

**EU EOM GHANA
PRESIDENTIAL AND
PARLIAMENTARY ELECTIONS
2016**

FINAL REPORT

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I. Executive Summary

The 7 December 2016 elections were the seventh Presidential and Parliamentary Elections since the restoration of multi-party democracy in Ghana in 1992. The electoral landscape is dominated by the National Democratic Congress (NDC) and the New Patriotic Party (NPP), which, between them, have taken the presidency and the vast majority of seats in the parliament in successive elections. The EU was invited to observe by the Electoral Commission of Ghana (EC) on 20 July 2016. The Election Observation Mission (EU EOM) was present in the country between 26 October and 23 December 2016, and was led by Tamás Meszerics MEP, from Hungary.

The legal framework provides a basis for the conduct of democratic elections, and the Constitution guarantees fundamental freedoms, including the right to vote, the right to be elected and the freedom of assembly, movement, expression and association. Judges were well prepared for their election duties and the expeditious manner in which the judiciary dealt with a proliferation of cases during the pre-election period was helpful in ensuring the electoral timetable was maintained. However, while the right to an effective legal remedy is generally provided for, there are currently no deadlines for the resolution of election complaints and petitions. In addition, equal suffrage is not adequately provided for due to large variations in the number of voters per constituency.

The EC was reasonably well prepared for the polls, despite facing a number of legal challenges. The EC has a track record for organising credible elections and is established as an independent body according to the Constitution. However, the appointment of members of the EC solely by the president is not as inclusive as it might be. While the EC managed to generally administer the process effectively, it faced challenges, including communication, voter registration, ballot printing and special voting. Further, the EC did not make full use of the Inter Party Advisory Committee (IPAC), which could have been a far more positive actor in facilitating communication and EC-party relations, particularly at the national level. However, parties were afforded a high level of access to scrutinise the process, enhancing transparency.

There is a reasonable provision for the right to vote and the voter register was inclusive enough to ensure there is also universal suffrage. However, concerns were raised regarding the integrity measures for registration, and the total number of names on the register remains unrealistically high. Following a Supreme Court ruling for the register to be cleaned up, the EC attempted to address shortcomings, including through a public display of the register. While the voter register was ultimately accepted by all parties it is clear that questions remain regarding the process for removing ineligible or deceased voters from the register, as also acknowledged by the EU Election Expert Mission deployed in Ghana from July to September 2016.

There is freedom of association as well as the right to stand and the elections were competitive. However, provisions and timelines for nomination of presidential candidates lack coherence and the administrative management of the nomination of presidential candidates created concerns regarding the equal treatment of all candidates. A large increase in fees for candidates was also noted. Further, the provisions for party registration were not fully adhered to.

Women play a very active role in civil society in Ghana and there are a number of very high profile females linked to the electoral process, including the Chair of the EC and the Chief Justice. However, the numbers of women engaging in political life is relatively low, with many citing a harsh political environment as a deterrent. For these polls, the number of female candidates was relatively low, with just one woman contesting the presidency and 136 (11.8%) for the parliament. In the event, 37 women (13.5%) were elected to the new parliament, which is a small increase on the previous parliament, though still relatively low.

The campaign was vibrant and generally peaceful. Campaign freedoms were respected, with candidates and parties holding numerous rallies across the country, putting up posters and advertising in the media. A peace declaration was signed by presidential candidates on 1 December, which was welcomed. However, while not characteristic of the campaign overall, some incidents did occur and there was a level of apprehension among the public throughout, which was not helped by the presence of gangs linked to parties. In addition, an apparent lack of police action against perpetrators of violence led to accusations of impunity. The widespread monetisation of the campaign and the misuse of incumbency and state resources, by state, regional and district officials, was evident. Further, the prevailing regulations on campaign financing do not create a sufficiently level playing field and a lack of enforcement of these regulations means there is not adequate transparency in campaign financing.

Fundamental freedoms related to the media are protected by the Constitution and Ghana enjoys a fairly vibrant and diverse media, though there have been some reports of harassment of journalists and the National Media Commission lacks the power to adequately regulate the media. EU EOM media monitoring found overt bias in election coverage by state-owned GTV and Uniiq FM in favour of the ruling party and incumbent president.

