



Republic of Rwanda

FINAL REPORT

Legislative Elections to the Chamber of Deputies

15 – 18 September 2008

**EUROPEAN UNION
ELECTION OBSERVATION MISSION**

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I. EXECUTIVE SUMMARY

The 2008 elections for the chamber of deputies were the second legislative elections after the adoption of the 2003 constitution, which officially marked the end of the immediate post-genocide transition phase. From 15-18 September, 80 deputies were elected, 53 of which by direct universal suffrage. Three political entities, the Rwandan Patriotic Front (RPF) in a coalition with six small parties, the Social Democratic Party (PSD) and the Liberal Party (PL) contested the elections, as did one independent candidate. The elections were an important step in the efforts to further institutionalize the democratic process with rule-based governance and participation of all Rwandans in the decision-making processes of their country.

The elections took place in a peaceful environment but there were a number of fundamental shortcomings regarding international and regional standards for democratic elections.¹ During election day, problems were noted regarding essential safeguards, including the omission at polling station opening to seal or limited sealing of ballot boxes, the non-reconciliation of ballots, the omission to check voter's fingers for ink to prevent multiple voting, the non-rigorous verification of voters on the voter list marked as having received a ballot against the number of ballots found in the ballot box as well as a liberal use of additional voter lists.

After counting of votes at the polling stations, successive consolidations of results were foreseen by procedures from the National Election Commission (NEC) to take place at polling centres, sectors, districts, provinces and national NEC in Kigali. EU Election Observation Mission (EOM) observers were unable to follow the consolidation process from polling centres onwards in most cases observed, as consolidations were often done by telephone without using the consolidation forms provided for by the NEC. A contributing factor was a lack of correct information provided in a few cases by NEC offices as to where and when procedures would be carried out. Therefore, the results consolidation was largely non transparent.

There is no provision for publication of polling station results per polling station or at later stages of the consolidation process. This, together with a lack of transparency in the process of consolidation and transferring of results from polling stations to higher levels of the electoral administration meant that an assessment of the entire process of the consolidation of results was not possible. In order to meet key international standards in the conduct of elections, a fully transparent and observable process of consolidation of results is essential.²

¹ In accordance with EU election observation methodology, the EU EOM to Rwanda assessed the conduct of the legislative elections in line with international standards for elections, in particular the International Covenant on Civil and Political Rights (ICCPR), which Rwanda ratified in 1966 and the African Charter on Human and Peoples' Rights (1981). Also applicable is the AU Declaration on the Principles Governing Democratic Elections in Africa (2002).

² The General Comment of the UN Human Rights Committee (HRC GC) concerning Art 25 of the ICCPR, specifies that the security of the ballot boxes must be guaranteed and states that independent scrutiny of the voting and counting process is necessary for electors to have confidence in the counting of the votes (HRC GC No.25 paragraph 20).

The problems observed on election day were partly due to legal and procedural provisions not in place or not detailed enough. In other cases, provisions were in place, but were not applied consistently by electoral staff. While voters turned out in large numbers to participate in the elections, the officially reported turnout of 98.31% is unusually high.

Multi-partyism is the constitutionally enshrined form of governance in Rwanda. It is conditioned by two principles – power sharing and consensual politics – themselves part of the specific Rwandan response to the events of the genocide and post genocide. Overcoming past divisions is of primary importance to the people of Rwanda. Nonetheless the vague definition of the crime of ‘divisionism’ in Rwandan laws could be problematic in the context of the freedom of expression and open political debate.

The election campaign was low key with a notable absence of political debate amongst contestants. The EU EOM received some reports of instances of intimidation and a number of short-term arrests, mostly related to alleged ‘illegal campaigning’ on the part of the PSD and PL parties.

The increase in the number of registered voters, since the local elections in 2006, was 632,583. This included approximately 308,000 “category 3 perpetrators” (*i.e.* persons who are convicted of or have confessed crimes against the property of victims of genocide in Gacaca trials), who in a commendable step had recently been enfranchised following an amendment of the Electoral Law. Voter registration at all Rwandan embassies abroad ended with a final figure of 16,688 for out-of-country voting.

The legal framework governing these elections was generally in accordance with international standards. It includes improvements in comparison to previous elections: a more inclusive voter register, the possibility for all registered political parties to establish permanent structures down to the local level, procedures to deal with violations of campaign regulations and additional measures for the promotion of gender equality.

However, the electoral legislation contains important shortcomings in relation to key international standards, leading to insufficient safeguards for transparent elections. These include the absence of provisions for the public display of election results per polling station and correct verification during the transmission of results at different stages of the consolidation process, as well as insufficient rights of observers and party agents, in particular regarding the observation of all stages of the consolidation process. Also, the deprivation of the right to vote for detainees in pre-trial detention and prisoners convicted of minor offences is not in accordance with international best practices.

Late changes regarding an additional level of results consolidation at the sectors, and a change in procedures regarding the use of additional voter lists six days before the elections created possible confusion on implementation.

The electoral system of Rwanda combines direct and indirect elements with reserved seats in the indirect elections for representatives of women, youth and disabled. While these indirect elections guarantee the fixed representation of the respective groups,

indirect elections can weaken the democratic link between citizens and their representatives.

The high representation of women in the Rwandan Parliament further increased with the 2008 elections. Due to the combined results of the strong female representation on the party lists, and the 24 indirectly elected seats reserved for women as well as one female deputy elected as youth representative, the incoming Chamber of Deputies will have 45 female deputies, a worldwide record of 56.25%.

The electoral process was characterized by a general absence of official complaints.

Civil society in Rwanda participated in these elections mainly via the Civil Society Election Observation Mission (CSEOM) with around 700 member organisations fielding 529 observers during election days. A countrywide, non-partisan observation programme, based on EU EOM methodology was conducted.

The Rwandan Constitution provides for the freedom of expression and for the freedom of press and information. The freedom of press and information is however subject to limitations in order to safeguard public order and good morals. The main law regulating the media contains vague definitions and broad prohibitions of defamation and unfounded accusations.

During the electoral campaign period the State-owned electronic media, TV and Radio Rwanda complied with their legal obligations to provide slots of free air time to all contestants in an equal manner. No provisions exist to regulate political advertising in private electronic media, and the RPF dominated the airwaves with 65 political clips per day on various radio channels. EU EOM monitoring revealed three breaches of the electoral silence period by the RPF. In general, there was low interest in both electronic and print media during the election period and the reportage was neutral to positive.

In advance of future elections, the electoral process should be brought in line with international standards for democratic elections. As a contribution to this process, a set of detailed recommendations is included at the end of this report. Key recommendations include:

1. The election legislation should be amended in order to incorporate fundamental transparency requirements for the electoral process, including the publication of results at polling station level and at all stages of the consolidation process. Results should be posted in the polling stations and party and candidate representative and observers should be entitled to receive a copy of the official results protocol. Additionally, results should be published by polling station and by polling centre.
2. The election legislation should also establish and further detail the rights of election observers and candidate and party representatives, especially their rights during the consolidation of results.
3. Regulations and procedures issued by the NEC should be reviewed and where necessary clearer, more precise and more detailed provisions should be proposed. It should be ensured that NEC procedures are properly enforced.

- a. The use of additional voter lists should be limited and a reconciliation system for persons voting outside of their original place of registration needs to be introduced.
 - b. Detailed procedures should clearly establish the sealing of ballot boxes and the use of the numbered seals before voting starts, after voting finishes and after counting is completed.
 - c. Detailed procedures should reinforce the use of indelible ink to avoid double voting.
4. The NEC should issue further guidelines to ensure the implementation of the reconciliation of ballot papers by enforcement of the existing law and procedures.
 5. The consolidation of results should be public and transparent. The NEC procedures regarding consolidation of results as well as production and transmission of results protocols and consolidation forms need to be enforced.
 6. The vague prohibitions of defamation in the Electoral Law and similar provisions prohibiting defamation and ‘divisionism’ in the Law governing the Press and the Law instituting Punishment for Offences of Discrimination and Sectarianism, should be more clearly defined. This was recommended with respect to the Law instituting Punishment for Offences of Discrimination and Sectarianism already by the EU EOM 2003.
 7. Civil society should be further developed, perhaps through government funding programmes or from the donor countries, to enable it to play its role in deepening democratic culture in the Rwandan society.
 8. A clearer distinction between civic education and voter information is recommended. Civic education should focus on universally accepted concepts of democracy, good governance, the separation of powers of the state, the role of the Parliament, the rights and duties of a citizen and should also include a focus on individual and minority rights.

Since the last legislative elections in 2003 and following recommendations by the EU EOM, improvements were introduced to the framework and to the conditions in which to hold elections. These include a more inclusive voter register, the liberalisation of the media sector, and the establishment of training facilities for journalists. The EU EOM 2003 had also recommended the use of ballot boxes with numbered seals. These had been procured for the 2008 elections, but were not used appropriately, thus affecting the assessment of the 2008 elections. Also, other areas proved problematic during these elections and need further fundamental improvement. The EU EOM notes the strong commitment of the EU and other members of the donor community to work with the authorities, political parties and civil society in Rwanda to initiate the necessary improvements of the electoral framework and environment in order to fully meet international standards for genuine democratic elections.

II. INTRODUCTION

Following an invitation from the Rwandan authorities, the European Union (EU) established an Election Observation Mission (EOM) in Rwanda for the legislative elections to the Chamber of Deputies from 15 to 18 September. The EU EOM opened an office in Kigali on 19 July 2008 and remained in Rwanda for the duration of the election process, until 4 October 2008. Its mandate was to conduct a comprehensive assessment of the electoral process in accordance with international standards and best practices for elections. The Chief Observer was Michael Cashman (United Kingdom), Member of the European Parliament.

The eight members of the Core Team based in Kigali were joined by 17 Long Term observers, who were deployed on 1 August to follow the electoral process in all 30 districts of Rwanda. For the observation of election day proceedings, the EU EOM was joined by a delegation from the European Parliament, led by Jürgen Schröder. The EU EOM deployed a total of 101 observers from 26 Member States as well as Switzerland and Norway. A Statement of Preliminary Findings was presented at a press conference in Kigali on 17 September.

The EU EOM wishes to express its appreciation for the cooperation, coordination and assistance it received during the course of its work from: the Ministry of Foreign Affairs, the National Electoral Commission of Rwanda, the Ministry of Information, political parties, civil society organisations, the EC Delegation in Rwanda, and representatives of EU Member States and other embassies.

III. POLITICAL BACKGROUND

A: *Political Context*

The 2008 elections to the Chamber of Deputies were the second legislative elections in the history of post-genocide Rwanda after the adoption of the Constitution in 2003 and subsequent presidential and parliamentary elections in the same year. The 2008 elections mark the entrance into a new ‘electoral cycle’ with presidential elections due in 2010 and local and senatorial elections in 2011.³

The legacy of the events of the 1994 genocide continues to structure the social and political life of the country. In this respect the 2008 elections took place in a setting marked by a continuing emphasis on national unity and reconciliation as stated in the constitution. The elections were seen as an important step in the ongoing process to further institutionalise the democratic process in Rwanda.

Rwanda enjoys a stability that few observers would have thought possible in the immediate aftermath of the genocide. Reconstruction of state structures has been quick

³ Support for all electoral activities in this electoral cycle is provided by a grant programme funded by a donor umbrella group including the EC. The EC has supported the NEC with a programme estimate of €200,000 and is considering further support under the 10th EDF.

and the organisational capacity of the state is strong. The country has continued to pursue a series of highly ambitious economic reforms, outlined in the core document of the ‘Vision 2020’⁴ and the Economic Development and Poverty Reduction Strategy 2008-2012 (EDPRS). These and related initiatives have been cited as signs of a successful turnaround. The official entry into the East African Community in July 2007 is seen as another important development for Rwanda and the Great Lakes region.

Rwanda is a presidential republic.⁵ The bi-cameral legislature consists of a Chamber of Deputies and a Senate. The 2003 parliamentary elections were won by the Rwandan Patriotic Front (RPF) in a coalition with four smaller parties.⁶ The RPF also holds the presidency. Two other parties were represented in the outgoing Parliament, the Social Democratic Party (PSD) and the Liberal Party (PL).

In the 2008 legislative elections 80 deputies were elected⁷, 53 by direct vote and 27 through indirect elections. The outgoing Parliament, the first elected legislature in the post-genocide era, was officially dissolved on 14 August 2008.

Multi-partyism, the constitutionally enshrined form of governance in Rwanda is built on two principles – power sharing and consensus – themselves explained by the specific Rwandan response to the genocide which aims to avoid all forms of divisions within the population.⁸ This aim is evident in all spheres of public life. Constitutionally, no party obtaining a majority of seats in the Chamber of Deputies shall have a majority representation in the Cabinet and both chambers of Parliament are subject to rules on representation that, for instance, reserve seats for different geographic regions (the Senate) or women (both chambers).

The Constitution requires all registered political parties to enlist as members of the ‘Consultative Forum of Political Organisations in Rwanda’ (Political Party Forum).⁹ The Forum’s aim is to provide dialogue among political actors based ‘on the principles of the supremacy of national interest and the rule of law’¹⁰ to avoid factionalism and political antagonism, acting as mediator in case of inter-party conflicts.

Legal provisions to prevent ‘divisionism’ play an important role in Rwanda. To prevent resurgence of ethnic confrontations, boundaries are put on political conduct, including speech. Art. 54 of the Constitution forbids political associations to identify with a

⁴ Vision 2020, the government’s overarching national development vision was elaborated during the transition period. Its aim is to turn Rwanda into a middle-income country by 2020.

⁵ The President is Head of State and Government and Commander in Chief of the Rwandan Defence Forces. The President appoints the Prime Minister. The other members of the cabinet (government) are appointed by the President upon proposal of the Prime Minister. The President is elected by universal suffrage to a seven-year term which is renewable only once.

⁶ Centrist Democratic Party (PDC), Ideal Democratic Party (PDI), Rwandan Socialist Party (PSR) and Democratic Union of Rwandan People (UDPR).

⁷ Elected for a five year mandate.

⁸ See for instance speech by President Kagame at the United National University in Tokyo, 8.11.2006 ‘Reconciliation and Reconstruction in Rwanda’.

⁹ “Without prejudice to the independence of each political organisation and their collaboration, political organisations officially recognized in Rwanda shall organise themselves in a consultative forum.” (Art. 56, Const.).

¹⁰ Consultative Forum of Political Organisations in Rwanda, leaflet, n.d.

specific religion, ethnicity, tribe, region, race or gender or ‘any other discriminatory element’. The political and regulatory setting of the 2008 elections must be seen against the background of past disputes relating to ‘divisionism’ and the way these have shaped and shattered the political landscape in Rwanda. The necessity to regulate debate and any restrictions to fundamental rights should always be carefully weighed against the need to encourage political debate. ‘Divisionism’ charges were absent from the 2008 campaign.

Expansion of party activity at local level

In a notable effort to increase the space for political parties, an amendment of the Organic Law governing Political Organisations and Politicians in 2007 allowed parties to open offices at sub-national level. All parties responded to this within the limits of their capacity. The PSD claimed to have opened offices with permanent staff in 75% of all districts. EU EOM observers noted an uneven presence of PSD and PL offices at district level. The small RPF coalition partners were almost completely absent beyond the capital.

B: Key Political Actors

Nine parties are registered in Rwanda of which seven were represented in the lower chamber of Parliament subsequent to the 2003 elections. The Rwandese Patriotic Front (RPF) led a coalition that included four small parties and had 40 seats in the outgoing Parliament. The Social Democratic Party (PSD) and the Liberal Party (PL) had 7 and 6 seats respectively. No political party registered in Rwanda claims large ideological differences between them; this is primarily due to the common political pursuit of national unity.

The RPF

Rwandan political life is dominated by the Rwandan Patriotic Front (RPF) which has far greater human and financial resources, as well as organisational capacity than all other parties.¹¹ President Paul Kagame, the chairman of the RPF continues to be the central figure in Rwandese politics. In the pre-campaign and campaign period, the party extended its membership base further.

