about the elections and keep supporting the democratic transformation of Sudan. Sudanese opposition leaders also noted that, despite all the flaws in the electoral environment and process, the presence of international observers had helped to broaden the space for political debate in the country, thus exposing younger generations to democratic procedures.

Both in the South and in the North, Sudanese leaders met by the EP Delegation stressed that they wanted justice to be served and that all Sudanese nationals indicted by the ICC for war crimes and crimes against humanity committed in Darfur should be surrendered,

The South Sudanese authorities urged the EU to stay committed in Sudan and follow closely the process leading towards the South referendum foreseen in the CPA. It is the view of the EP Delegation that the EU must engage much more in South Sudan, namely with the purpose to help build governance and rule of law capacities and institutions.

Sudan has democratic opposition parties with a strong historic and popular base, an active, organized and brave civil society. And the Sudanese people have shown in these elections their interest in a genuine democratic electoral process. Among others, these are strong reasons why the EU cannot afford to neglect supporting the aspirations for democratic transformation of the Sudanese society.

The EU EOM long term mission remains in the country until completion of the election process and will issue a comprehensive final report, including recommendations for improvement. The European Parliament Election Observation Delegation recommends that the Election Coordination Group, the Development Committee and the competent Delegations follow-up closely the conclusions and recommendations of this final report.

EUROPEAN PARLIAMENT

GENERAL ELECTIONS IN SUDAN

ELECTION OBSERVATION DELEGATION

9-15 April 2009

List of participants

Members

Mrs Ana GOMES, Portugal, S&D (Chair)
Mr José Manuel GARCIA MARGALLO Y MARFIL, Spain, EPP
Mr Frank ENGEL, Luxembourg, EPP
Mr Juan Fernando LOPEZ AGUILAR, Spain, S&D
Mr John ATTARD-MONTALTO, Malta, S&D
Mr Jacek WLOSOWICZ, Poland, ECR

Secretariat

Mr Pietro DUCCI, Head of Unit
Mrs Emilia GALLEGO, Administrator
Mrs Alyson WOOD, Assistant

Political Groups

Mr Christopher WILLIAMS, S&D

DG COMM

Mrs Elena ESPEJO VERDU Audio visual
Mrs Sanna KANGASHARJU Press

Abbreviations :

EPP	European People's Party/European Democrats	ECR	European Conservatives and Reformists
S&D	Progressive Alliance of Socialists and Democrats	GUE/NGL	European United Left/Nordic Green Left
ALDE	Alliance of Liberal and Democrats for Europe	EFD	Europe of Freedom and Democracy
Verts/ALE	Greens/European Free Alliance	NI	Non-attached

EUROPEAN PARLIAMENT

GENERAL ELECTIONS IN SUDAN

ELECTION OBSERVATION DELEGATION

9-15 April 2010
extended to 17 April

FINAL PROGRAMME

Members

Mrs Ana GOMES, Portugal, S&D Chair of Delegation
Mr José Manuel GARCIA MARGALLO Y MARFIL, Spain, EPP
Mr Franck ENGEL, Luxembourg, EPP
Mr Juan Fernando LOPEZ AGUILAR, Spain, S&D
Mr John ATTARD-MONTALTO, Malta, S&D
Mr Jacek WLOSOWICZ, Poland, ECR

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Political Groups

Mr Christopher WILLIAMS, S&D

DG COMM

Mrs Elena ESPEJO VERDU Audio visual
Mrs Sanna KANGASHARJU Press

Thursday 8 April

Arrival of Members in Khartoum and transfer to the hotel
Hotel Burj Al-Fateh
Nile Road - PO Box 11042 - Khartoum -
Tel +249 (0)156 555 555 -
Fax + 249 (0) 156 555 556
Price: 130EUR plus 10% taxes plus 5%

Friday 9 April

- 09:30** Meeting with the Chief Observer of the EU Election Observation Mission,
Mrs Véronique De Keyser
- 12:30** Ambassador Mohammed Bashir, National Elections Commission focal
point for international observers,
Venue: NEC new building
- 16:30** Mr. Charlies Kisanga (SPLM-DC, General Secretary)
Venue: Hotel Burj al-Fateh- Ghadames Sebha room
- 18:30** Mr. Abdel Mitaal Girshab (SUGDE Chairman),
Mr. Ali Mhmd Ali, Spokesperson, and Ms Nada Wali
Venue: Hotel Burj al-Fateh- Ghadames Sebha room

Programme for members deployed in Juba

Departure from the hotel
Flight for the team deployed to Juba via Addis Abeba
Mr Engel, Mr Wlosowicz, Mrs Gallego