The special voting process on 1 December experienced a number of problems, with lapses in the voter register and poor communication by the EC and other responsible institutions to inform people where to vote. On 7 December, there were some delays in the opening of polling stations, but overall voting was well managed, voters were free to express their will, party agents were present and integrity measures for the identification of voters were respected. However, the layout of polling stations did not adequately protect secrecy of the vote. The vote count was transparent, and party agents were provided with copies of the result. The management of the collation process varied and overall was less well organised and with disputes over some constituency results, but envisaged transparency measures were adhered to.

In the days after the poll there was some apprehension. Both main contenders were claiming victory, but at same time the EC's Election Results Management System, which was intended to provide more timely unofficial results, failed and the EC's communication of partial results was incomplete. However, on 9 December the EC declared presidential election results shortly after President Mahama conceded defeat. The Chair of the EC declared Nana Akufo-Addo of the NPP as the winner, receiving 53.85% of the 10.6 million valid votes cast. The incumbent president, John Mahama, received 44.4%. The official announcement of parliamentary results was noticeably slower, but the NPP secured a sizeable majority in the parliament. Ghana has now experienced three peaceful changes of power through an election, but this was the first time that an incumbent President has lost an election.

Priority Recommendations

1. An effective sanctioning mechanism against the misuse of state resources, including administrative and security apparatus, during the election period be established. This includes the limiting of the role of the government during the election period as strictly limited to caretaker functions.
2. The EC should work with full transparency, making all information of public interest immediately and easily accessible, including decisions, meeting minutes, key legislation, voter registration data and full and timely publication of polling station results.
3. The nomination deposits, particularly for parliamentary candidates be reduced, including a possible special dispensation for female candidates to help promote women's participation in political life
4. The candidate nomination process be organised in a way that allows candidates a meaningful opportunity to correct any errors in the submitted nomination forms.
5. Establish a reasonable timeframe for the resolution of presidential and parliamentary election petitions, which will increase stakeholder access to an effective remedy and also increase public and political confidence
6. GBC should be reformed to ensure it fulfils its obligations as a public service broadcaster. A transparent mechanism should be set up to ensure the independence and public accountability of state-owned media and a clear regulatory mechanism introduced to guarantee impartiality and balance in state media.
7. In order to ensure utmost transparency and accountability, the EC's capacity to enforce the provisions of the law on political/campaign finance should be enhanced. Alternatively, responsibility could be given to another body if deemed appropriate.
8. Enact the Affirmative Action Bill promoting at least a 30 % quota of women in governance and decision-making positions.
9. The EC be given the right to apply to the court to remove deceased and other unqualified persons from the provisional voter register based on information provided by relevant state institutions.

II. Introduction

The EU was invited by the EC to observe the elections by the EC on 20 July 2016 and a Memorandum of Understanding between the EU and the EC was signed on 18 October 2016. The EU EOM was led by Tamás Meszerics MEP, from Hungary. A Core Team of seven persons was present in Accra from 26 October. Twenty-four Long Term Observers arrived on 2 November and 32 Short Term Observers arrived on 1 December. The mission also included a six-person delegation from the European Parliament, led by Eduard Kukan MEP of Slovakia, and 16 Local Short Term Observers. In total, the mission deployed 87 observers for the Election Day, from all EU Member States as well as Norway, Switzerland and Canada¹.

¹ The EU EOM wishes to express its appreciation for the cooperation of the people of Ghana, the Government, EC, the police, political parties, media, civil society, EU Delegation and Missions of the EU Member States.

On Election Day, observers reported from 138 Constituencies across all 10 Regions, observing in over 300 polling stations². The EU EOM issued a joint pre-election statement with the AU, ECOWAS, Commonwealth and NDI, calling for a peaceful process and presented its Preliminary Statement in a press conference on 9 December. STOs departed from Ghana on 11 December. LTOs remained in the field to follow the completion of the tabulation process and to follow election disputes, and departed from Ghana on 17 December. The Core Team departed from the country on 23 December. The EU EOM assessed all aspects of the electoral process and the extent to which the election process complied with national laws and international standards for democratic elections. The mission was independent and operated in accordance with the Declaration of Principles for International Election Observation.