The RPF and its coalition partners

As in 2003, the RPF contested the 2008 elections in coalition. The coalition included two new members, namely the PPC¹² and the Party for Solidarity and Progress (PSP).¹³

¹¹ Results of the 2003 elections were as follows: RPF coalition 73.78%; PSD 12.31%; PL 10.56%.

¹² The PPC participating independently in 2003 had not obtained enough votes in these elections to overcome the 5% threshold.

¹³ The leaders of both parties, Alivera Mukaramba (PPC) and Stanley Safari (PSP) are presidential nominees to the Senate. The PSP did not manage to register in 2003, but has since done so in a protracted process that was concluded in December 2006.

The small coalition members have diverse profiles, from the representation of the Muslim community (PDI), of socialist ideas (PSR), an affinity with humanist values of European Christian Democracy (PDC), an emphasis on ‘solidarity across differences’ (PSP) or a self-consciously narrow base among the educated youth (UPDR). Their reasons for remaining within or joining the coalition are to varying degrees due to ideological affinity with the RPF, but also to pragmatic considerations that include the inability to overcome the 5% threshold for parliamentary representation.

Social Democratic Party (PSD)

The PSD was created as an opposition party under the second Republic in 1991, with a concentration of intellectuals centred around Butare and the Southern Province. Almost its entire leadership was killed in the first period of the genocide. Following the genocide it participated in the transitional government. The Party is led by Dr. Vincent Biruta, the President of the Senate. At the time of the legislative elections, the Ministers of Public Service and Labour and the Minister of Health belonged to the PSD. The party aligns itself with the tradition of the European Social Democracy.

Liberal Party (PL)

Similar to the PSD the Liberal Party was created in the reform period of the early 1990s. The PL professes allegiance to liberal economic precepts and is led by Minister of Youth Protais Mitali (formerly Minister of Commerce) and vice president Odette Nyarimimilo, a member of the East African Legislative Assembly. The party is still recovering from a bitter leadership struggle that contributed to the complete replacement of the PL deputies in the Chamber of Deputies during the past parliamentary term.

IV. LEGAL ISSUES

A: *Legal Framework*

The legal framework for the legislative elections provides in principle for an adequate framework for the conduct of elections and includes improvements in comparison to previous elections. However, it contains important shortcomings in relation to key international standards, leading to insufficient safeguards for transparent elections. The legal framework includes the 2003 Constitution,¹⁴ the 2003 Organic Law governing Presidential and Parliamentary Elections, as modified and complemented by Organic Law No 5/2007 and 31/2008 (hereinafter: Electoral Law or EL) and the 2003 Organic Law Governing Political Organisations and Politicians, as modified and complemented by Organic Law No 19/2007 (hereinafter: Law on Political Parties).¹⁵ These laws are

¹⁴ The Constitution was amended in on 2 December 2003, on 8 December 2005 and on 13 August 2008.

¹⁵ Of further relevance for the electoral process are the Law No 31/2005 of 24 December 2005 Relating to the Organisation and Functioning of the National Electoral Commission which details the work of the NEC and the Organic Law No 1/2004 of 29 January 2004 establishing the organisation, functioning and jurisdiction of the Supreme Court (hereinafter: Law on Supreme Court), which contains a section “procedures in respect of petitions relating to referendum or Presidential and parliamentary elections” (Art 102-111).

complemented and detailed by regulations and instructions issued by the National Electoral Commission (NEC) in accordance with its competences stipulated in Article 5 of the Law relating to the Organisation and Functioning of the National Electoral Commission¹⁶ (NEC Law). Presidential decrees fix the day of elections and the period of the election campaign in accordance with Article 33 of the Electoral Law.¹⁷

The Constitution

The Constitution defines Rwanda as an independent, sovereign, democratic, social and secular republic,¹⁸ with the President as the head of the Executive Power (State and Government) and the commander in Chief of the Rwanda Defence forces.¹⁹ The legislative power resides in the National Assembly, which is composed of two chambers, the Chamber of Deputies, with 80 members, and the Senate, with 26 members.²⁰ 53 Members of the Chamber of Deputies are directly elected, 27 indirectly. The 26 members of the Senate are indirectly elected or appointed.²¹ Furthermore, the Rwandan Constitution establishes an independent judiciary which is separate from the legislative and executive branches of government.²² The independence of the judiciary was re-enforced by several laws in 2004 in organisational, financial and administrative aspects. The judicial function is exercised by ordinary and specialized courts with the Supreme Court as maximum authority.²³ Among the competences of the Supreme Court are those to hear petitions on the constitutionality of laws and decree laws as well as the hearing of election petitions.²⁴

The Rwandan Constitution enshrines the basic principles regulating genuine and democratic elections, stipulating universal, equal, direct or indirect and secret suffrage for all citizens in Article 8. In addition, the Constitution contains civil rights guarantees which are necessary preconditions for the exercise of the right to political participation: the right to participate in the government of the country, whether directly or indirectly, through freely chosen representatives in accordance with the law,²⁵ the freedom of press and information²⁶ as well as the right to freedom of association²⁷ and to peaceful assembly.²⁸

¹⁶ Law No 31/2005 of 24 December 2005 Relating to the Organisation and Functioning of the National Electoral Commission.

¹⁷ The Presidential Decree No 05/01 of 9 April 2008 fixing the electoral dates for members of Parliament, Chamber of Deputies determined the date for these elections.

¹⁸ Art 1 Const.

¹⁹ Art 98, 110 Const.

²⁰ Art 62 Const.

²¹ 12 members of the Senate are elected by electoral college of representatives of sectors and districts, 8 members are appointed by the President, 4 are designated by the Political Party Forum and 2 are reserved for one representative of public and private Universities respectively.

²² Art 140 Const *et seq.*

²³ Art 140 Const.

²⁴ Art 145.5 and 7 Const.

²⁵ Art 45 Const.

²⁶ Art 34 Const. The freedom of press and information is however subject to possible limitations to safeguard public order and good morals. See below, media section.

²⁷ Art 35 Const

²⁸ Art 36 Const.

Furthermore, the Constitution explicitly provides for a multi-party system of government and states the freedom of Rwandans to join or not to join political organisations.²⁹ The Constitution also establishes the National Electoral Commission as an independent institution responsible for the preparation and the organisation of elections.³⁰

The spirit of unity and the rejection of ‘divisionism’ are contained within the Constitution. Art 6 establishes “Unity, Work, Patriotism” as motto of the Rwandan Republic. In Art 9, the State of Rwanda commits itself to “fighting the ideology of genocide and all its manifestations; the eradication of ethnic, regional and other divisions and promotion of national unity; equitable sharing of power; ... the constant quest for solutions through dialogue and consensus.” Also, the Constitution establishes different institutions, such as the National Unity and Reconciliation Commission³¹, the National Commission for the Fight against Genocide³² and the National Commission for Human Rights³³ to implement these objectives. Article 54 outlaws political parties which base themselves on race, ethnic group, tribe, clan, region, sex, religion or any other division which may give rise to discrimination.

International Standards

Rwanda has either ratified or acceded to all major treaties containing international standards for elections.³⁴ These include the Convention on the Political Rights of Women (1952); the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) (1965); the International Covenant on Civil and Political Rights (ICCPR) (1966); the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (1979); the African Charter on Human and Peoples’ Rights (Banjul Charter) (1981); the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003). The mentioned human rights instruments guarantee the equal right of all citizens to political participation. They also provide for other essential preconditions for the exercise of political rights, such as the right to freedom of expression, assembly and association.

Overview of Changes to the Election Legislation since 2003³⁵

Two recent amendments of the Electoral Law resulted in some significant changes. First of all, the 2007 amendment of the Electoral Law introduced some requirements to register as independent candidate by establishing that out of the 600 supporting signatures needed for the submission of candidature, at least 12 have to be collected in

²⁹ Art 52, 53 Const.

³⁰ Art 180 Const.

³¹ Art 178 Const.

³² Art 179 Const.

³³ Art 177 Const.

³⁴ The Rwandan Constitution establishes in its Art 190 that, in principle, international treaties and agreements which have been duly ratified and were published in the Official Gazette are of immediate application in Rwanda.

³⁵ While an overview of the amendments is given in this section, their qualification and appreciation will be undertaken in subsequent sections.

each of the 30 districts.³⁶ Furthermore, the amendment details the procedures to convene campaign rallies for candidates standing for indirect elections who are meant to present their programmes in a joint campaign event in order to provide equal opportunities to all of them. In addition, the amendment specifies the procedures - timelines, sanctions and appeals - for the NEC's handling of campaign violations.³⁷

Additionally, the 2008 amendment of the Electoral Law was published on 4 August.³⁸ The most important change introduced is the right to vote³⁹ and to stand for elections⁴⁰ of "category 3 perpetrators" (*i.e.* persons who are convicted of or have confessed in Gacaca trials, crimes during the genocide against the property of victims of genocide).⁴¹ Furthermore, the 2008 amendment states that the NEC shall approve and publish the definitive list of candidates one day before the start of the electoral campaign.⁴² The clarification of procedures concerning the registration of candidatures was recommended by the EU EOM 2003. Finally, the 2008 amendment of the Electoral Law introduces clarifications and certainties: it fixes a date for the publication of the final voter list (at least 15 days before Election day)⁴³ and details the modalities regarding complaints about the voter register. These have to be done by means of a "letter addressed to the immediate branch of the NEC in the constituency of residence" within 10 days before the publication of the final voter list.⁴⁴

In 2007 the Law on Political Parties was amended allowing political parties to establish permanent structures down to the local level⁴⁵ and obliging political parties to include at least 30% women on their lists of candidates.⁴⁶

Improvements

In light of these amendments, the electoral and legal framework contains a number of welcome improvements as compared to the framework for the 2003 elections.

³⁶ The 2003 Electoral Law required only that at least 30 persons had to be domiciled in each Province and the City of Kigali.

³⁷ Art 13, modifying and complementing Art 40 of the 2003 Electoral Law.

³⁸ The official date of promulgation is 25 July 2008.

³⁹ Art 3, modifying and complementing Art 10 of the 2003 Electoral Law.

⁴⁰ See Art 6, modifying and complementing Art 21 of the 2003 Electoral Law.

⁴¹ This enfranchises, according to the figures provided by the legal department of the Gacaca tribunals, 308,000 category 3 perpetrators (see below). The pursuit of post-genocide justice remains an ongoing challenge and concern for Rwanda. In this respect the use of the traditional Gacaca tribunals where perpetrators of the genocide are tried in a communal setting represents a pragmatic response to an insurmountable task. Gacaca trials are about bringing justice to victims and by doing so to foster reconciliation, while making sure that neither ethnicity nor political opinion are seen to be on trial, and the courts are not used to settle personal scores. Gacaca courts have tried perpetrators of genocide crimes in the categories 2 and 3. These cases are concluded, while appeals and revisions are ongoing. Within the scope of the revised organic law, trials have started for category 1 crimes committed by authorities whereas sexual violence crimes will start end 2008. The conclusion of the work of the Gacaca tribunals is foreseen for 2010.

⁴² Art 8, modifying and complementing Art 77 of the 2003 Electoral Law. The start of the electoral campaign is 25 August. For a further qualification of the tight deadline, see below, candidate registration.

⁴³ Art 4, modifying and complementing Art 12 of the 2003 Electoral law.

⁴⁴ Art 5, modifying and complementing Art 19 of the 2003 Electoral law.

⁴⁵ Art 1, modifying and complementing Art 3 of the 2003 Law on Political Parties.

⁴⁶ Art 2, modifying and complementing Art 5 of the 2003 Law on Political Parties.

1. The enfranchisement of “category three perpetrators” is a welcome change. It is particularly commendable in view of their large number⁴⁷. However, the late publication of the 2008 amendment less than 6 weeks before the elections and while the process of voter registration was already ongoing, raised doubts about the NEC officials’ knowledge of the amendment.
2. The possibility for political parties to establish permanent structures down to the local level is a positive development as it allows for a continuous presence of political parties in all administrative entities throughout the country.⁴⁸
3. The specification of procedures for the NEC to deal with violations of campaign regulations is another welcome improvement. The procedural clarifications enhance the transparency of the proceedings and give legal certainty.
4. Finally, the additional measures for the promotion of gender equality, namely the obligation of political parties to include at least 30% of women on their lists of candidates submitted to the NEC, are commendable.

Shortcomings

The electoral legislation still contains important shortcomings.

1. The Electoral Law contains gaps which are detrimental to the transparency of the process. For instance, it does not provide for an obligatory public display of election results at polling station level and at the later stages of the consolidation process, which contradicts key international standards.⁴⁹ Also other fundamental transparency requirements for the electoral process, such as the obligatory sealing of ballot boxes are lacking.
2. While the electoral and legal framework provides for limited rights of party or candidate representative regarding observation on election day, it does not mention domestic or international observers.⁵⁰ Regarding candidate and party agents, the law is also deficient as it does not establish a right to receive a copy of the results form in polling stations⁵¹ nor does it provide for access to the consolidation of results.
3. The complaints and appeals procedures would benefit from being outlined in greater detail and should be further established.⁵² While voters can complain about their non-inclusion in the voter list before the NEC, no further possibility of appeal is foreseen. Likewise, while the 2007 amendment of the Electoral Law introduced the modalities of how the NEC should deal with violations of campaign regulations, no formalized complaints mechanisms, establishing, for instance, the rights of contestants to complain about breaches of the campaign regulations by their competitors is foreseen. This

⁴⁷ Approximately 308,000, almost 7% of the electorate, according to the statistics of the Gacaca tribunals.

⁴⁸ Before, parties were allowed to open offices only at national, provincial and City of Kigali level.

⁴⁹ The Electoral Law merely provides for an oral declaration of the results and their recording on the “counting sheet” (Art 66 of the Electoral Law).

⁵⁰ Party representatives have the right to record observations in the statement on the conduct of elections. The law is silent on the rights of observers in this respect. Only observations recorded in the statement on the conduct of elections can subsequently be used as evidence in election petitions (Art 56 of the Electoral Law).

⁵¹ While transparency is maintained by the fact that ballots have to be counted publicly and the results are to be announced to all present, an official copy of the results might be needed as evidence when the electoral results are contested before the Supreme Court.

⁵² See also below, complaints and appeals.

contravenes international best practices which would require a possibility to complain about all aspects of election operations.

4. Concerns relate to the broad prohibitions of defamation and ‘divisionism’ in the Electoral Law⁵³ as well as in other laws⁵⁴ especially given the serious sanctions. Sanctions include prison terms, the prevention of a candidate from running in the elections and the dissolution of political parties. Whereas these legal provisions can be explained with reference to recent Rwandan history they could be problematic in the context of the right to freedom of expression.

5. Although the 2008 amendment brought the welcome inclusion of about 308,000 category 3 perpetrators, still large groups are deprived of their right to vote. In particular the exclusion of prisoners in pre-trial detention and prisoners convicted of minor charges contravenes international best practices.

6. The late publication of the 2008 amendment of the Electoral Law, less than 6 weeks before the first Election day, caused some uncertainty in the vital period before the elections.⁵⁵

B: Complaints and Appeals Procedures

The legal framework governing complaints and appeals is generally adequate and meets international standards. While the 2004 Law on the Supreme Court detailed some of the complaints procedures as was recommended by the EU EOM 2003, the procedures would still benefit from being further detailed and complemented. The main institution competent for resolving complaints and appeals with respect to the electoral process is the Supreme Court.⁵⁶

The Supreme Court is competent to decide upon petitions concerning candidate registration, appeals against disqualifications of contestants for violation of campaign regulations and petitions challenging the election results.⁵⁷ Election petitions have to be brought before the Supreme Court within 48 hours.⁵⁸ Any interested party (*i.e.* citizens, contestants, political organisations/parties and the NEC) can challenge the election results.⁵⁹ A problem arises insofar as the Electoral Law and the Law on the Supreme Court establish different timelines for the Supreme Court to decide on these petitions: Article 103 of the Electoral Law foresees a 5-day period; Article 111 of the Law on the

⁵³ Art 37 of the Electoral Law prohibits the abuse or defamation of candidates during election campaigns.