Arrival in Juba and transfert to the hotel
Logali House
Price: Main Building \$225*
Container Room \$155*

Saturday 10 April

16:00 - Meeting with Long Term Observers and preparation of the election days
16:45 - Meeting with Core Team
18:00 - Meeting with Head of the EU Office in Juba : Mr. Jesús ORUS BAGUENA
20:00 Dinner with HE Peter Sule (UDG)

Sunday 11 April

Election Observation

Monday 12 April

Evening: DRI Election assistance

Tuesday 13 April

Head delegation + CO observation in Juba; meeting with Salva Kiir, H of Gov SS

Programme for members deployed in Khartoum

Saturday 10 April

- 11:00** Meeting with the representatives of the EU delegation and Member States
Venue: EU delegation offices
- 12:30** Briefing with Ron Herrmann and by the Core Team of the EU Election Observation Mission
Venue: Hotel Burj al-Fateh- Ghadames Sebha room
- 15:00** Mr. Sadiq al-Mahdi (UMMA)
Venue: Residence Ombdurman
- 17:30** Professor Fatima Abdel Mahmoud (SSDU)
Venue: Hotel Burj al-Fateh- Ghadames Sebha room
- 19:30** Mr. Ali Abdel Latif (SPLM, Campaign Manager)
Venue: Hotel Burj al-Fateh- Ghadames Sebha room

Sunday 11 April, Monday 12 April and Tuesday 13 April extended to Thursday 15 April

Election Days

Monday 12 April

- 10:00** Sir Derek Plumbly (AEC Chairman: Assessment of the Peace Agreement) –
Venue: AEC
- 11:30** Meeting with Mr Muin Shreim, Director of UNMIS Political Affairs Unit
Venue: UNMIS

Election Monitoring

18:00 Meeting with members of the Russian Upper House Delegation
ASLAKHANOV ASLAMBEK - Head of the Delegation, member of the Council
of the Federation Committee of Foreign Affairs
SASSABI ZIYAD - deputy Chairman of the Council of the Federation
Committee of Foreign Affairs
BUROVTSEV MIKHAIL - senior consultant of the Council of the
Federation Committee of Foreign Affairs
ZARUBIN MIKHAIL - member of the Council of the Federation Committee
on Defense and Security
YURY VIDAKAS, First Secretary, Deputy Head of Mission The Russian
Embassy in Sudan
Venue: Hotel Burj al-Fateh- Ghadames Sebha room

Tuesday 13 April

Election monitoring

Wednesday 14 April

Election monitoring

Debriefing of the delegation on the election observation from different teams

Exchange of views of the delegation with the Chief Observer and the EU
Election Observation Mission

17:30 Meeting with the Sakharov prize winner 2007, Mr Salih Mahmoud Osman
Venue: Hotel Burj al-Fateh- Ghadames Sebha room

Thursday 15 April

Election monitoring the counting

Friday 16 April

Election monitoring the counting

18:00 Meeting with CO, EC delegation + HoU

Saturday 17 April

10:30 Press Conference with Chief Observer Veronique De Keyser and Chair of
Delegation, Ana Gomes

13:00 Attendance at the Carter Foundation Press Conference



EUROPEAN UNION ELECTION OBSERVATION MISSION
THE REPUBLIC OF THE SUDAN
EXECUTIVE AND LEGISLATIVE ELECTIONS - 2010

PRELIMINARY STATEMENT

Sudanese elections show significant deficiencies against international standards but pave the way for future democratic progress

Khartoum, 17 April 2010

Following an invitation from the Government of the Republic of The Sudan to observe the Executive and Legislative Elections on 11-15 April 2010, the European Union Election Observation Mission (EU EOM) was established in Sudan on 28 February 2010. The Mission is headed by the Chief Observer Mrs. Veronique De Keyser, a Member of the European Parliament. A total of 134 observers from 25 member states of the European Union, as well as from Norway, Switzerland and Canada, were deployed to assess the electoral process against international standards for democratic elections and the laws of Sudan, in accordance with EU methodology and 'The Declaration of Principles for International Observers' adopted under the auspices of the United Nations in October 2005. Over the five election days observers visited 2,286 polling stations representing 13.6% of the total and observed the opening, voting, closing and the beginning of the counting process.

The EU EOM was joined by a delegation from the European Parliament, led by Ms Ana Gomes, Member of the European Parliament, which endorses this statement of preliminary findings. The EU EOM will remain in the country to observe post-electoral developments. Within two months of the conclusion of the process, a Final Report will be made public, offering the Mission's detailed evaluation of the elections and including recommendations towards improvements for future elections. The EU EOM is independent in its findings and conclusions.