⁵⁴ See Art 1 of the Law No 47/2001 of 18 December 2001 on Prevention, Suppression and Punishment of the Crime Discrimination and Sectarianism; see also Article 38 of the Law on Political Parties; see more in particular the Law Regulating the Punishment of Genocide Ideology, which was published in the Official Gazette on 1 October 2008.

⁵⁵ The 2007 and 2008 amendments have not been integrated in a consolidated version of the Electoral Law. The NEC has however produced a consolidated version of the Electoral Law in Kinyarwanda for internal use and a new comprehensive Electoral Code, which will replace the previous laws in their entirety, is currently in preparation.

⁵⁶ Art 145.7 Constitution.

⁵⁷ The relevant provisions are Art 98-103 of the Electoral Law as well as Art 102-111 of the Organic Law No 01/2004 of 29 January 2004 establishing the Organisation, Functioning and Jurisdiction of the Supreme Court (hereinafter: Law on the Supreme Court).

⁵⁸ Art 98 of the Electoral Law. Only petitions against the disqualification of candidatures for violation of campaign regulations have to be lodged within 24 hours. (Art 13 of the 2007 amendment, modifying and complementing Article 40 of the Electoral Law.)

⁵⁹ Art 103 and 104 Law on the Supreme Court.

Supreme Court provides for 10 days. These contradictory timelines should be aligned for the sake of certainty and uniformity.

Petitions concerning party registration and dissolution are dealt with by the High Court.⁶⁰ The NEC is competent to deal with complaints concerning the voter register. The NEC is also the main institution to monitor compliance with campaign regulations and with electoral procedures on election days. Furthermore, complaints can be brought before alternative fora for dispute settlement, such as the Forum of Political Parties or the Office of the Ombudsman. These institutions offer mediation services in internal as well as in inter-party disputes. The Forum of Political Parties addresses cases of “political misconduct” and, if necessary, brings them to the attention of the competent authorities for further action. The Office of the Ombudsman offers mediation services between individuals and public as well as private institutions.

There was a general absence of formal complaints throughout electoral process. No complaints were filed concerning voter registration. While two complaints about obstruction by local authorities were brought before the NEC, no complaints against competitors were filed.

Electoral Offences

The Electoral Law outlines numerous offences, such as voter registration under false name,⁶¹ undue influence of voters,⁶² disturbance of the election procedure,⁶³ falsification of ballot papers by polling officials⁶⁴ or theft of the ballot box⁶⁵. The latter two crimes are punishable with imprisonment from 1 to 5 years and a fine. Competent to decide upon these offences are either lower instance courts⁶⁶ (concerning penalties of no more than 5 years of imprisonment) or higher instance courts⁶⁷ for penalties exceeding this limit.⁶⁸ No electoral offences were committed during these elections, according to information provided by the NEC.

C: *Electoral System*

The Rwandan electoral system for the Chamber of Deputies combines elements of direct and indirect elections. Out of the 80 Members of the Chamber of Deputies, 53 are directly elected and 27 are indirectly elected by representatives of special groups,

⁶⁰ Party registration is done by the Ministry of Local Governance. In case of rejection, recourse is possible to the High Court (Art 12 of the Law on Political Parties.) The Senate can bring complaints against political parties which violate their code of conduct before the High Court with a subsequent appeal to the Supreme Court (Art 55 Const).

⁶¹ Art 104 of the Electoral Law.

⁶² Art 111 of the Electoral Law.

⁶³ Art 112 of the Electoral Law.

⁶⁴ Art 109 of the Electoral Law.

⁶⁵ Art 115 of the Electoral Law.

⁶⁶ Lower instance courts are renamed ‘primary courts’ with the constitutional Amendment of 13 August 2008. (Art 29, amending Article 143 Const.)

⁶⁷ Higher instance courts are renamed ‘intermediate courts’ with the constitutional Amendment of 13 August 2008 (Art 29, amending Article 143 Const.).

⁶⁸ Art 72 of the Organic Law No 07/2004 of 25 April 2004 on the Organisation, Functioning and Competences of the Judiciary.

namely women (24),⁶⁹ youth (2) and disabled persons (1). The elections were held on 4 consecutive days, starting with the direct elections of the 53 deputies on 15 September. The directly elected members of Parliament are elected by a proportional representation system with closed lists in a single nationwide constituency. Only parties or independent candidates passing a 5% threshold can be represented in Parliament.

ELECTIONS to the CHAMBER of DEPUTIES

| 80 seats in Chamber of Deputies | Election date | Electoral College | Number of candidates |
|----------------------------------|---------------|--|--|
| 53 Deputies – directly elected | 15 September | All Rwandan citizens over 18 in possession of political rights | 3 party lists, 1 independent candidate |
| 24 Women representatives | 16 September | 5244 representatives of the National Council of women and of Rwandan territorial entities (districts) | 113 women |
| 2 Youth representatives | 17 September | 264 representatives of National Youth Council (248) and 16 representatives from Secondary Schools and Universities | 21 candidates |
| 1 representative of the disabled | 18 September | 783 representatives of the Associations of the Disabled | 13 candidates |

Administrative Division

Following administrative restructuring in early 2006, Rwanda is divided into 4 Provinces and the City of Kigali. Below the provincial level, there are 30 districts, which are again subdivided into 416 Sectors; 2,150 Cells and approximately 15,000 villages (umudugudu) as the smallest unit. This structure combines appointed officials at all levels with directly and indirectly elected councils at district and lower levels. The main administrative units are the 30 districts, governed by mayors and vice-mayors, who are elected by the district councils from among their members.⁷⁰

Indirect Elections

For the indirect elections of the 24 seats reserved for women, the Southern, Western and Eastern province elect 6 representatives each, 4 seats are reserved for the Northern province and two for the City of Kigali.⁷¹ 5,244 electors – representatives of women as well as of Rwanda’s territorial entities (districts) – chose the indirectly elected female members to the Chamber of Deputies in each of the 30 district capitals on 16 September. The Committees of the National Council of Women, that is 10 member-committees of each of the 416 sectors, the 30 districts and the 4 provinces and the city

⁶⁹ Art 76.2 Const: “24 women are elected by specific councils in accordance with the administrative entities.”

⁷⁰ Organic law N°29/2005 determining the administrative entities of the Republic of Rwanda was published on 31/12/2005 and addressed the new provinces and new boundaries of districts. Although initially not foreseen in the reform, the Cabinet decided on 17 January to reduce as well the number of cells from roughly 9,165 down to 2,148. The 6 February local elections at cell level were organised on the basis of the new administrative boundaries.

⁷¹ The number of representatives depends on the population in the respective entity.

of Kigali (a total of 4,510 women)⁷² as well as the 25 to 35 members⁷³ of each of the 30 District Committees participated in the election. Only 113 women presented their candidature and in contrast to 2003 none of them withdrew their candidacy.

The two representatives of the Youth⁷⁴ were elected at national level, in Kigali, on 17 September. The Electoral College for the two deputies representing youth is composed of 264 electors, with 240 representatives of the National Youth Council⁷⁵ who were elected in 2006 at district level, eight national representatives of the Council and eight representatives from Universities and schools respectively. Representation is guaranteed insofar, as the Rwandan Youth (i.e. people of 14-35 of age) constitutes its electorate and elects in a bottom up process the respective Committees of the Council.⁷⁶ Candidates must be between ages of 21 and 35 years and do not have to be members of the National Youth Council. A total of 22 contestants presented their candidature and one candidate withdrew before the elections.

The representative of the disabled was elected at national level, in Kigali on 18 September by a total of 783 electors from the Federation of the Associations of the Disabled. 13 contestants competed for the seat after one candidate had withdrawn.

In the indirect elections the candidates with the highest number of votes win representation in Parliament. While these indirect elections guarantee the fixed representation of the respective groups, they could be criticized for weakening the direct accountability between voters and representatives. In fact, the objective of equal representation of men and women and guaranteed representation of specific groups can also be arranged with direct elections (e.g. by reserving a certain number of seats) which would enhance the representatives' legitimacy.

V. ELECTION ADMINISTRATION

A: *Structure and Composition of the Election Administration*

The National Electoral Commission (NEC) is the constitutional body set up to prepare and organise local, legislative, presidential elections as well as referendums.⁷⁷ Its organisation and functioning is regulated by Law No. 31/2005 of 24 December 2005 (hereinafter: NEC Law).

⁷² The respective Committee members of the Council of Women were elected in 2006. At the lowest level, village committees are elected by all female voters, these in turn elect the cell level committees, who subsequently elect the sector level committees, the lowest administrative level to participate in the National Council of Women.

⁷³ Their exact number depends on the number of sectors and the population in the districts.

⁷⁴ Art 76.3 Const; Art 188 Const, Law No 24/2003 of 14 August 2003, establishing the Functioning and Organisation of the National Youth Council, as amended and modified by Law No 05/2006 of 5 February 2006.

⁷⁵ 8 representatives for each of the 30 districts.

⁷⁶ More precisely, all Youth of a cell elects the cell Committees, the cell Committees consequently elect the respective sector Committees, the sector Committees elect the district Committees, which in turn will elect the national Committee.

⁷⁷ Art 180 Const.

The competences of the NEC include the preparation, conduct and supervision of elections. Furthermore, the NEC is competent to establish electoral constituencies, develop and conduct civic education programmes and monitor, announce and publish election results.⁷⁸ During the election period, the NEC established branches at provincial, city of Kigali and district levels. The NEC has a tripartite structure: The Council of Commissioners, the Bureau of the Commission and the Executive Secretariat. The Council of Commissioners is the main decision making organ. It is composed of 7 members, including a President and a Vice President.⁷⁹ Two of the Commissioners have to be lawyers. The Commissioners are proposed by the government and have to be approved by the Senate. They are appointed and may be removed from office by presidential order.⁸⁰ The Council of Commissioners establishes procedures for the organisation of elections, for the approval of the final voter list, for the examination and approval of candidacies and for the proclamation of the results of the elections. The activities of the commissioners within the NEC become permanent one month before elections and until the proclamation of the final results.

B: Enforcement of Legal Provisions by the Election Administration

Only the National Electoral Commission (not its local branches) has the competence to adopt regulations and issue instructions for the implementation of the electoral legislation. NEC regulations for these elections were published on 4 August after the publication of the 2008 amendment of the Electoral Law. The regulations filled some gaps in the electoral legislation; for instance as regards polling procedures, or by establishing rudimentary rights of observers. However, the NEC regulations remain silent on a number of essential safeguards such as the obligatory inking of the finger or the mandatory sealing of ballot boxes. Likewise, the procedures remain silent on the rights of party representatives and observers during the consolidation process.

An inconsistency between the NEC regulations and the Electoral Laws concerning the beginning of the counting is problematic. The NEC regulations provide for a one hour delay between the end of polling and the beginning of counting. This interpretation contradicts Art 65 of the Electoral Law which in line with international best practices establishes that “the counting of votes is done immediately after closure of the polls”.

According to the information available to the EU EOM, as regards the application of cases related to campaign obstruction, the NEC enforced laws and procedures in an efficient and generally equal manner. For example, cases of obstruction of PSD and PL campaign activities by local authorities were adequately followed up, as confirmed by the national headquarters of both political parties.⁸¹

C: The Administration of the Elections

The NEC organised several elections over the past 9 years and consequently with the experience gathered it implemented the deployment of electoral personnel and of

⁷⁸ Art 5 of the NEC Law.

⁷⁹ Commissioners have to be Rwandan, hold at least a bachelor’s degree and be a person of integrity. Art 11 NEC Law.

⁸⁰ Art 8 of the NEC Law, see also Art 31 of the NEC Law.

⁸¹ For details see below, complaints and appeals.

electoral material efficiently. This, together with the sufficient number and adequate distribution of polling stations and polling centres throughout the country provided voters with easy access and allowed the polling stations to efficiently process a reasonably low amount of 500 registered voters⁸².

Throughout the country, on September 15 for the direct elections, there were 15,429 polling stations grouped in 2,103 polling centres. Polling stations were not identified by a unique number, but rather by a name. A total of 64,233 persons were recruited and trained by the NEC for these elections: 30,870 were women (48.05%). 61,492 volunteers were staff in the polling stations, 2,103 to coordinate the polling centres and 638 additional staff to deal with election matters in districts and provinces. The NEC endeavoured to recruit persons preferably with previous electoral experience. Training for electoral staff was conducted until 11 September in a cascading training exercise. Late changes in NEC procedures introducing an extra level of results consolidation were communicated to the EU EOM on 8 September, and an amended procedure for inclusion of voters on additional voter lists was issued on 9 September.

For the direct elections, the NEC received lists of a total of 12,917 agents from political entities to observe on Election day. It also received a list with 146 representatives of candidates to observe the indirect elections of the 24 seats reserved for women. Three representatives of the candidates for youth and one representative for the candidates of the disabled were registered with the NEC to observe their respective indirect elections.

Ballot printing was conducted by the NEC in two printing facilities in Rwanda. The ballots did not contain any security features. The ballot was an A5 size paper, with the logos of the political entity registered for these elections, the name of the entity and a space next to the name for the voter's thumbprint. As there were only four political entities contesting the elections, the size of the ballot paper was sufficient.⁸³

The indirect elections of the 24 reserved seats for women were held on 16 September in 30 polling stations in each district capital. For the indirect elections of the two deputies representing youth, one polling centre was made available in Kigali on 17 September. The indirect elections of the one deputy representing the disabled, took place in one polling station in Kigali on 18 September.

EU EOM observers did not always have full access to all aspects of the entire electoral process and information relevant to effective observation was not always available. In the case of change of location for the organisation of the indirect election for the reserved seats for women from province level as stipulated in the NEC procedures to district level, information received from the NEC was contradictory.⁸⁴ A late change (9 September) in procedures for the use of additional voter lists was orally communicated to the EU EOM, but the new procedure was not made available to the EU EOM until after the election.⁸⁵ Contradictory information surrounding a change in procedures with

⁸² With a margin of +/- 200 voters.

⁸³ The first political entity on the ballot was the RPF. Even though, the RPF competed in a coalition with six small parties, these were not mentioned on the ballot. PL was in position two, PSD in position three and the independent candidate was in position four on the ballot.

⁸⁴ See under XIV Indirect Elections.

⁸⁵ See under XII election Day.

an additional level of results consolidation at the sectors was received from the different levels of the NEC.⁸⁶

NEC procedures to ensure a transparent consolidation of election results were not followed in all cases. Regarding consolidation of votes and announcement of results, the implementation of the election process did not meet key international standards for transparency.

VI. VOTER REGISTRATION

A: *The Right to Vote*

Rwandan citizens of at least 18 years of age who are in possession of their political rights have the right to vote.⁸⁷ The following groups are disenfranchised:

- Persons who have been deprived of their right to vote by competent courts without being rehabilitated or granted amnesty;
- Persons who have been convicted of or have confessed the crime of genocide and crimes against humanity categories one and two;
- Persons who have been convicted of murder and manslaughter; refugees; detainees.⁸⁸

According to the prison statistics, approximately 60,000 prisoners (including around 17,000 persons in pre-trial detention)⁸⁹ are not entitled to vote.⁹⁰ While this disenfranchisement may be justified with respect to perpetrators of serious crimes, detainees in pre-trial detention should be allowed to vote in accordance with international best practices.

B: *Voter Registration Procedures*

The Voter Register (VR) is permanent and is updated before each election. Since the introduction of an ID card database in 2007, the update is conducted from this civil register. The NEC extracted all citizens entitled to vote from that list and displayed the VR in the villages for corrections from 1 to 12 August. While the voter register was well displayed and available for corrections in Kigali City and in the Southern and Western provinces, in the Northern and Eastern provinces it was sparsely displayed. At

⁸⁶ See under XIII Results.

⁸⁷ Art 5 and 10 of the Electoral Law.

⁸⁸ Art 10 of the Electoral Law.

⁸⁹ The exclusion of persons in pre-trial detention is problematic as it contravenes international standards. See above, Shortcomings.