Preliminary conclusions

- The election process suffered from unprecedented complexity in its design and, consequently, from confusion in its implementation. The campaign was dominated by the two ruling parties. In the north reduced competition came from a late withdrawal of the opposition and diminished expectations. In the south there was greater competition but a less controlled environment leading to more confusion, clashes and intimidation. However these elections have shown the interest of the Sudanese people in entering upon democratic transformation.
- The April 2010 elections in Sudan marked a crucial step in the Comprehensive Peace Agreement (CPA), which brought decades of civil war to an end. They were the fifth competitive multi-party elections held since independence in 1956 and the first to be held in 24 years. They were long promised to the Sudanese people but delayed since July 2009. The elections were supported by the international community as part of its commitment to the CPA.

- The elections are administered by the National Elections Commission (NEC) which carried out the election preparations diligently, respecting most key provisions outlined in the law. Recognizing that the NEC was only established in November 2008 and that the preparations for the elections lasted only 10 months, the timely conduct of election operations is to be commended.
- The election days were mostly calm, orderly and peaceful, within a well-maintained security environment. The Sudanese people are to be congratulated on the patience and forbearance shown by their considerable voter turnout despite the challenges encountered during the polling days. Polling was administered satisfactorily in 70% of the observed cases, with noticeable disruption in a third of the remaining 30%. It required an extension of two days because of shortages, misprints and misdeliveries of election material in some parts of the country. Transparency was strengthened through the high participation of candidates' agents and domestic observers.
- These elections are held under the Interim Constitution 2005 and the National Elections Act (NEA) 2008. The electoral system provided for in that Act is highly complex and challenging, incorporating elements of proportional, absolute and relative majoritarian election formulas. Many of the difficulties encountered at opening and polling arose from this complexity and the decision to present the voters in this election with twelve ballots in the south and eight in the north.
- The legal framework in general provides a good basis for the conduct of elections in accordance with international standards and incorporates all the fundamental human rights which are relevant to elections including the freedoms of expression and association, protection for personal liberty, and the right to vote and stand for election. However, the criminal and national security laws depart from those standards by undermining free speech and campaigning rights. The provisions for complaints and appeals are incomplete and uncertain, leading to confusion between different remedies.
- The voter register was established after a registration exercise in 2009, which recorded 16,336,153 voters. A number of political parties and civil society organizations have criticized the registration process. Lack of a full audit and late publication of the final voter lists, led to their accuracy being questioned by opposition parties and civil society, especially during the polling days, where approximately 8% of the voters observed were refused ballots because their names were not on the voter lists.
- Over 16,000 candidates entered the contest including nearly 1,400 as independents. A total of 72 parties registered for the election but far fewer engaged in active campaigning. The financial assistance indicated in the National Elections Act was never provided centrally, however the Government of Southern Sudan allocated assistance to some southern opposition parties half way through the campaign period.
- The competitive nature of the campaign was reduced by unequal resourcing and treatment by the authorities as well as boycotts and late withdrawals by opposition parties in the north.
- Although there has been a proliferation of new print media and radio stations since the signing of the Comprehensive Peace Agreement in 2005, effective pluralism in the media environment was not obtained during the election period. There are restrictions

in the conditions for the establishment of independent media. The government retains a strong control over broadcasters and, to a lesser extent, over the print press.

- Progress has been made on gender equality in Sudan as a minimum of 25% of all legislative seats will be occupied by women.
- This election saw the development of the capacity of civil society: hundreds of groups, encompassing thousands of individual citizens, displayed high levels of commitment and engaged in election observation for many days. This extensive involvement by Sudanese civil society who showed great commitment particularly in domestic observation, contributed to the transparency of the electoral process.
- Civic education was well-presented with good clear messages, but it was much too little and too late to make a real contribution to voter understanding of the complex and unfamiliar electoral process.
- The EU EOM removed its observers from Darfur because insecurity rendered proper electoral observation impossible. Electoral observation could not be carried out because of the continuing state of emergency, recurring armed clashes and the impossibility of obtaining any rural electoral first hand information.
- The mission will continue its observation, closely following the completion of the counting, the establishment of preliminary results and the handling of formal complaints and appeals.
- The mission encourages the election authorities to ensure transparency of the preliminary results by publishing all polling station figures on its website and requests all electoral stakeholders to uphold the rule of law and solve contentious disputes through the remedies in the National Elections Act alone.