⁹⁰ According to information from the NEC, the number of persons excluded by law from voting is 165,005, corresponding to those prohibited to register on the voter list. These are, in accordance with Article 10 of the Electoral Law and NEC procedures: Persons who have lost their civil and political rights and are prohibited from voting by legitimate courts of law, who are not yet rehabilitated and who are not benefiting from an official pardon (10,264). Persons in Categories 1 and 2, condemned to life imprisonment due to genocide charges or crimes against humanity (25,317). Persons who have confessed to genocide or crimes against humanity, classified in Categories 1 and 2 (40,931). Persons condemned to life imprisonment for murder or manslaughter, (82,007). Prisoners (6,401). persons with severe mental disability, certified by an official doctor at a state hospital (85).

the same time, new Voter Cards (VC) were distributed to voters. This double exercise was more time consuming than anticipated and led to a 5-day extension of VR display, while the delivery of VCs continued until election day. In general, the VC distribution was assessed as efficient, with exceptions in the Northern and Eastern provinces, where the EU EOM observed VCs being collected for family members and friends.⁹¹

Following three updates of the VR since September 2007, in February, May and August 2008, the NEC on 31 August published the final number of registered voters as 4,769,228, 2,618,338 (55%) women and 2,150,890 (45%) men, for a population of 9,139,919.⁹²

Voter registration at all Rwandan embassies abroad ended with a final figure of 16,688 Rwandans registered for out-of-country voting.

The increase in the number of registered voters since the local elections in 2006 was 632,583. This includes “category 3 perpetrators” who had recently been incorporated, following the 2008 amendment of the Electoral Law and comprised as many as 308,738 citizens.⁹³ Excluding that group, the natural increase since 2006 of citizens having turned 18 would be 333,845 persons, which appears a reasonable figure. Voter registration at all Rwandan embassies abroad ended with a final figure of 16,688 for out-of-country voting.

The 2008 Amendment of the Electoral Law details the modalities regarding complaints concerning the voter register.

VII. REGISTRATION OF CANDIDATES/POLITICAL PARTIES/LISTS

A: *Registration Procedures*

Three political entities, the RPF-led coalition, the Social Democratic Party (PSD), the Liberal Party (PL), and one independent candidate competed in the elections for the chamber of deputies.

All Rwandan citizens of at least 21 years of age, who are in possession of their political rights⁹⁴ and are persons of integrity, are eligible to stand as candidates to the chamber of deputies.⁹⁵ Introduced by the 2008 amendment of the Electoral Law, the definition of “person of integrity” specifies that one must not have been proven guilty of the crimes of genocide or ‘divisionism’; nor sentenced to more than 6 months of prison without

⁹¹ District GICUMBI, Sector Buyumba, district NGOMA, in its capital Kibungo, in district KAYONZA, sector Gahine, and in district GATSIBO, Sector Kiramuruzi.

⁹² According to 2002 census and 2007 and registration for ID cards.

⁹³ Figures according to the Gacaca Tribunals.

⁹⁴ More specifically, persons who have been deprived of their political rights by competent courts and who have not been absolved or granted amnesty; persons who have been convicted or who have confessed crimes of genocide and crimes against humanity in categories 1 and 2; persons who have been convicted of murder and manslaughter; refugees and detainees cannot stand as candidates.

⁹⁵ Art 21, 22 of the Electoral Law.

being rehabilitated; never been proven guilty of genocide ideology nor having been expelled from the civil service.

Political parties can submit lists of a maximum of 80 candidates.⁹⁶ Citizens wanting to stand as independent candidates have to submit to the NEC a list of at least 600 support signatures of registered voters (at least 12 domiciled in each of the 30 districts) and a clean police record not older than three months at submission of the candidature.⁹⁷ The late distribution of voter cards in some districts might have made it difficult for independent candidates to fulfil this requirement, as it reduced the time to effectively collect signatures to 2-3 weeks. One of the two independent candidates applying to the NEC was rejected because a total of 8 supporting signatures were missing in two districts. The rejected candidate did not lodge a complaint against his rejection.

The deadline for the final publication of the definitive list of candidates, one day before the start of the electoral campaign, as introduced by the 2008 amendment of the Electoral law, could be problematic.⁹⁸ This timeline is very tight, as it leaves candidates whose registration is rejected a short time to appeal the decision before the start of the campaign. Furthermore, the uncertainty about the acceptance of candidacies until immediately before the start of the campaign makes it difficult for candidates to plan and organise their campaign.⁹⁹

A person can run only for one seat and a candidate cannot stand at the same time for the direct and the indirect elections or for two of the indirect elections at the same time. Regarding the eligibility requirements for the indirect elections of the women, youth and disabled, these candidates do not have to submit the 600 signatures from registered Rwandan voters.¹⁰⁰ They have to be women; between 21-35 of age; or disabled, depending on the category they are standing for. The registration of candidates for the indirectly elected seats resulted in 113 women candidates, 22 Youth candidates and 14 candidates for the disabled, thus by comparison making the women elections competing for 24 reserved seats the least competitive.

B: Candidate Selection Process

In the past, the constitution of party lists was highly centralised. In 2008, the process was more open and in parts was conducted at the sub-national level.

The three parties (RPF, PL, PSD) presenting electoral lists selected candidates at district level to produce a preliminary national list that exceeded the final number of 80 candidates that had to be submitted to the National Electoral Commission between 12-21 August. The results of the different district and province-level selections were then filtered by the respective national party committees, trimming down the list to the required 80. For the RPF the initial list submitted to the respective national party committee contained 120 candidates, for the PSD 150 and for the PL 104 candidates.

⁹⁶ Article 23*bis* of the Electoral Law.

⁹⁷ Art 23, 23*bis*, 23*ter*, 23*quater* of the Electoral Law.

⁹⁸ Art 8 of the 2008 amendment, modifying and complementing Art 77 of the 2003 Electoral law.

⁹⁹ Also a PSD candidate on the party list complained about the tight timeline which, in combination with the short campaign period, made it difficult to gather funding.

¹⁰⁰ Which are required for independent candidates standing in the direct elections.

In the case of the RPF, each district committee selected four candidates for the national list, of which 50% were women. The selection process doubled as a means to mobilise membership and increase party visibility. The presentation of RPF candidates for the lists was accompanied by large-scale public political rallies and widely reported in the media. The National Executive Committee of the RPF produced the final selection by 4 August. Subsequently negotiation with the smaller parties of the coalition took place.

This final screening process of the parties at central level was difficult to assess, as it relied on ranking candidates according to different sets of criteria which were not made available to the public. Obtaining the highest votes in the district primary did not guarantee appearance on a final list. The 21 August deadline for the submission of candidatures to the NEC was met by three political parties with publication of their final lists of candidates as selected by the respective national party organ with all party lists having 80 candidates.¹⁰¹ According to the NEC, the lists finally submitted by the parties consisted of 80 candidates for the RPF-coalition, 64 candidates for the PSD and 72 for the PL. Ten of the PL candidates submitted incomplete dossiers, reducing the final number of candidates for the PL to 62.¹⁰² The dossiers of all candidates underwent a final screening by the NEC, which subsequently accepted all candidatures, making them public on 23 August. The list of the RPF led coalition remained at 80 candidates, the final list of the PSD included 64 and the PL list was reduced to 62 candidates.

For both PSD and PL, the reduction in numbers from pre-submission publication to submission to the NEC was reportedly due to candidates ranked low on the lists failing to submit the relevant documentation. In three cases female candidates ranked low on the PSD list submitted applications as women candidates instead.

The 80 member candidate list of the RPF led coalition included 66 RPF candidates, three candidates each of the PDC and PDI as well as two candidates each of PSR, UPDR, PPC and PSP. One candidate of each of the small parties was placed in an electable position. The percentage of women on the final list of the RPF led-coalition was 35 (44%) surpassing the mandatory 30%. The RPF list included 36 members of the outgoing Parliament. Among the MPs not nominated again, was the speaker of the outgoing Parliament and president of the PDC, Alfred Mukezamfura.

The PL list was headed by the current Minister for Youth, Protais Mitali. Five of the outgoing six PL MPs remained on the list, with only two on promising positions. The turnover for the PSD was larger, with only two of seven former MPs on the list, albeit both on promising positions. The PSD list was headed by J. Damascène Ntawukuliryayo, Minister of Health. The heading of the PSD and PL lists by two current ministers underlined the participation of both parties in government.

After the publication of the lists of candidates, the NEC received information on four candidates alleging participation in the genocide (one RPF and one PSD candidate) and

¹⁰¹ The RPF coalition and the PSD published lists with exactly 80 candidates and the PL published a list with 84 candidates.

¹⁰² To register their candidatures for the final screening by the NEC, a candidate's dossier must include a birth certificate, a copy of the national ID, electoral card, an extract of the judicial dossier and a Curriculum Vitae.

misuse of funds (one RPF and one Youth candidate).¹⁰³ The NEC did not disqualify three of the candidates, as none of the cases had resulted in any court conviction. Only the PSD candidate was effectively disqualified on 10 September, as he had been convicted to a one-year prison term and was therefore not complying with the eligibility criteria.¹⁰⁴

C: Complaints Relating to Candidate Registration

Complaints concerning the candidate registration can be brought before the Supreme Court within 48 hours after the publication of the list of candidates.¹⁰⁵ No explicit provision is made if a candidate is *ex-post* disqualified for the non fulfilment of the registration requirements. In cases of *ex-post* disqualifications, candidates can rely on Article 98 of the Electoral Law, which generally establishes that election related complaints can be brought before the Supreme Court. Notwithstanding this general provision, the Electoral Law should establish clearer procedures to appeal disqualifications of candidates – other than for violation of campaign regulations¹⁰⁶ – later on during the electoral campaign. No complaints concerning candidate registration were filed.

VIII. ELECTION CAMPAIGN AND PRE-ELECTION ENVIRONMENT

A: Overview of the Election Campaign

According to the Electoral Law, the campaign period has to start at least 20 days before the election and a 24 hours silence period is to be respected before Election-Day.¹⁰⁷ Campaign activities officially started on 25 August and lasted until 13 Sept, 6 pm.¹⁰⁸ Some confusion was evident about the date for the start of the election campaign, as at least one national newspaper issued the date for the start of the campaign as 15 August, a view echoed by some district level officials.¹⁰⁹ In this context, EU EOM observers in the Northern and Western provinces reported two cases of early campaigning on the part of the RPF.

All three political entities engaged in campaigning, with the RPF largely more organized (and present than either PSD or PL. The sole independent candidate did not engage in visible campaigning, but was the subject of some media coverage. The campaign was overall low-key and took place in a calm environment. Most participants

¹⁰³ Citizens had informed the NEC by means of letters about the allegations against the candidates after the publication of the final list of candidates.

¹⁰⁴ The clean criminal record required by Art 25 of the Electoral Law, which is supposed to prove that a person is free of any conviction was obtained due to false information provided to the Office of the General Prosecutor by the respective candidate (Letter of the Office of the General Prosecutor to the NEC of 10 September).

¹⁰⁵ Art 104 Law on the Supreme Court.

¹⁰⁶ An appeal against disqualification of candidates for violation of campaign regulations is possible in accordance with Art 40 Electoral law.

¹⁰⁷ Art 33 of the Electoral Law; Art 7 of the Presidential Order No 5/01 of 9 April 2008 fixing the Electoral Dates for Members of the Parliament, Chamber of Deputies.

¹⁰⁸ The Presidential decree refers to 13 September, 6 am, which is a printing mistake.

¹⁰⁹ Northern province.

noted a clear improvement to 2003 and there was a common agreement expressed by all parties to try to resolve any arising problems internally. Overall, the campaign was marked by an absence of debate among political parties. During rallies and in the media, generally little information on party programmes was provided.

The RPF campaign started with a large rally in central Kigali on 25 August, at which president Kagame gave the keynote speech. RPF rallies throughout the country had a much higher participation than those of other parties and generally showcased a number of parliamentary candidates. Political discussion was brief with much space taken by music and dance. Other than the PDI and PPC the EU EOM did not observe any small coalition parties presenting their profile during RPF rallies. Notably, RPF campaign activities included the open reference to and the RPF alliance with the Muslim minority in Rwanda, as represented through the PDI. Similarly, the RPF campaigned on the record of having promoted women's participation in political life. The fight against 'genocide ideology' and 'divisionism' also figured prominently.

The RPF campaign emphasized the record of having stopped the genocide and rebuilding the country, promoting unity and reconciliation while providing for the genocide survivors and increasing overall healthcare, promoting regional integration and advertised its popularity as demonstrated by its mass membership base.

The campaigns of PSD and PL were significantly smaller, indicating varying organisational capacity across the country. The PL was notably absent from campaigning in the Eastern province, while the PSD ended campaigning early in the Southern province due to a lack of participation. In some instances, efforts at campaigning seemed to correlate with the success of local candidates on the final party lists.

PSD and PL presented themselves as complementary rather than as competitors to the RPF, placing themselves within the common agenda of national unity and development. To explain their independent presence, they pointed to their different emphasis on issues of common concern and their tradition as independent parties.

Three cases of beating of PSD and PL supporters were reported to the EU EOM by the respective parties.¹¹⁰ In isolated instances, PSD party representatives reported local authorities' lack of cooperation and some pressure, including efforts to prevent the population to join party rallies.¹¹¹ In Gatsibo, Kirehe, Kayonza and Ngoma (Eastern province), PSD also reported instances of intimidation, confiscation of electoral material and destruction of posters. In Musanze, Northern province, the PSD reacted to attempts by local authorities to prevent the local population from joining PSD rallies by changing their campaign strategy, starting a rally by marching and driving around in the area inviting the population to come to the meeting.¹¹²

¹¹⁰ In the Eastern and Northern province.

¹¹¹ In the Eastern and Southern province some party adherents reported they were told that they would be excluded from government services, including the 'one cow' programme if they were seen to support the PSD. In Kayonza and Ngoma district, PSD reported threats and assaults on PSD members by local authorities, in one case including the Local Defence.

¹¹² Musanze, Northern province.

According to Art 34 of the Electoral Law, local authorities have to be informed about any campaign activity by the respective contestant. Interpretation by local authorities of this provision was uneven across the country. The governor of the Eastern province publicly called for door-to-door campaigning¹¹³, while in other districts in the Southern province and Kigali City, local authorities declared this to be illegal or ‘decided’ against it. Also, the interpretation of what constituted ‘illegal campaigning’ was interpreted differently by local authorities. For instance the wearing of party T-shirts was in some cases considered illegal campaigning.

Overall, few campaign posters were displayed. Their location was highly regulated, and frequently restricted to public buildings. In part this was presented as a measure to level out the playing field since non-RPF parties would find it difficult for people to agree to display their posters.¹¹⁴ The PSD in the Eastern province reported difficulties to put up posters, which were often removed shortly after display.

Security officers were present at most party events, ranging from uniformed or plain clothes police to Local Defence Forces. Their behaviour was reported as appropriate by observers.

B: Party and Campaign Finance

Rwandan parties have three main sources of party finance: limited state support channelled through the Forum of Political Parties to all registered parties in equal parts, independent contributions from memberships, and income from party assets.¹¹⁵ Yearly financial statements and inventories of assets have to be submitted to the Ministry of Local Government, the Ombudsman and the Political Party Forum. Political parties are not allowed to accept donations from public or para-statal enterprises, foreigners and trading companies and donations exceeding 1 million Rwandan Francs have to be declared within 30 days.

Available information on party finances indicates that apart from the RPF, membership contributions and party assets play a comparatively minor role. The small coalition members depend almost exclusively on funding through the Political Party Forum. Funds channelled through the Political Party Forum have increased this year due to new programmes available.¹¹⁶ Membership contributions for parties other than the RPF are generally ad-hoc, while for the RPF the system is based on a certain percentage of members’ income, supplemented by special contributions during election times. This included ongoing fundraising activities involving public pledges as observed by the EU EOM. The Law on Political Parties provides for the reimbursement of an equitable

¹¹³ Dr. Ephraim Kabayija, the Eastern Province Governor and RPF area Chairman has urged party faithful to canvas support for RPF parliamentary candidates, starting on 25/8/2008 by: moving door to door beyond trading centres to villages for attracting genuine voters (NEW TIMES No 1575 of 21/8/2008 and No 1576 of August 22nd 2008).

¹¹⁴ Interview Ministry of Local Government.

¹¹⁵ Art 21-27 Law on Political Parties.

¹¹⁶ The three main budget lines of the Forum of Political Parties for 2008 are the Capacity Building Programme, the new Code of Political Ethics Training Programme and the Institution Building Programme combining to a total of 340 mio RWF.

share of campaign expenditure for all parties, which pass the 5% threshold to enter Parliament.¹¹⁷

The RPF outspent the other contenders in the electoral campaign as it benefited more from other income sources, such as membership contributions and donations. The other contenders were mainly dependent on the limited state subsidies.

C: Use of State Resources

The Electoral Law contains campaign regulations such as the prohibition to use State resources for the campaign. The “use of property owned by the state or its institutions” with the purpose to influence voters is prohibited.¹¹⁸ No violations of this prohibition were observed or reported during this electoral process. Among the candidates running for these elections were two Ministers, one Minister of State, one Mayor and four Vice Mayors. Legally, these had to suspend the exercise of their office during the campaign period.¹¹⁹ The PL candidate and Mayor of Ruhango acted accordingly, whereas no information was available on the other cases.

D: Complaints during the Campaign Period

The EU EOM is aware of two formal complaints during the campaign period. One formal complaint was lodged on 24 August by the national PSD headquarters to the NEC about instances of impediments to PSD campaigning and intimidations by local authorities in the district of Rwamagana in the Eastern Province. This complaint was informally followed up and resolved by the NEC with phone calls to the Mayor to the satisfaction of the PSD. Another formal complaint at district level was lodged by a PSD representative to the Mayor of Nyamasheke district on 9 September¹²⁰ about obstruction by local authorities in several sectors.¹²¹ The complaint was not followed up by the national PSD headquarters after having been informally resolved between the PSD representative of Nyamasheke and the respective authorities at district level.

E: Arrests and Detentions

Nine arrests related to the election campaign were brought to attention of the EU EOM. These arrests were short term and resolved by informal intervention, often on the part of central party representatives.

Most arrests were reported from the Eastern Province, with isolated incidents also reported from the Northern and Southern province. These cases mostly involved PSD

¹¹⁷ Art 27 of the Law on Political Parties.

¹¹⁸ Art 36 of the Electoral Law.

¹¹⁹ See Art 85 of the Electoral Law. Functions that may influence the electoral campaign have to be suspended. If the contestants are elected, they will have to resign from their former posts. More precisely, incompatible posts include Minister (members of the Cabinet), members of the District/ City of Kigali Councils (i.e. including Mayors and Vice Mayors) as well as civil servants or public employees.

¹²⁰ Copied to the district NEC in the Western province.

¹²¹ The complaint details that PSD supporters were forced by local authorities to wear RPF symbols in Kankoko sector, that PSD supporter had been threatened and PSD posters and flags had been taken down by local authorities in Nyabitekero sector, and that local authorities had prevented the population from attending a PSD meeting in Karambi sector.

activists. The allegations related to charges of illegal campaigning. This included for instance political speech, the distribution of leaflets, the wearing of party t-shirts and the organisation of party agents for election day.¹²² In some instances no specific charges were made.

These arrests and detentions could not be perceived as having had an impact on the overall election campaign or process.

F: Voter Education

The NEC is legally responsible for civic education and voter information according to article 5, paragraph 4 of the NEC Law.¹²³ From July 2008 onwards, voter information messages were included in the programme of general civic education as conducted by the NEC. Issues included electoral information for political party representatives, women and youth councils, trade unions and others. Information to voters was delivered as messages of encouragement to vote and dealt with technical aspects of voting, often including the recommendation to elect ‘good and patriotic leaders’. While voters were sufficiently informed about the elections, some EU EOM observers were of the opinion that the stress on the civic duty to exercise the right to vote might have been misunderstood as an obligation to vote. A clearer distinction between civic education and voter information would be beneficial.

IX. MEDIA AND THE ELECTIONS

A. Media Environment

The media industry in Rwanda is still in the process of re-building itself after the events of the genocide, Progress has been made but journalism is still undernourished and poorly paid and printing facilities are not widely available. Nonetheless positive developments over the past decade include the opening of three schools for journalism¹²⁴, the establishment of a High Council of the Press (HCP)¹²⁵, the promotion of a media code of ethics and the liberalisation of the electronic media sector in 2004. However, the working conditions for journalists remain poor and the advertising market which is the main income for media outlets is limited. Currently there are 55 print publications, 10 of which are regularly printed and distributed. There is only one TV channel in Rwanda, public TV Rwanda. Of the 15 radio stations, there is one public radio with national coverage, Radio Rwanda and 3 public community radios. Of the private radios four have national coverage, while the other stations are regional or local.

¹²² According to the Electoral law, campaign rallies must be previously announced and the display of campaign material is only allowed in areas to be designated by local authorities. No further specification is made, however, which activities may be considered ‘illegal campaigning.’

¹²³ In April 2007 the Rwandan government formulated a National Civic Education Policy stating that ‘civic education would be a strategy of building the nation within the context of democracy and good governance’ under the auspices of the Ministry of Local Government. The NEC was tasked with production of didactic material and implementation of the programme.

¹²⁴ The school of journalism at the University of Butare, the Great Lakes Media Centre in Kigali (since early 2008) and the Université Catholique de Kagbayi (UCK) in Gitarama.

¹²⁵ With the constitutional amendment of 13 August 2008, the name of the High Council of the Press was changed to Media High Council (Art 34 of the Constitution).

Electronic media with national coverage broadcast news programmes in all four languages in use, Kinyarwanda, Swahili, French and English. Radio is by far the most popular medium in urban and rural areas. The state operates one third of all electronic media outlets.

The “Office Rwandais de l’Information” (ORINFOR) is the state owned media organ with seven media outlets both print and electronic. ORINFOR has three departments: Publications, radio and TV. The publication department publishes two newspapers,¹²⁶ the TV department is in charge of TV Rwanda which covers 90% of the country and reaches 20 to 30% of population, mainly in the urban areas.¹²⁷ The radio department runs Radio Rwanda and three community radios. Radio Rwanda has 90% - 95% of national coverage, while the three public community radios each cover one province.¹²⁸

The private sector has launched a number of newspapers and radio stations since the liberalisation of the electronic media market in 2004. Print media suffer from a lack of facilities¹²⁹ and a small advertising market. The number of published copies is limited and reaches a readership mainly in the capital. “The New Times” is the only daily newspaper in Rwanda, published in English with a circulation of 5,000 copies. Its sister paper “Izuba”, is a biweekly in Kinyarwanda with a circulation of 6,000 copies. High prices set by the only printing house, which is owned by the state, means that media outlets often have to print in Kampala, in spite of logistical challenges related to transport, long distance and customs duties, which in turn contribute to irregular distribution.

Out of the 12 private radio stations four have national coverage¹³⁰, three have regional coverage¹³¹ and the remaining four are confessional community radios most of them based in Kigali.¹³² While TV Rwanda is the only TV channel, private cable TV companies offer a package of 24 channels from abroad, but subscription is expensive. Four major private radio stations¹³³ have started TV projects that are at an early stage, with further development not expected before the end of 2008. One new radio station, Star Radio, started to broadcast on 1 August.

¹²⁶ “La Nouvelle Releve” a bimonthly printed in French with a circulation of 2,500 copies and “Imvaho-nshay” a biweekly printed in Kinyarwanda with a circulation between 16,000 and 20,000 copies

¹²⁷ Lack of TV devices amongst the population and problematic power supplies contribute to a low TV penetration.

¹²⁸ With the exception of the Eastern province. Radio Rubavu covers the Northern province, Radio Huye the Southern province and Radio Rusizi the Western province.

¹²⁹ Printing is available only in Kigali in the government printing house. The latter has a capacity of only 20,000 copies per hour, the distribution of the papers is done in the street by children, their availability depends on external factors such as resources, border crossing and weather.

¹³⁰ Contact FM, Radio 10, Flash FM, City FM and Radio 10.

¹³¹ Radio Maryia covers the Southern and Western provinces, radio Salus covers the Southern province and Kigali and radio Izuba covers the Eastern province.

¹³² “Voice of Africa” is a Muslim community radio, Radio Sana has protestant obedience, Voice of Hope has an Adventist audience and Radio Umucyo has a Pentecost’s audience.

¹³³ Radio 10, Contact FM, City FM and Flash FM.

Low wages and poor working conditions sometimes lead to unprofessional practices.¹³⁴ Government officials often highlight that the media industry does not meet professional standards.

Despite a number of positive developments, some print media face serious problems. Four newspapers are openly “boycotted” by the government who refuse to endorse what they consider as irresponsible or malicious reportage.¹³⁵ Subsequently these outlets can find themselves completely cut off from state advertising. The Kinyarwanda language service of the BBC and Voice of America have on occasions also been denied access to interviews with government officials. For the past two years RFI and AFP correspondents have been unable to obtain visas. Media practitioners have stated that there are a number of topics considered by them as *no go areas* for journalists.¹³⁶

B. Legal Framework for the Media and Elections

The Rwandan Constitution provides for the freedom of expression in Article 33 and more specifically for the freedom of press and information in Article 34. The freedom of press and information is however subject to limitations to safeguard public order and good morals.¹³⁷ The central law containing media regulations is the Law No 18/2002 governing the Press (hereinafter: Law governing the Press).¹³⁸ It defines the rights and obligations of all the actors in the media industry, including media enterprises and journalists.¹³⁹ It also defines the authority for the establishment of media enterprises which lies with the Ministry of Information in collaboration with the High Council of the Press (HCP), a government appointed regulatory body.¹⁴⁰ Finally, it contains rules on the practice of journalism and lists the offences and liabilities as well as the punitive measures against those who commit press offences.¹⁴¹ The Law governing the Press is complemented and detailed by instructions and regulations issued by the HCP to

¹³⁴ The most common practice is called Tigi or transportation fees. The journalists invited to a press conference request a financial compensation for transport from the organizer to publish or broadcast the event.

¹³⁵ Umuseso, Umuco, Umuvugizi and Rushyashya are not invited to government events and are not granted interviews with government officials.

¹³⁶ Such as criticism of the government.

¹³⁷ Art 34.2, 3 Const provides that “freedom of speech and freedom of information shall not prejudice public order and good morals, the right of every citizen to honour, good reputation and the privacy of personal and family life. It is also guaranteed so long as it does not prejudice the protection of the youth and minors.”

¹³⁸ Law N° 18/2002 governing the Press of 11/05/2002; of relevance are also Art 20 of the Law on Political Parties as well as Article 38 of the Electoral Law which provide for an equal access to public media for political parties and candidates.

¹³⁹ See e.g. Art 65-72 of the Law governing the Press.

¹⁴⁰ The High Council of the Press is established in accordance with Art 34.4 of the Rwandan Constitution. See also Art 73-75 of the Law on the Press and Presidential Order N° 99/01 on Structure, Organisation and Functioning of the High Council of the Press (12/11/2002). The Members of the High Council of the Press are appointed and dismissed by the cabinet and proposed by the Minister responsible for the press. The HCP is headed by an executive committee or bureau elected by secret ballot at the first meeting where at least 2/3 of the members are present.

¹⁴¹ Art 68-72, 76-94 Law governing the Press.

guarantee the equitable access to public media for all contestants during the electoral campaign and to provide journalists with guidelines for election coverage.¹⁴²

The HCP established and adopted a special code of ethics for the election period designed to preserve professional standards among journalists and which was generally considered as a set of rules that each journalist had to respect.¹⁴³ The HCP also authorised private media to disseminate political advertising.

A new draft law governing the press is in the process of promulgation. It would improve the legal framework regulating the media industry, including provisions for a “newspaper distribution company”.¹⁴⁴ The draft law also contains certain provisions which could be problematic in the context of the freedom of press and information. The existing prohibitions of defamation and ‘divisionism’ are reiterated and it will be a criminal offence to publish or broadcast any information that is assessed as ‘divisionism’, genocide ideology or “endangers public law and order or public decency”.¹⁴⁵ The Rwandan National Commission for Human Rights raised this as a matter of concern for the freedom of expression. Also, the draft law reserves the exercise of the profession of journalism to those in possession of a university degree from a recognised journalistic or communication institute and the establishment of press organs is conditioned by high deposits.¹⁴⁶

C. Monitoring of Media Coverage of the Elections

The EU EOM monitoring included a sample of 16 newspapers,¹⁴⁷ six electronic media outlets, both public and private with national coverage¹⁴⁸ and five regional community radios (three of them public stations).¹⁴⁹ Monitoring focused on prime time news, debates, and talk-shows, paid ads, free air time, civic education, front page visibility, election related and political coverage.

Prior to the start of the electoral campaign, media mainly covered the sub national selection processes (primaries) for candidates of the three political entities, with the RPF-led coalition receiving the majority of coverage. Other than that, the upcoming elections did not feature prominently in the media before the start of the campaign.

During the electoral campaign period, which commenced on 25 August, TV Rwanda and Radio Rwanda complied with their legal obligation to provide slots of free air

¹⁴² See High Council of the Press’ Regulations No 008 of February 6, 2008 replacing instructions No 004/2003 providing to Political Parties, Coalitions of Political Parties and Independent Candidates equitable Access to Public Media during the Legislative Electoral Campaign.

¹⁴³ High Council of the Press Regulations No 09 of July 2008 establishing Guidelines for Election Coverage in Rwanda.

¹⁴⁴ Art 2 Draft Law on the Press.

¹⁴⁵ Art 79 Draft Law on the Press.

¹⁴⁶ RWF 6,000,000 for print press, RWF 50,000,000 for a radio stations and RWF 100,000,000 for TV stations. Art 21.8 Draft Law on the Press.

¹⁴⁷ From 4 August to 20 September.

¹⁴⁸ From 10 August to 20 September.

¹⁴⁹ From 22 August to 20 September.

time¹⁵⁰ to all contestants. TV Rwanda was also obliged to cover the electoral campaign for each party during 3 minutes on a daily basis on the evening news bulletin. Prerequisite for this was that the broadcaster was informed about the electoral event 24 hours in advance.

In the EU EOM analysis, the RPF-led coalition received more coverage in the prime time evening news than the other contenders with 85.9% on TV Rwanda, while PSD received 12.8%, PL 1.1% and the independent candidate 0.2%. On Radio Rwanda the RPF-led coalition was ahead with 64.7% while the PSD received 20.5%, PL 14.8% and the independent candidate was not covered at all. Coverage in the two state-owned newspapers¹⁵¹ was more balanced with 43.9% for the RPF-led coalition and 56.1% for the other contestants.¹⁵²

The RPF-led coalition was the only contestant in this election conducting a professional campaign in the media, highlighting government achievements, economic growth, future development and success in foreign policy. An important element of this media campaign were five different political clips, each of them addressing a specific target audience broadcast on all four private radio stations with national coverage. Each clip was aired three times per day and per radio station, representing 78.9% of all airtime of political clips. The PL broadcasted at the beginning of the campaign 20 announcements on radio Flash FM indicating the schedule of their meetings. The PL also aired four clips per day on radio Contact FM.¹⁵³ The PSD launched a limited media campaign with two political spots per day on Radio 10. Over the last five days of the campaign, the PSD additionally aired three clips daily on radio City FM and radio Flash FM. Of the total amount of political clips, PL had a share of 5.3% and PSD 15.8%. Additionally, the RPF-led coalition and the PSD used the private regional radio stations “Radio Salus” in the Southern province and “Radio Izuba” in the Eastern province to disseminate their political clips.¹⁵⁴ The independent candidate informed that he did not have the financial resources to broadcast any political adverts.

In the news bulletins, the private radio station City FM gave little but equal coverage to all contestants, while Flash FM and Radio 10 did not cover the campaign. The EU EOM media monitoring revealed three breaches of the 24 hour campaign silence period.¹⁵⁵ The 14 September edition of the daily “The New Times” carried a full page RPF advertisement and on 15 September an article reporting about an RPF rally including an archive picture. The private newspaper “Umurizi”¹⁵⁶ in its edition of 14 September had a two page advertisement for the RPF¹⁵⁷ and a full page article on the RPF election campaign.

¹⁵⁰ On TV Rwanda 2x10 minutes and on Radio Rwanda 2x15minutes in total free air time for the whole campaign period.