Preliminary Findings

BACKGROUND

The April 2010 elections in Sudan were the fifth competitive multi-party election held since independence in 1956 and the first in 24 years. The elections are a key element of the Comprehensive Peace Agreement (CPA) signed in January 2005 by the National Congress Party (NCP) and the Sudanese People's Liberation Movement (SPLM). The CPA also provides for a programme of legal and constitutional changes over a five year Interim Period including general elections at all levels and a referendum about self determination for Southern Sudan¹. In February and March 2010, the Government of Sudan signed two separate Framework Agreements with the Justice and Equality Movement (JEM) and the Liberation and Justice Movement (LJM).

¹ Elections are ten months behind schedule owing to earlier delays most importantly with the enactment of the NEA 2008.

Politically, the election preparations were highly disputed and marked by linking the elections with the CPA guarantees of a Southern Sudan referendum. A number of political parties, supported by the SPLM, questioned the conduciveness of the overall political environment in the north for holding elections and expressed concerns at almost all stages of the electoral process². As Election Day came closer, accumulated frustration translated into memoranda submitted to the National Elections Commission (NEC) and the Presidency threatening withdrawal and calling for election postponement, an audit of NEC and equal access to media. Demands for postponement were also made by the JEM. Ten days prior to the first day of polling, SPLM withdrew its presidential candidate from the race and from all elections in Darfur. This was followed by an announcement that it would withdraw from all races in 13 Northern states. At least three other parties withdrew. Other opposition parties, despite expressing similar concerns, opted to contest the elections.

LEGAL FRAMEWORK

In general the legal framework provides a good basis for the conduct of democratic elections. The constitutional and political basis for the government structure in Sudan is the CPA of 2005 and the Interim Constitution (IC) which it puts in place. These incorporate all the fundamental human rights which are relevant to elections including the freedoms of expression and association, protection for personal liberty, and the right to vote and stand for election³.

Sudan has ratified the International Covenant for Civil and Political Rights which is the main source of international legal rights in relation to elections and the African Charter on Human and Peoples' Rights and these are incorporated into domestic law.

The provisions of the National Elections Act (NEA) are consistent with international standards for the conduct of democratic elections. The NEC which it establishes has legal independence and very wide powers to run the processes of voter registration, delineation of constituencies, nomination of candidates and the timing and conduct of the elections. The Act enshrines the principle of the equal treatment of candidates⁴, a 'complete and unrestricted freedom of expression'⁵ for candidates and parties and a prohibition on the misuse of state resources⁶. However, the NEA is a framework law to be filled out with rules by the NEC. As well as rules and decisions, the NEC used circulars⁷ of uncertain legal status which led to discontent among election stakeholders. It introduced extensive guidelines on media behavior and campaign activities but did not expand on important areas such as the processing of complaints and appeals and the aggregation of results.

The constitutional basis for the elections has been undermined by applying the practice of solving problems with the implementation of the CPA by political arrangement between the two main political parties and inserting those arrangements into the CPA structure. That approach was also taken with the fundamental electoral architecture so the

² Ranging from the 2008 Housing and Population Census, NEA, NEC appointment, voter registration processes, constituency delineation and the legal environment.

³ Article 41 of Interim Constitution.

⁴ Section 65 (1).

⁵ 'Subject to the provisions of any other law' Section 65(2).

⁶ Section 69, and such misuse is made an illegal electoral practice under Section 96.

⁷ The circular on campaign activities was published to appear like new legal restrictions but later clarification said it was only informative of existing law.

plans for 40 extra seats for Southern Sudan in the National Legislative Assembly and the extra seats for South Kordofan and Abyei were superimposed onto the constitutional and legal framework without an established legal basis. This distorts the planned relationship between population, constituencies and lists, and undermines the equality of the ballot, equality between candidates and the competitive aspect of the election.

The CPA also required that during the Interim Period pre-existing laws should be amended to be in conformity with the Interim Constitution. That programme of amendment was not fulfilled and therefore parts of the Criminal Act⁸ punishing "publication of false news", and the Criminal Procedure Act⁹ allowing wide power to control meetings and demonstrations, which are relevant to the legal environment at election time remain inconsistent with constitutional and international norms¹⁰. Furthermore parts of some post-CPA laws such as the Press and Publication Act¹¹ and the National Security Service Act¹² restrict the freedom to campaign.

ELECTION ADMINISTRATION

The NEC was established in November 2008 under the NEA. It operates through a network of High Committees in each of the 25 states. It delegated a mandate to a Southern Sudan High Committee to deal with elections only applicable in that part of the country, but that body had no role in relation to the High Committees in other Southern States.