¹⁵¹ “La Nouvelle Relève” (in French) and “Imvaho-nshay” (in Kinyarwanda).

¹⁵² PL received 25.5%, PSD 21.8% and the independent candidate 8.8%.

¹⁵³ Contact FM aired two clips daily free of charge for the PL only.

¹⁵⁴ Radio Salus in the Southern province and radio Izuba in the Eastern province were the only regional private radio stations that aired the political clips.

¹⁵⁵ The campaign silence period started on 13th of September at 18:00 and lasted until the end of the elections.

¹⁵⁶ Published every 15 days.

¹⁵⁷ The second and last page of the newspaper.

For the period from 15 to 20 September, media outlets did not report extensively on the elections. Media outlets respected the new code of ethic adopted for the election period stating inter alia, that polling results should not be communicated to the public before the closure of the last polling station.^{158,159} With the exception of the only daily newspaper “The New Times”, no print media were published during the polling days. Equally, private radios, with the exception of “Contact FM”, did not cover the election days. The public electronic media, TV Rwanda, in association with Radio Rwanda both broadcasted a special daily election programme before and after the evening prime time news from 13 to 16 September with general election related information. Information provided included location of polling stations and partial turnout figures.

The reportage in both electronic and print media during the election period was neutral to positive. Radio stations also used a neutral to positive tone in their coverage. In the print press, with the exception of the two newspapers “Umuwugizi” and “Umuseso”, which were very critical towards the government, print media outlets used a neutral to positive tone in their election related reports.

X. PARTICIPATION OF WOMEN IN THE ELECTORAL PROCESS

Rwanda experienced an unequal gender balance in the population following the genocide, when women greatly outnumbered men in Rwanda. This together with progressive legislation and government programmes has enabled women to take a substantive role in Rwandan representative political structures, a role that has further increased with the 2008 elections.

The 2003 Constitution ensures women’s representation in Parliament by establishing that out of the 80 seats in the chamber of deputies, 24 are reserved for women.¹⁶⁰ Likewise, at least 30% of the senators have to be female.¹⁶¹ The Constitution also provides that women should hold at least 30% of all decision making positions.¹⁶² In the executive and the judicial branches, women representation is significant and exceeds the constitutionally required 30% quota.¹⁶³ Women hold 38% of ministerial posts and 33 % of state secretarial posts. However, only 7% of district mayors and 13.3% of vice mayors for economic affairs are women which contrasts with (?) the 63% of women among the vice mayors for social affairs. Likewise, only 17% of the Executive Secretaries in districts and only 13% of the Executive Secretaries in the Sectors are women.¹⁶⁴

¹⁵⁸ Art 33 of the HCP regulations No 9 of July 2008, establishing election coverage in Rwanda.

¹⁵⁹ When the HCP organized training for journalists on the new code of ethics from 12 to 14 August, Article 33 containing the relevant provision was subject to discussion amongst journalists who were very critical regarding its provisions. The HCP replied that article 33 was not subject to any further interpretation.

¹⁶⁰ Art 76.2 Const: “24 women are elected by specific councils in accordance with the administrative entities”.

¹⁶¹ Art 82 Const.

¹⁶² Art 9.4 Const.

¹⁶³ According to statistics of the Beijing Secretariat, Rwandan Government, as of August 2008.

¹⁶⁴ National police have 10% female representation while the chief of police is a woman, only 0.2% of prison supervisors are women. No figures on the military are available.

The 2007 amendment to the 2003 Law on Political Parties establishes that the candidate lists of political entities submitted to the NEC have to contain at least 30% women, although the law does not specify where on the list women should be placed.¹⁶⁵ The percentage of women on the final list of the RPF led-coalition was 44%, exceeding the mandatory 30%. Among the first 40 candidates 18 were women. The PSD had 33% and the PL had 37% women on their lists.

On 23 August the NEC also published the list of candidates for the 24 seats reserved for women to be indirectly elected. 113 candidates were presented. 24 women competed for the 6 seats to be elected in the Southern province, 26 for the 6 seats in the Western province, 24 for the the 6 seats in the Eastern province, 23 for the 4 seats in the Northern province and 16 candidates competed for the two seats in Kigali.¹⁶⁶ As 113 women were contesting for 24 seats countrywide these elections were by comparison the least competitive. The law does not require candidates for the seats reserved for women to disclose potential party affiliation. Women, who are indirectly elected, are therefore not counted as party members, even in cases where they are affiliated with a party.

Women were visible both in the campaign and as a campaign issue, mainly in the RPF rallies. Campaigning for the 24 indirectly elected seats reserved for women was highly regulated and limited to a five-minute presentation for each candidate during an NEC-organized event for the electors in all 30 districts for the respective provincial candidates. Women candidates for the indirect elections were thus overall less visible than those placed on party lists.

The Chamber of Deputies, with 45 female deputies out of 80 in total reaches a worldwide record of 56.25%.¹⁶⁷ With the 9 women out of 26 members of the Senate, the Rwandan Parliament, with a total of 50.94% of women will again have the world's highest legislative representation of women.

3 out of 7 members of the NEC's Council of Commissioners are women. The coordinator was female in 31% of the cases of polling stations observed by the EU EOM on 15 September.

XI. PARTICIPATION OF CIVIL SOCIETY IN THE ELECTORAL PROCESS

The NEC issued a comprehensive invitation to 42 national and international organisations to observe the elections. The total number of the accredited observers was 1,204, 1,007 of which were domestic observers and 197 international observers.¹⁶⁸ The

¹⁶⁵ Art 5 of the Law on Political Parties.

¹⁶⁶ The number of reserved seats per province depends on size of population.

¹⁶⁷ 17 elected within the RPF-led coalition, in direct elections (out of 42)

2 elected within the PSD, in direct elections (out of 7)

1 elected within the PL, in direct elections (out of 4)

24 elected by indirect elections

1 elected by indirect elections representing youth, on September 17 (out of 2).

¹⁶⁸ The NEC announced that 14,121 observers had been accredited for the elections. This includes 12,912 representatives of political entities.

EU EOM was the largest international group. The East African Community Assembly, the African Union and the Commonwealth Secretariat also fielded observers. Notable was the deployment of observers from the Rwandan National Commission of Human Rights and the National Commission of Unity and Reconciliation.

Rwandese civil society is historically weak but is undergoing substantial changes notably its growing confidence as a voice and advocate for change and development. With the notable exception of women's organisations who conducted training for female candidates, the main avenue for civil society electoral observation was primarily through the "Civil Society Election Observation Mission" (CSEOM). In addition, other activities took place such as the EC-funded civic education by the local NGO "Sharing Rwanda" as well as democratic debates on the elections, aired on two radios and organised by the youth organisation "Ajprodho" .

Civil Society Election Observation Mission (CSEOM)

The CSEOM deployed by the newly established Platform of Civil Society organised an effective and countrywide domestic, non-partisan observation programme, based on the EU EOM methodology. The Platform comprises around 700 civil society organisations. It fielded LTOs in good time before campaigning started and STOs were recruited through competitive selection by CSEOM member groups. The CSEOM was launched on 18 August.

On election day, the CSEOM had a total of 529 observers in all 30 districts. At a press conference on 19 September, the group presented their findings, with a press release and a preliminary statement.

Ligue des Droits de la Personne dans la Region des Grands Lacs (LDGL)

The "Ligue des Droits de la Personne dans la Région des Grands Lacs" (LDGL) received its accreditation from the NEC late in the process. As the LDGL included observers from the Democratic Republic of Congo and Burundi, it underwent the procedure for international organisations, including signature of a MoU. LDGL deployed around 60 Long Term Observers and had a total of 116 observers on 15 September.

League for the Promotion and Defence of Human Rights (LIPRODHOR)

After being refused independent accreditation by the NEC, the League for the Promotion and Defence of Human Rights (LIPRODHOR) was unable to field a planned observation mission. The NEC reasoned that no organisation should participate in two different observation missions and that LIPRODHOR was formally included in the CSEOM, since it was a member of the umbrella organisation "Collectif des Ligues et Associations de Défense des Droits de l'Homme" (CLADHO), itself a member of the CSEOM. The basis of this decision was the MoU signed between the NEC and the CSEOM.

Due to their expectation to field an independent mission, Liprodhor had previously refrained from presenting observers to the CSEOM via CLADHO.¹⁶⁹ Subsequent to the NEC's refusal to grant observer accreditations to LIPRODHOR, follow-up negotiations between the CSEOM and LIPRODHOR were inconclusive. Ultimately LIPRODHOR participated with two short-term observers in the CSEOM.¹⁷⁰

The NEC also refused LDGL accreditation for any members of its observer pool that were at the same time members of LIPRODHOR, again reasoning that an organisation could not participate, even indirectly, in two different observation missions. LDGL complied with this condition.

XII. ELECTION DAY (Direct elections of 15 September)

On election day fundamental safeguards for transparent elections were not always respected even though they had been foreseen under NEC procedures. Therefore assessment of the entire process of the consolidation of results, proved extremely difficult.

A: *Overview of Voting*

The EU EOM deployed 101 observers on election day. They observed the opening of polling stations, the voting process, the closing of polling stations, the counting of votes and the different stages of consolidation that took place at different levels. EU EOM observers used standardized forms for quantitative and qualitative reporting to ensure consistent information across the country. In addition, debriefings took place in the regions and in the capital after election day. The observation covered all 30 provinces of the country. The mission observed opening procedures in 44 polling stations and observed 576 polling stations for voting, which was conducted from 6:00 to 15:00 on 15 September. Closing and counting was observed in 38 polling stations and consolidation at polling centre level was observed in 35 cases. From polling centres onwards the consolidation process became non-transparent and was not conducted following the NEC procedures.

Polling was conducted in a peaceful and calm environment and was well prepared by the NEC, with some early or late openings reported by EU EOM observers. Early in the morning long queues of voters lined up in front of the polling centres, mostly schools which hosted up to 7 polling stations.

While procedures for opening were generally adhered to, a count of ballots received was not performed in 50% of the openings observed. The omission of this part of the procedure is of concern as it impedes the reconciliation of ballots, an important safeguard. Another important safeguard, the sealing of the ballot boxes was not performed in 76% of the polling stations observed for opening. After intervention of

¹⁶⁹ One of the reasons stated in interviews with the EU EOM for a separate observation was additional funding from external sources, namely the Canadian government.

¹⁷⁰ LIPRODHOR's umbrella, CLADHO, presented 3 candidates to be LTOs, none of them from LIPRODHOR. In what relates to STOs, grassroots organisations selected the STOs to be trained, and among the 500, two were from LIPRODHOR.

various stakeholders with the NEC, by 8:30, ballot boxes started to be sealed. Nevertheless, observers continued to note unsealed ballot boxes or ballot boxes inadequately sealed with seals not tightened.¹⁷¹ Also, seal numbers were not noted down in 100% of the cases. Polling station personnel explained that sealing was to be performed after counting only and that only two seals had been provided.¹⁷² The NEC in Kigali confirmed that it had instructed to seal the ballot boxes after counting only, in accordance with the law. The Electoral Law and the NEC procedures do not mention the sealing of ballot boxes at all. While the handling of this new type of ballot box might have been unclear to Polling Station staff,¹⁷³ the adequate sealing of ballot boxes to prevent malpractices is a key electoral best practice which should be implemented in the future.

In the polling stations observed for voting, EU EOM observers met other international or national observers in 19.7% of cases, with CSEOM observers being in the majority. Representatives of political entities were present in 73.19% of polling stations observed. In these polling stations RPF agents were met in 97.6%, PSD agents in 11.4% and PL agents in 3.7% of the cases. The presence of authorities of various levels of the local administration was noted during polling.

EU EOM observers reported that in 32% of polling stations observed voters were added on additional voter lists during election day. Voters were added on forms provided by the NEC, in other cases on sheets of paper often without proper identification of the voters added. The NEC procedures had initially foreseen that voters not on the voter list, but in possession of their voter card would be allowed to vote by adding them on an additional voter list, Annex III of the NEC procedures.¹⁷⁴ On 9 September, the NEC amended this provision to the effect that only voters on the voter list were allowed to vote with the exception of students, who were away from their original place of registration. These students, upon proper identification had to be entered on the additional voter list, Annex III. The late issuing of this instruction, just 6 days before the election raises the question whether all PS staff were aware of it. The last day of PS staff training was 11 September. Another category of voters allowed to vote away from their original place of residence were persons “on Mission”, who had to show an “ordre de Mission” from their employer and were then added to the voter list on Annex II of the NEC regulations. The EU EOM was not able to establish whether the voters added to additional voter lists were subsequently removed from their original place of registration.

In some instances the discrepancy between the number of voters on the voter list and ballots cast were high and it could not be substantiated as to whether this was due to additional student voting, or voting “on Mission”. The EU EOM directly observed discrepancies between the number of voters on the voter list and ballots cast in

¹⁷¹ In 63% of polling stations observed after 11:00 on election day, EU EOM observers encountered unsealed ballot boxes or seals not properly tightened.

¹⁷² After the elections, the EU EOM was informed by the NEC Executive Secretary that all ballot boxes had been procured with 5 numbered seals.

¹⁷³ Previously, wooden ballot boxes with screws had been used. The use of ballot boxes with numbered seals was recommended by the EU EOM 2003.

¹⁷⁴ Art 24 of NEC procedures.

Akarembe PS, Gasabo district, Kigali City¹⁷⁵ and in Karambi PS, Rulindo district (Northern province).¹⁷⁶

While the application of indelible ink to a voter's finger to avoid double voting was performed in 94% of the cases, checking for traces of ink before issuing a ballot paper was not performed in 67% of observations. Voters arriving after 15:00 were allowed to vote in 40% of cases observed.

Polling was generally well performed and assessed as very good or good in 76% of observations, but the non-sealing of ballot boxes and the addition of voters to additional voter lists not always in accordance with procedures weakened the integrity of the process. The announced final voter turnout of 98.31 % cannot be verified by the EU EOM.

B: Counting

While the Electoral Law provides that counting has to begin immediately after closure of the polls, the NEC procedures detailed that counting had to begin at 16:00, which left the process interrupted for one hour. The NEC explained that the hour was used by PS staff to refresh and eat and EU EOM observers did not report any irregularities. Nevertheless this provision in particular in light of the non-sealing of the upper slot of the ballot box after the end of voting as observed in 73% of the cases, could have left room for potential electoral abuse, though none was observed.

Before opening of the ballot boxes according to procedures, voters having cast a ballot had to be counted off the VL. This was not performed in 55.3% of the observations. Reconciliation of ballots was omitted in 54.1% of cases observed. Despite these procedural shortcomings, counting was assessed as good or very good in 70% of polling stations observed. The ballots were clearly visible, read out aloud in almost all cases (97%) and recorded on tally sheets per political entity. However, polling station results were not announced in 29.7% of cases observed. This is of particular concern as there is no provision to post the results at the polling station or at any later stage of the consolidation process.

XIII. RESULTS

A: Tabulation and Announcement of Results

Late changes to consolidation procedures

According to NEC procedures, the consolidation of results had to be done at the polling centres, at the districts and at the province/city of Kigali level before transmission to the central NEC in Kigali. Initially, the NEC had planned to perform a computerised consolidation at district level, from where results would have been sent to the NEC HQ in Kigali. In mid-August, the NEC informed that the computerised consolidation would

¹⁷⁵ Out of 429 voters in the VL, some 360 had voted, but the number of ballots in the ballot box was 569.

¹⁷⁶ 617 votes were cast, while 462 voters were registered on the VL.

not take place for technical reasons, notably insufficient training of NEC personnel and lack of time to run a full test. The NEC confirmed that instead manual consolidations would take place at polling centres, at the districts, at the provinces and Kigali City, to end with a final national consolidation which would produce preliminary results for the country. Importantly and in the interest of openness and transparency, the NEC had produced forms with the aggregated results of the consolidation for each step of the consolidation process to be filled out and delivered to the next higher level. Forms for each of these steps were annexed to the NEC procedures.