The elections have so far been administered by the NEC in a dedicated manner. It did not however achieve full transparency in its decision making and in providing timely and comprehensive information to all electoral stakeholders. Its mechanisms for political party and candidate dialogue were incompletely established and maintained. This contributed to repeated allegations of partiality made against the Commission by opposition political parties.

Recognising the recent establishment of the NEC and that the preparations for the elections lasted only 10 months, the timely conduct of election operations is to be commended. This task was particularly difficult since the electoral system required twelve different ballots in the south and eight different ballots in the north, making altogether 1,268 different ballot papers. Late policy decisions by the NEC led to tremendous efforts by election staff to achieve delivery of election material to all polling stations across the country.

The very late clarification of the number and location of polling stations led to great uncertainty among voters and in some areas meant that they had to travel longer distances than with the earlier proposed number.

The training of polling staff was conducted with considerable differences from state to state. The mission assessed the overall performance of polling staff at polling

⁸ 1991. Section 66 has a wide offence of 'Publication of False News' which is used against journalists and editors.

⁹ 1991. Section 127, even after amendment in 2009, allows wide power to state authorities to control meetings and demonstrations, and was used in Dec 2009 to suppress a political demonstration

¹⁰ Art. 39 (1) of the Interim Constitution and United Nations Human Rights Committee (UNHRC), Gen. Comment No. 25 "The Right to Participation in Public Affairs, Voting Rights and the Right to Equal Access in Public Service" UN Doc CCPR/C/21/Rev.1, para. 12.

¹¹ There is a specially designated court and prosecutor for press prosecutions

¹² This Act gives the security service extensive police powers of investigation and detention

stations observed to be very good to good in nearly 70% of the cases and of the remaining 30%, one third was below standards.

VOTER REGISTRATION

As a general precondition for elections¹³, the voter registration exercise, carried out between 1 November and 7 December 2009, encompassed a total of 16,336,153 million citizens, with 11,655,513 in the Northern states and 4,680,640 in Southern Sudan. This is 79% of the estimated eligible electorate¹⁴. In order to qualify as a voter, a person must be a Sudanese citizen, at least 18 years of age, of sound mind and registered in the national electoral register. The requirements for registration¹⁵ include residence in the geographical constituency for a period of at least three months before the closure of the register and the possession of a personal identification document or an authenticated certificate.

The establishment of the national electoral register became subject to numerous allegations of mismanagement and of multiple and proxy registration, made by some electoral stakeholders, such as political parties and civil society organisations. Some 1300 objections were made¹⁶, and a small number of amendments followed. In the absence of a comprehensive country-wide auditing exercise and a timely publication of the final voter lists, the inclusiveness and accuracy of the voters lists used during the polling days was challenged by political parties and civil society. According to our observation nearly 8% of voters were refused the vote because they were not found on the voter lists and were therefore disenfranchised.

The NEA did not establish any special arrangements for voter registration or voting by IDPs despite the nearly five million of them in the country and Sudan's commitment to international standards regarding universal suffrage¹⁷. In the absence of such special arrangements there was a risk of disenfranchisement of IDPs. Similar concerns related to the hundreds of thousands of Sudanese who are currently refugees in neighbouring countries. While the NEA provides for registration outside the country, it does not address the voting rights for refugees who are not in possession of a valid passport and a valid resident visa in the host country.

REGISTRATION OF POLITICAL PARTIES AND CANDIDATES

The Political Party Act 2007 established a party registration system through the Political Parties Affairs Council (PPAC). That council requires political parties to abide by their obligations under the Act and it also receives and investigates complaints about the activities of parties.

The decision to hold a number of different elections at the same time has resulted in the registration figure of 16,290 candidates which underlines the complexity of the

¹³ CPA 1.6.2.11; IC Art.41; NEA Art.10.1; United Nations Human Rights Committee (UNHRC), Gen. Comment No. 25 "The Right to Participation in Public Affairs, Voting Rights and the Right to Equal Access in Public Service" UN Doc CCPR/C/21/Rev.1, para. 11, "States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required it should be facilitated and obstacles to such registration should not be imposed."

¹⁴ In reference to the 'Housing and Population Census', which was conducted from 22 April to 06 May 2008.

¹⁵ NEA Section 22 (2)

¹⁶ NEC press conference on 10 April.

¹⁷ UN Guiding Principles on Internal Displacement, Principle 4.

elections. The number of independent candidates comes to 1385¹⁸, being more than 8% of the total. Twelve candidates registered for the presidential race, including one female candidate who was added to the ballot after an appeal to court¹⁹. Four candidates withdrew from the presidential race leaving eight to contest on Election Day. At state level 183 candidates registered to run for the 25 governor positions. In addition, 4,553 candidates competed for the 450 National Assembly seats while 824 candidates signed up for the 170 seats of the Southern Sudan Legislative Assembly and 10,727 candidates for the 1,242 seats in the 25 state legislatures.