Late in August some EU EOM observers expressed concern regarding the consolidation process to the Core Team in Kigali. In a number of cases they were informed by local NEC agents that one additional level of consolidation would be performed at the sectors. The EU EOM sought clarification from the NEC in Kigali and on 2 September was assured that there would be no consolidation at the sectors, the only consolidations to be performed would be, as per procedures, at PCs, at the districts and at the provinces/ Kigali City. The role of NEC agents at the sector would be restricted to the physical transfer of results from the PCs to the districts, for further consolidation. This changed when on September 8 the NEC decided to perform a consolidation at sector-level. Subsequently the NEC produced a new set of Annexes (results forms and the different consolidations forms, including a form for sector consolidation).

The NEC also informed the EU EOM that the sector consolidation would be performed at the NEC's district offices where in different rooms the consolidation of the sectors would take place. Once the sector consolidation performed, the corresponding consolidation forms would only have to be moved to other rooms within the same building for the next consolidation to take place at district level.

Observation of consolidation

The first step of consolidation of polling station results at polling centre level was not as well organised as the previous electoral steps and observers reported disorder in 22.9% of the cases. NEC consolidation procedures were not followed in 41.9% of the observations. The results forms of the polling stations were not secured inside envelopes, not sealed and marked with the PS name, as required by procedures, in 68.6% of the cases observed. Furthermore, the results being transferred from the results forms of the polling stations to the consolidation form of the PC were not always visible to those present in 58.8% of the cases observed.

The consolidation process from polling centres to sectors was observable by 13 of the 35 EU EOM observer teams only. In the other cases transmission of results was conducted by telephone and no physical transfer of forms and material took place. Two EU EOM teams were directed to the wrong location.¹⁷⁷ In 11 of the 13 sector consolidations observed, the process was assessed as poor or very poor with procedures not properly followed in 63.9% of the cases and results from the polling centres not clearly visible for those present in nine of the 13 sector consolidations observed. In Kigali, polling centre results were directly delivered to the national NEC office by the provincial NEC coordinator in the cases observed.

¹⁷⁷ In Rutsiro and Ngororero district, Western province.

At the district level the transmission of results in contravention of NEC procedures was again conducted mainly by telephone without physical transmission of forms. Thus, the process was not fully observable by the EU EOM.¹⁷⁸ In Nyabihu district, Western province, EU EOM observers were not allowed to enter the NEC district office. In Nyamagabe district, Southern province, at 22:30 EU EOM observers were told that only 2 sectors had arrived and at 24:00 consolidation still had not started. As in most cases upon re-visiting the district NECs in the morning of 16 September, they were informed that provisional district results were not available to observers from district NECs and only the national NEC was authorised to release results.¹⁷⁹ In only two of the 30 districts, EU EOM observers received the preliminary results for the district from NEC officials on 15 September.¹⁸⁰ A fully transparent and observable process of consolidation of results is essential and gives complete credibility to the electoral process.

B. Publication of Results

Preliminary results, excluding Out-of-Country voting and results for the direct elections were announced on 16 September. On 22 September there was an additional announcement of results, this time including the indirect elections and Out-of-Country voting, subsequently published on the NEC website as provisional results. Final results were announced in a press conference on September 25, in compliance with the law, but were not published immediately. The NEC, when consulted on 25 and 26 September explained that corrections of some small mistakes in the numbers were being conducted. On 29 September the final results appeared on the NEC website.

Official Results (National Election Commission website, 29 September 2008)

| Province | RPF-led coalition | PSD | PL | Ind. | valid votes | RPF-led coalition% | PSD% | PL% | Ind. % |
|--------------|-------------------|----------------|----------------|---------------|------------------|--------------------|---------------|--------------|--------------|
| KIGALI CITY | 420,952 | 69,390 | 39,651 | 5,569 | 535,562 | 78.60% | 12.95% | 7.40% | 1.03% |
| SOUTHERN | 824,556 | 203,872 | 116,496 | 5,567 | 1,150,491 | 71.67% | 17.72% | 10.12% | 0.48% |
| WESTERN | 945,563 | 101,770 | 58,154 | 5,568 | 1,111,055 | 85.40% | 9.15% | 5.23% | 0.50% |
| NORTHERN | 623,565 | 123,475 | 70,565 | 5,584 | 823,189 | 75.75% | 14.99% | 8.57% | 0.67% |
| EASTERN | 841,320 | 110,820 | 63,320 | 5,560 | 1,021,020 | 82.40% | 10.85% | 6.20% | 0.54% |
| TOTAL | 3,655,956 | 609,327 | 348,186 | 27,848 | 4,641,317 | 78.76% | 13.13% | 7.50% | 0.60% |

In a commendable effort to offer participation in the election to Rwandans abroad, the NEC organised Diaspora voting in all 19 Rwandan embassies. Out of 16,688 Rwandans registered, 8,256 participated (49.47%), with 8,148 valid ballots and 108 invalid ballots. The RPF-led coalition received 7,777 votes (95.14%), the PSD received 179 votes

¹⁷⁸ In Burera, Gicumbi, Rulindo and Gakenke district, Northern province, in Rutsiro, Ngorogero, Nyabiho, Rusizi and Nyamasheke, Western province, most districts in the Southern province,

¹⁷⁹ In Rwamagana and Ngoma districts, Eastern province, EU EOM observers were informed in the morning of 16 September that the district consolidation was not ready yet.

¹⁸⁰ Upon re-visiting district NEC offices between 16 and 22 September, EU EOM observers received the provisional district results in six more districts.

(2.19%), the PL obtained 167 votes (2.01%) and the independent candidate obtained 43 votes (0.34%).

Consolidated election results, including out-of-country voting, as published on the NEC website 29 September 2008

| RPF-led Coalition | % | PSD | % | PL | % | Ind. Cand. | % |
|--------------------------|----------|------------|----------|-----------|----------|-------------------|----------|
| 3,663,743 | 78.79 | 609,496 | 13.10 | 348,353 | 7.49 | 27,871 | 0.59 |

No. of voters on the VL: 4,769,228

No. of voters who voted: 4,688,894 (98.31%)

No. valid ballots: 4,649,463 (99.15%)

No. of invalid ballots: 56,480 (1.2%)¹⁸¹

Comparison of 2003 and 2008 Chamber of Deputies election results.

| | 2008 | Seats | 2003 | Seats | change | Change seats |
|------------|-------------|--------------|-------------|--------------|---------------|---------------------|
| RPF | 78.79% | 42 | 73.78% | 40 | + 4.98 | +2 |
| PL | 7.49% | 4 | 10.56% | 6 | -3.06 | -2 |
| PSD | 13.10% | 7 | 12.31% | 7 | 0.81 | / |

C: Political Overview of the Election Results

The election period concluded peacefully and no election related-violence was reported. No visible celebration or protest followed the announcements of preliminary or final results. The independent candidate publicly questioned, but did not contest, the results.

According to official results, the political landscape of Rwanda has changed little, with the PSD gaining some ground, the PL losing some and the RPF gaining and maintaining its predominant position.

The EU EOM was unable to carry out effective observation of the consolidation and tabulation of results, primarily due to difficulties mentioned earlier in this report. Therefore the EU EOM's low statistical sample taken during counting and consolidation is not adequate for an effective analysis. The decision was taken to discount the sample and any discrepancies between the provisional figures, the EU EOM figures and the final official figures and instead to rely solely upon verifiable analysis of the process and procedures.

In that analysis it is clear that full compliance with international standards must be introduced as part of the reform to increase democratic accountability, openness and transparency throughout the electoral process, including computing and consolidation of all results. The public announcement and publication of results at each level of

¹⁸¹ Note: valid and invalid ballots do not add up to 100%.

counting, consolidation and reconciliation is paramount. The procedures issued by the NEC for consolidation must be implemented and adhered to.

XIV. INDIRECT ELECTIONS

Regarding the indirect elections for the 24 seats reserved for women, the EU EOM was informed by the NEC that these would be conducted in the four provinces and the city of Kigali, which was confirmed by the NEC Legal Expert on 25 August and is also detailed in the NEC procedures. Contradictory to this information, EU EOM observers in the field in some areas were told that elections would be conducted in the district capitals. On 28 August the NEC finally confirmed that the information about the election taking place at the districts was correct, based on a Presidential Decree of 9 April 2008, which precedes the regulations and procedures, dated 25 July 2008 and made available to the EU EOM on 7 August.

The elections for the 24 seats reserved for women were conducted at the 30 districts in a calm and well organized manner, fully observed by the EU EOM and other national and international organisations. While there were some procedural shortcomings,¹⁸² this electoral exercise was assessed by the observers as very good or good in 77.4% of the observations and the rating of the polling staff and NEC agents participating in it, was equally appreciated as very good and good in 77.5% of the observations.

The consolidation of results for the indirect election on 16 September at provincial/Kigali city level was observed in the Northern province, the Southern province and Kigali city and was assessed as good in Kigali city and as very good in the two provinces.

Indirect elections for the 2 deputies representing youth held in Kigali on 17 September with a total of 264 electors were assessed as very well conducted by EU EOM observers.

Indirect elections for 1 deputy representing the disabled on 18 September with a total of 783 electors were also held in Kigali and assessed as very good by the observers.

¹⁸²Reconciliation of ballots not performed in over half of the observations, inking and checking for traces of ink not always performed, ballot boxes not properly sealed in some cases and in four cases persons not on the electors list were allowed to vote.

XV. RECOMMENDATIONS

Improve the Legal Framework

Essential:

1. The election legislation should be amended in order to incorporate fundamental transparency requirements for the electoral process, including the publication of results at polling station level and at later stages of the consolidation process.
2. The election legislation should also establish and further detail the rights of election observers and candidate and party representatives, especially their rights during the consolidation of results.
3. The Electoral Law should be amended to ensure the voting rights of all individuals in closed institutions, including those in hospitals as well as detainees in pre-trial detention and prisoners convicted of minor offences.
4. The vague prohibitions of defamation in the Electoral Law and similar provisions prohibiting defamation and ‘divisionism’ in the Law governing the Press and the Law instituting Punishment for Offences of Discrimination and Sectarianism, should be more clearly defined. This was already recommended with respect to the Law instituting Punishment for Offences of Discrimination and Sectarianism already by the EU EOM 2003.
5. Contestants should be given an opportunity to review their dossiers before the rejection of their candidature. The deadline for the final publication of the definitive list of candidates should be well in advance of the start of the campaign period in order to give candidates the opportunity to prepare their campaign and to enable rejected candidates to appeal their rejection.

Desirable:

6. The Electoral Law and its subsequent amendments should be integrated in a consolidated version of the Electoral Law or in the foreseen Electoral Code in order to simplify their application. The translations of the different official language versions (English, French) of the electoral legislation should be reviewed in order to eliminate any linguistic inconsistencies.
7. The Electoral law should clearly define which activities constitute “illegal campaigning”. This could guide local authorities in their interpretation and reduce the potential of unequal application of the campaign regulations.
8. While the 2004 Law on the Supreme Court provides some improvements, complaints and appeals procedures concerning election campaign violations should be outlined more in detail. Appropriate mechanisms for challenges/appeals against decisions related to the voter register should be established.

9. The contradictory timelines in the Electoral Law and the Law on the Supreme Court for the Supreme Court to decide on election petitions challenging the election results should be aligned.

Improve the Administration of Elections

Essential:

10. Regulations and procedures issued by the NEC should be reviewed and where necessary clearer, more precise and more detailed provisions should be proposed. It should be ensured that NEC procedures are properly enforced.
 - a. The use of additional voter lists should be limited and a reconciliation system for persons voting outside of their original place of registration needs to be introduced.
 - b. Detailed procedures should clearly establish the sealing of ballot boxes and the use of the numbered seals before voting starts, after voting finishes and after counting is completed.
 - c. Detailed procedures should reinforce the use of indelible ink to avoid double voting.
11. Results should be posted in the polling stations and party and candidate representative and observers should be entitled to receive a copy of the official results protocol. Additionally, results should be published by polling station and by polling centre.
12. The NEC should issue further guidelines to ensure the implementation of the reconciliation of ballot papers by enforcement of the existing law and procedures.
13. The consolidation of results should be public and transparent. The NEC procedures regarding consolidation of results as well as production and transmission of results protocols and consolidation forms need to be enforced.

Desirable:

14. The National Electoral Commission is advised to put in place a numbering system for polling stations and polling centres.
15. The one hour waiting period between the closing of polls and the counting of the votes should be abolished as it is not in accordance with the law. This was already recommended by the EU EOM in 2003.

Improve the Political and campaign environment

Essential:

16. Civil society should be further developed, perhaps through government and/or donor- funded programmes, to enable it to play its role in deepening democratic culture in the Rwandan society.
17. Agents for contesting political entities and domestic election observers should be trained on all aspects of the electoral process and the procedural requirements on election day to enable them to take a stronger oversight role. Training activities could possibly be funded by the donor community.
18. A clearer distinction between civic education and voter information is recommended. Civic education should focus on universally accepted concepts of democracy, good governance, the separation of powers of the state, the role of the Parliament, the rights and duties of a citizen and should also include a focus on individual and minority rights.

Desirable:

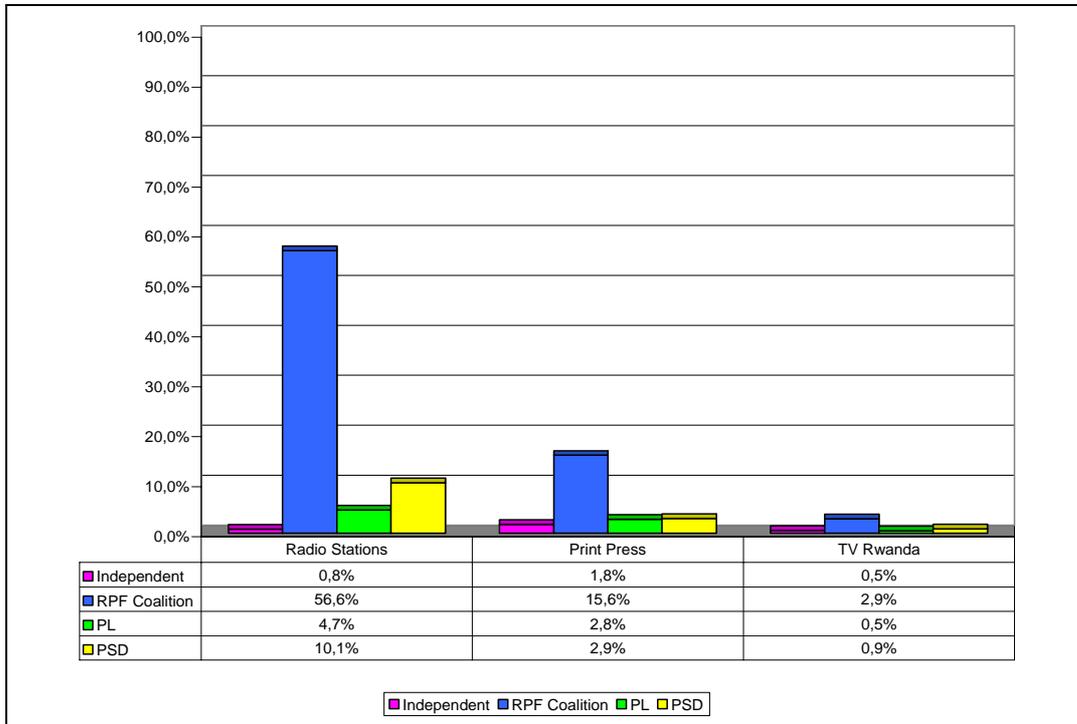
19. Within the context of Rwanda's history, the aim to create an environment conducive to open political debate should continue to guide the legislative process accompanying the democratic evolution of the country.
20. Campaign regulations advising local administration officials and all government officials on procedures should be adopted to enforce complete neutrality during the exercise of their official functions should be enhanced and fully implemented.