In the north, the general picture is that local constituencies had a fair amount of influence on the candidate nominations, although there were internal party divisions over the selection process for governor candidates. In Southern Sudan, the SPLM candidate nomination process led to many SPLM members opting to run as independent candidates. To avoid this SPLM developed a list of selection criteria and state nomination committees applied these for selecting their candidates. In several cases, the scores were so close that the final decision was referred to the party headquarters in Juba, whose selection often reflected local or tribal dynamics rather than candidate popularity. Some SPLM members exploited the situation, introduced their candidacy as independent candidates, and as a result a much more competitive environment has developed.

CAMPAIGN ENVIRONMENT

With 72 political parties registered there was an expectation of political diversity, which declined considerably as major parties and candidates started withdrawing from the electoral contest in the last two weeks of the campaign.

There were significant disparities in financial and logistical campaign resources across the parties and the indication of public financing for the campaign did not fully materialise. The Government of Southern Sudan, responding to pressure, allocated partial assistance to some southern political parties half way through the campaign. The presidential elections dominated the campaign environment, followed by the gubernatorial campaigning and the more isolated events by high profile national politicians visiting their constituencies²⁰. The election atmosphere was generally restrained and partly reflected the serious financial constraints of several political parties, apart from NCP, SPLM and SPLM-DC, in that most contestants organised smaller-scale events, posters on buildings and in public spaces, and door-to-door activities.

The decision on campaign expenditure ceilings by the NEC on 27 March came only two weeks prior to the first day of polling²¹, with no perceptible effect during the rest of the campaign.

The legal limitations referred to in the NEC circular²² on campaign activities did not in practice hinder access by parties to public spaces and rallies.

¹⁸ Without Upper Nile as candidates standing for that state legislature are not included

¹⁹ One other candidate refused by the NEC failed in his latter application to the Supreme Court and the Constitutional Court

²⁰ The campaigns of Omar Bashir, Yassir Arman, Salva Kiir and Lam Akol were the most visible.

²¹ The political party campaign spending ceilings was fixed at 15 million SDG, the presidential candidate spending at 17 million SDG, the Southern Sudan Government president at 7 million SDG, 800,000 SDG for governors, 700,000 SDG for geographical constituencies and 50,000 SDG for party and women lists.

EU observers reported flashpoints of violent harassments of political party members, often by security agents. Incidents include the killing of one candidate²³, physical attacks upon rivals and short-term detentions, as well as the tearing down of election posters and the burning of the t-shirts of rival supporters.

MEDIA ENVIRONMENT

Together with the interim constitutions²⁴, the media section of the NEA, NEC's regulations and code of conduct protect the freedom of expression and make sufficient provision for the election period. In comparison with previous legislation, the new Press and Publication Act is certainly an improvement for the press industry, pre-print censorship is abolished and the suspension of a paper has a time limit. It establishes the National Press Council (NPC) as the regulating print media authority. However, there is room for state interference and certain provisions still criminalise²⁵ the media industry. The most recent cases are against the editor of the *Ajras Al Hourya* paper²⁶. Furthermore there is strict governmental control of access to the Internet.

The EU EOM received credible reports of indirect financial and logistical constraints for the press which are critical of the government, such as access to the advertising market shares²⁷, to printing facilities, difficulties with distribution and high taxes on ink, paper and on revenues.

The NEC equal access programme has given political contestants, who could afford to produce their programs, the opportunity to present their political platform. The provisions for equal access to the media were fully respected for the presidential and the gubernatorial races on *Sudan TV* and *Omdurman* radio station, while in the state capitals the local TV and radio channels often asked a participation fee to air the programmes. In the south, the GoSS broadcaster implemented the provisions only in the last three weeks of the electoral campaign, providing free airtime for all political parties in public media but forbidding broadcasting of live political debates.

The ceiling established²⁸ days before polling for campaign expenditures did not act as a limitation on the use of media by political parties. The NCP and SPLM with their superior financial resources have been able to dominate the media campaign leaving the other political contestants with very little visibility.

The public broadcaster *Sudanese Radio TV Corporation (SRTV)*, consisting of *Sudan TV* and *Omdurman Radio* provided, in accordance with the regulations, equal access for presidential and gubernatorial candidates (110 minutes in total each). Political parties also received equal time throughout the election campaign. On prime time news in public service electronic media, the coverage was unbalanced. On *Omdurman Radio* the NCP was afforded 47%, SPLM 12%, while all the other parties were afforded in total 41%

²² NEC circular (February 2010) identifying the legal requirements for notifications and approval of campaign meetings.

²³ Mr Zechariah Bol Deng Kohit, SPLM member of Southern Sudan Legislative Assembly (SSLA) and candidate for the SSLA geographical constituency in Abiemnom County, Unity State was shot dead at his home in Juba on 11 March 2010.

²⁴ Article 39 of the Interim Constitution and Article 28 of the Interim Constitution of Southern Sudan.

²⁵ Article 66 of the Criminal Act and article 65, 3 of the National Election Act.

²⁶ Fayiz Alseelek will be trial the 21st of April accused of critical reporting against the President of the Republic.

²⁷ The newspapers *Ajras Al Hurra*, *Ray Al shaab*, *Al Ayam* and *Al Sahafa* were banned from advertising revenues.

²⁸ NEA Section 67 and NEC decision of 27 March.

of airtime. Sudan TV provided 51.5% of airtime to NCP, 12.5% to SPLM and 37% to all other parties. The print media was partisan apart from *Al Ayam* and *Ajras Al Hurriva*.

In the south the SPLM received most of the coverage that media outlets devoted to the electoral campaign and was almost the only party to be covered in South Sudan television (SSTV) and South Sudan radio (SSR), the state owned TV and radio channel. Private radio stations provided coverage also to other parties but with a major total airtime allocated to the main party. Print media were more balanced, covering also SPLM-DC and NCP campaigns. Moreover, these two parties along with SPLM are the only ones that used paid advertisement in the print media. The tone of the reporting has been generally either neutral or positive.

Despite mutual accusations of fraud, misbehaviour, harassment of supporters and misuse of state resources, the tone of the coverage was not too aggressive. Exceptions were the strong declarations of President Bashir against the international observers and an aggressive exchange between NCP and Popular Congress Party leaders using the columns of the newspaper *El Ray Shaab* newspaper to publish their speeches.

Several breaches of the silent period were observed especially in the printed press with the paper *El Rayed* publishing four advertisements in favour of President Bashir.

COMPLAINTS AND APPEALS

The NEA provided for judicially chaired committees to look into voter registration, and appeals into the court system in relation to the demarcation of constituencies and nomination of candidates. According to figures supplied by the judiciary altogether 8,933 cases were heard across the country prior to the elections including 26 appeals about candidacy for executive elections and 58 appeals on boundary demarcation.

Specially designated judges and prosecutors were trained to deal with the extensive jurisdiction on electoral offences. However police, prosecutors, political parties and electoral staff at state level applied those rules inconsistently across the country. In many areas this jurisdiction was hardly used at all while in a few areas it was so extensively used as to become a form of harassment²⁹. There was also confusion as between formal legal remedies under the law and more general complaints to the NEC. There is no clarity in the law on the remedies available through the courts if irregularities were found or as to whether a court could order a complete or partial recount.

CIVIL SOCIETY

There was extensive involvement by Sudanese civil society who showed great commitment particularly in domestic observation, which contributed to the transparency of the electoral process. According to the NEC, there were 20,278 domestic observers from 232 civil society organizations.

The combination of Sudanese Group for Democracy and Elections (SuGDE), in the north, and Sudanese Network for Democratic Elections (SuNDE), in the south, together deployed over 4,000 observers covering every state in Sudan. Other prominent

²⁹ In Western Equatoria State for example there were multiple charges laid by and against the governor who was seeking re-election.

groups included TAMAM and SHAMS in the north, and Sudan Domestic Election Monitoring and Observation Programme (SuDEMOP) in the south, together comprising several hundred civil society organisations in total, and several thousand observers. Also, 18 international observation bodies and foreign delegations accredited 840 observers, of which 166 were from the EU EOM.

Observation found that a 98.9% of polling stations had agents for political parties and candidates' agents, showing great organization.

Civic education and voter information activities became visible only in the weeks preceding the election. Methods used included meetings, rallies and media broadcasts, with the principal messages being that the vote is secret and that every vote counts. Emphasis was placed on the importance of the participation of women and of first-time voters. The activities were delivered by many actors, largely civil society, funded in large part by UNDP and National Democratic Institute. Most initiatives reached people living in state capitals and in major urban centres. Materials were produced in Arabic and English only. Education efforts, while worthy, were insufficient to meet the needs of an electorate unfamiliar with elections, dealing with a particularly complex electoral exercise.