Media

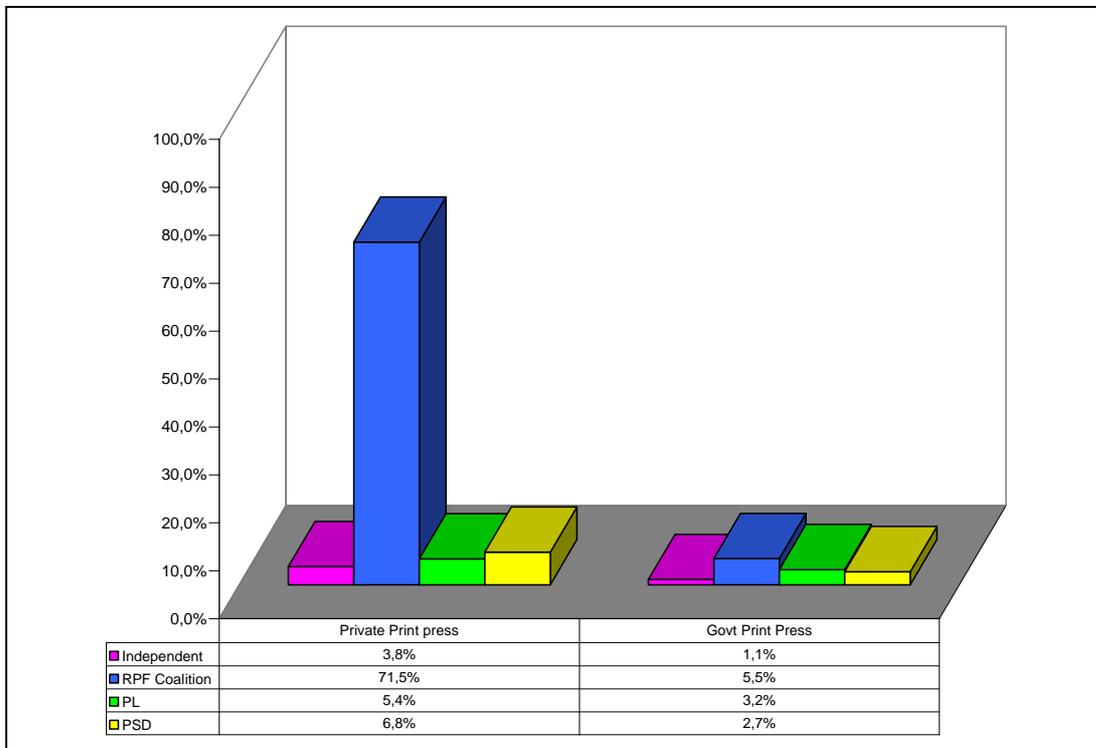
Essential:

21. A monitoring body utilising an internationally recognised methodology should be established to monitor electoral coverage and political advertising during election campaigns. This could be part of the tasks of the HCP and could be supported by the International Community.
22. Provisions in the law governing the media on defamation or 'divisionism', should be decriminalised and replaced with suitable and proportional measures. The current penalties are incompatible with international standards in this field.

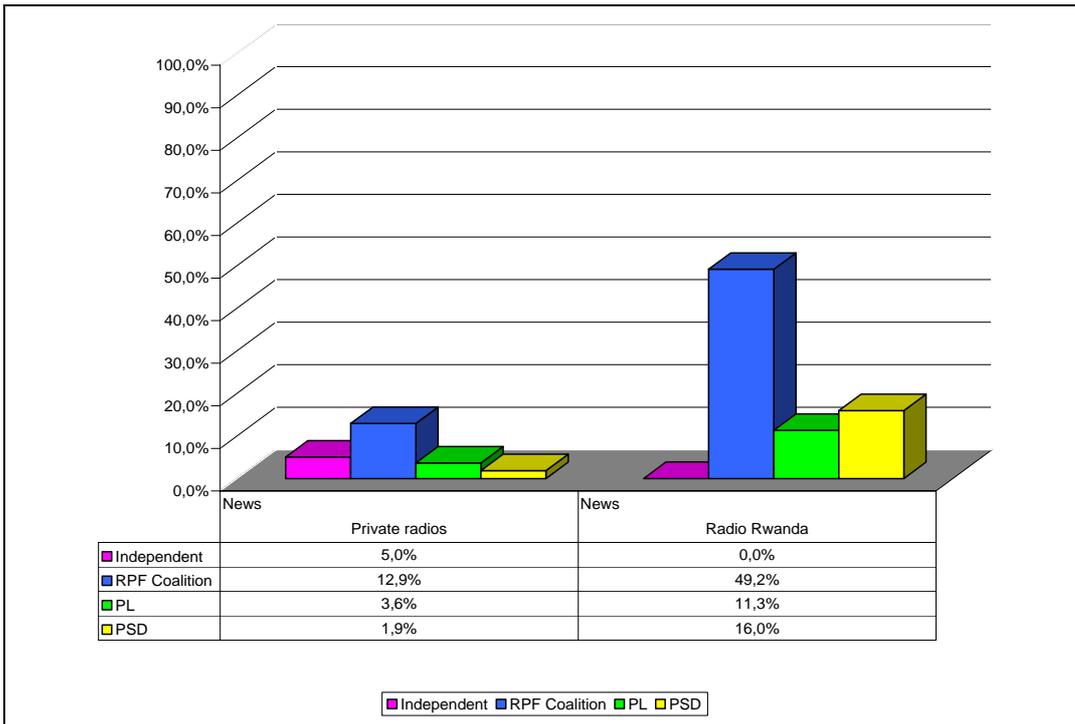
XVI. ANNEX I - Media Monitoring Graphics



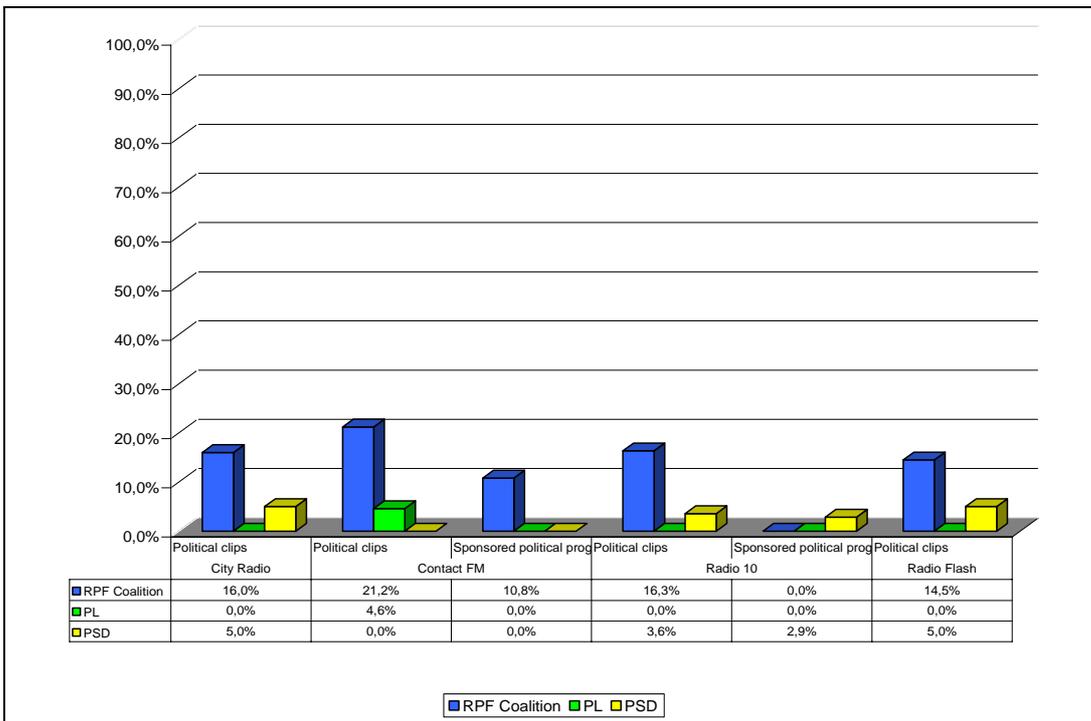
Total coverage of all political contestants during the electoral campaign based on the EU EOM sample, state owned and commercial media



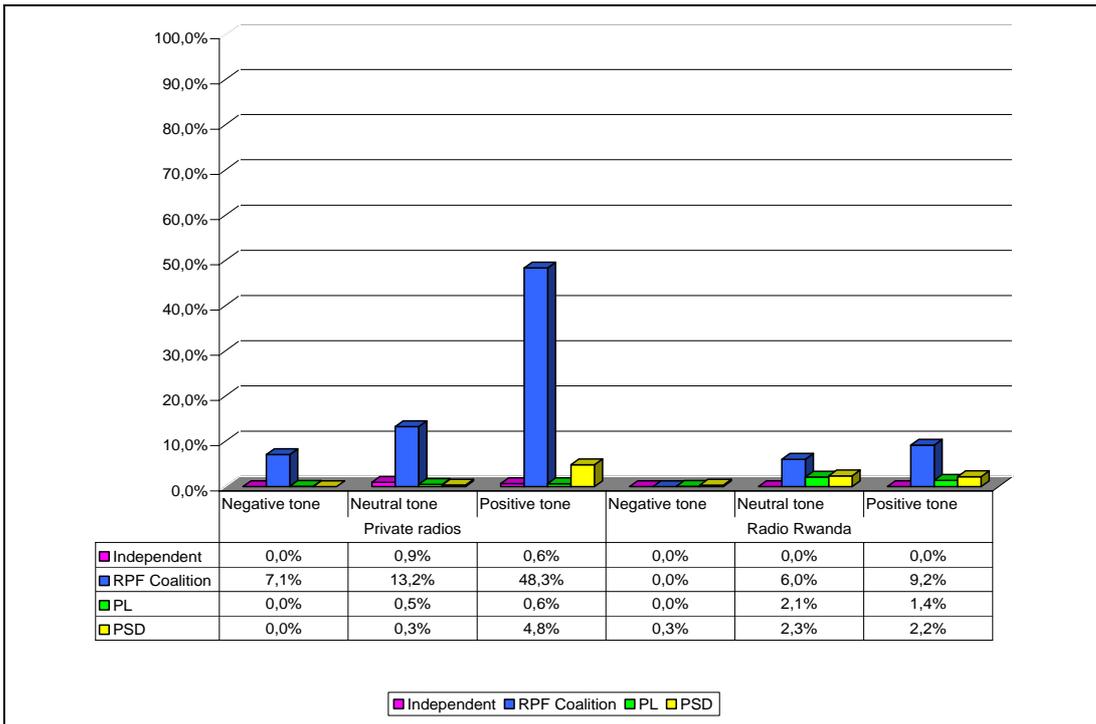
The general coverage of all political contestants during the electoral campaign in the state owned and private print media



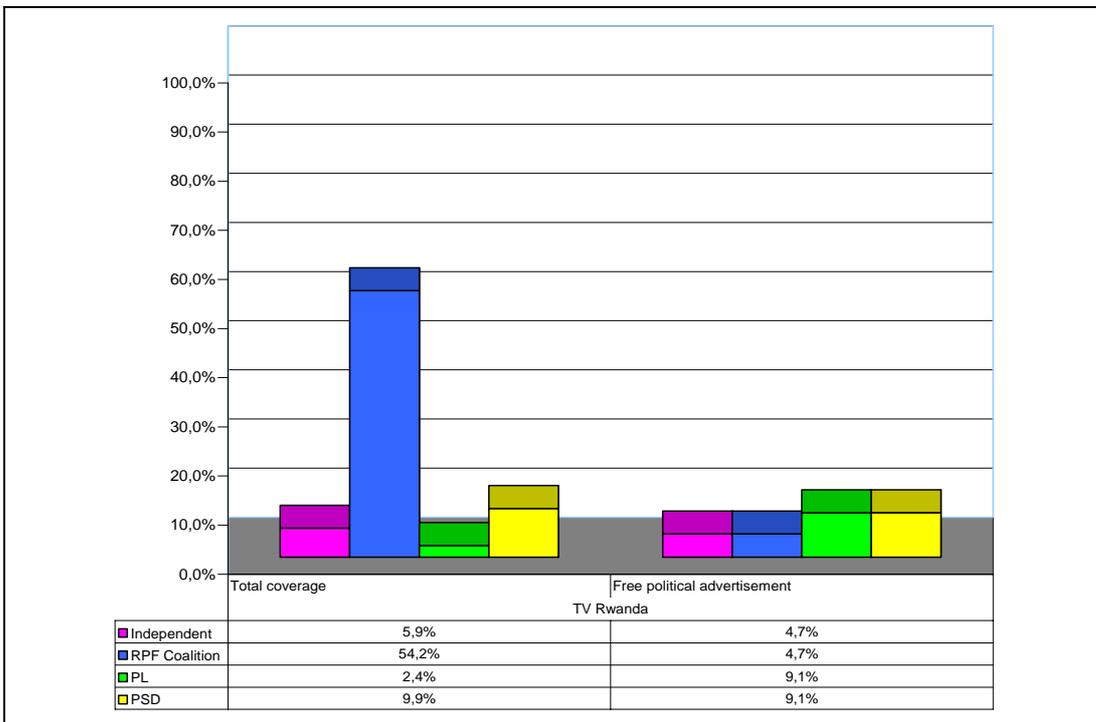
The news coverage for all political contestants during the electoral campaign period in the government and commercial radio stations with national coverage



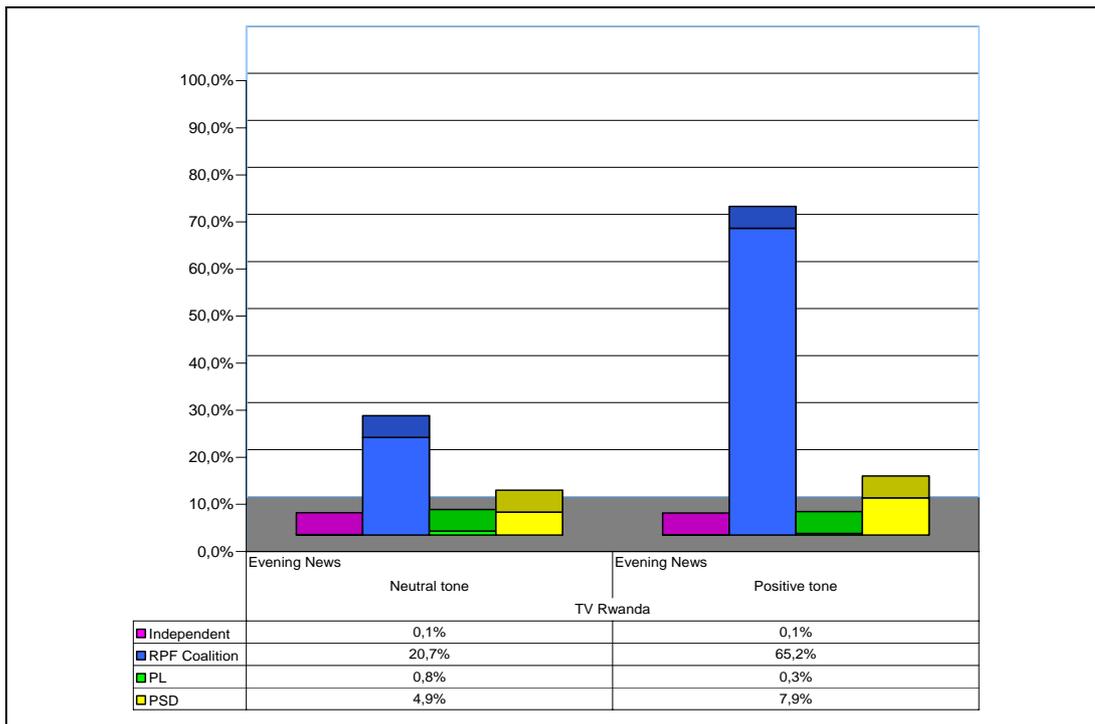
Political contestants' coverage only of political clips and sponsored political parties programmes for the commercial channels with national coverage



The tone of the total coverage in public Radio Rwanda and in the four commercial radio stations with national coverage. The graphs do not include free air time and paid or sponsored political space



Breakdown of the total and free air time coverage for all political contestants during the electoral campaign period on TV Rwanda (The independent candidate and RPF coalition were aired once, the independent candidate did not provide the clip on time and RPF did not provide the second clip)



The total coverage and the tone of coverage in the state owned TV Rwanda. The graphs do not include free air time