PARTICIPATION OF WOMEN

The affirmative action quota of 25% of women for all legislative seats means that, at a minimum, 112 women are now members of the 450 strong National Legislative Assembly, 43 women are members of the 170 strong SSLA, and 12 women seats in each State Assembly with 48 seats³⁰. Women however were few among the candidates in party lists and for geographical constituencies, comprising around 4% of such candidates in the south and 7% in the rest of the country. There was one female candidate for the national presidency and prominent female candidates in some gubernatorial contests³¹.

Women registered in large numbers to vote and they came out in strength. Female polling staff was represented in 24% of the polling stations. No polling station was established in the country's only female prison.

SECURITY

Several parts of the country are still experiencing frequent armed clashes in isolated areas that have affected the freedom of movement of potential voters, as well as the work of election observers. Violent incidents did not increase with the approach of the Election Days and there were very few cases of direct electoral related violence during the campaign.

VOTING AND COUNTING

The opening of the polling stations took place in a generally calm manner where observed by the EU EOM, without major incidents of intimidation.

The voting was administered satisfactorily in 70% of the instances of observation, with noticeable disruptions in a third of the other instances observed. In the absence of sufficient time for effective quality checks, numerous polling stations were unable to open

³⁰ The Assemblies of 3 states have a larger number of seats

³¹ Five in the south and four in the north.

for polling on time. Misprints of some ballots including missing candidates' names and incorrect symbols together with misdeliveries of electoral material in some parts of the country caused delays in opening, temporary suspensions of polling and continuation of polling in the absence of one of the twelve or eight necessary ballots. These difficulties required an extension of polling by two days. They also accounted for the declaration by NEC on 15 April of a re-run of some 33 constituencies' election within 60 days together with the already delayed elections for State Assemblies for Al-Jazira and South Kordofan states and Governor in the latter. They will affect some 3 million voters.

In an overwhelming majority of cases observed political party and candidate agents were consistently present over the five polling days, as well as domestic observers found to be present in over 65% of the instances observed during all the five polling days, strengthening the transparency of the process.

Final closing of the polling activities was marred by the great difficulties experienced by the polling staff in addressing the complexity of the required forms.

Counting began yesterday. The EU EOM will continue observation until completion, followed by the observation of aggregations at constituencies and states. Thereafter the mission will observe the further stages of establishing preliminary results, appeals into the court system and the declaration of final results.

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**SUDANESE ELECTIONS SHOW SIGNIFICANT DEFICIENCIES
AGAINST INTERNATIONAL STANDARDS, BUT PAVE THE WAY
FOR FUTURE DEMOCRATIC PROGRESS**

Khartoum, 17 April 2010.- The European Union Election Observation Mission (EU EOM) published its preliminary statement about the executive and legislative elections held on 11-15 April, in which the EU EOM stressed the importance of the first multiparty elections in 24 years, as a crucial step in the Comprehensive Peace Agreement, but also highlighted important deficiencies against international standards which have undermined key aspects of the election process.

The statement was presented by Veronique de Keyser, Chief Observer and member of the European Parliament, who congratulated the Sudanese people for their commitment to democracy shown by a considerable turnout in these long promised and awaited elections.

"The organization of genuine elections represented a tremendous challenge due to its complexity. Unfortunately competition was reduced as opposition candidates, considering they could not participate on an equal footing, withdrew from the race in the North. In addition deficiencies in voters lists and weak organisation hindered the voters participation. I am also concerned that polling was affected by intimidation and threats. Although these elections pave the way for democratic progress, it is essential that the shortcomings are addressed to achieve a genuine democratic environment for future elections", said Veronique de Keyser.

The EU EOM acknowledges the hard work of the NEC in conducting these elections under very challenging circumstances and the involvement by the Sudanese civil society in domestic observation, which contributed to the transparency of the electoral process.

"In the North there was no real competition after the withdrawal of several parties, and there was too much organisation, with the ruling party busy shuttling people into the polling stations. In the South there was competition, but voters were frustrated by poor organisation. We were, nevertheless, impressed by the commitment shown by the Sudanese to a process of democratic transformation in these complex conditions", stated Ana Gomes, head of the European Parliament delegation which fully endorses the EU EOM statement.

The European Union Election Observation Mission to Sudan was launched on 28 February, following an invitation from the National Elections Commission and the Government of the Republic of The Sudan. The EU EOM findings are based on the information submitted by 134 observers deployed across the country. The mission will remain in the country to observe post-electoral developments and, within two months after the conclusion of the process, a Final Report will be published offering a detailed evaluation and recommendations towards improvements for the future. The EU EOM is independent in its findings and conclusions.

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