III. Political Background

The 7 December 2016 elections were the seventh Presidential and Parliamentary Elections since Ghana introduced the new constitution and multi-party democracy. The first elections in the new multiparty era were held in 1992. Since then Ghana has had a history of competitive elections, with two previous peaceful transfers of power from ruling party to the opposition. Ghanaian politics is dominated by two major parties the former ruling National Democratic Congress (NDC) and the New Patriotic Party (NPP). The previous presidential election was won by the NDC candidate with a slim margin. The NDC had an absolute majority in parliament with 148 seats out of 275. The NPP had 122 seats and there were only two representatives of other political parties and three independent MPs in the outgoing parliament.

Ethno-regional identity determines, to a large extent, party affiliation of voters. Both major political parties have their regional strongholds in which they traditionally secure strong support. The ruling NDC has its stronghold in the Volta Region and in the three regions of the North. The NPP strongholds are Ashanti and Eastern region. Greater Accra, Central, Western and Brong Ahafo are considered to be “swing regions” where voter tendencies change in favor of one or the other major party. In 2012 the NDC incumbent president won a majority of votes in NDC strongholds and in all four swing regions³.

The political environment prior to the 2016 elections was more challenging in comparison to 2012, with heightened political tension. NPP challenged the results of the 2012 presidential elections in the Supreme Court, but the court, while acknowledging a number of shortcomings in the process, ruled against the complaint. Partly as a consequence of this, these elections were characterised by a high level of scrutiny and some mistrust of the process by the opposition, as well as a higher level of political tension and public apprehension overall. It was the third presidential attempt for the NPP flagbearer Nana Akufo-Addo, who lost to John Atta Mills in 2008 and to John Mahama in 2012. At the same time, President John Mahama, was strongly committed to securing his second full elected term in office.

The President of Ghana enjoys extensive powers, is elected for a four-year term and can serve a maximum of two terms. A candidate is elected president if s/he secures an absolute majority of

² There were 28,992 polling stations.

³ It is noticeable that analysis of the 2016 results shows that the NPP won in six of the 10 regions and also did quite well also in the Northern part of the country, even though NDC did win there as it did in Volta.

the valid votes. If no candidate obtains an absolute majority, a second round is organised within 21 days between the two leading candidates. Seven presidential candidates contested the election on 7 December, with six of the candidates nominated by political parties and one an independent. These were (in ballot order): Ivor Greenstreet (Convention Peoples Party – CPP); Nana Konadu Rawlings (National Democratic Party - NDP); President John Mahama (NDC); Dr. Papa Kwesi Nduom (Progressive People’s Party - PPP); Nana Akufo-Addo (NPP); Edward Mahama (Peoples National Convention - PNC); Jacob Ossei Yeboah (Independent).

For the parliamentary elections, candidates are elected from 275 single member constituencies on the basis of first past the post. A total of 1,158 parliamentary candidates competed, having been nominated by nine political parties⁴ or standing as independents. Only the two major parties nominated candidates in all constituencies, but the PPP and CPP had candidates in over 100 constituencies each.

Election Security was a concern prior to the elections. Many constituencies across the country were identified by the EC and the police as possible areas with a potential for electoral violence. These areas were affected by violence during previous elections or there were conflicts between various political parties or other groups. The re-emergence of violent youth groups associated with parties was seen as a factor which could also further aggravate the situation. A National Election Security Taskforce (NEST) was created, comprising various state security agencies including the police and army and existed also at the regional and district levels. There were also institutions whose task was to mitigate conflict, such as the National Peace Council (NPC) and the Inter Party Advisory Committee (IPAC) which also promoted an inter party dialogue.

IV. Legal Framework

A International Principles and Commitments

The legal framework provides the basis for credible and competitive elections. The 1992 Constitution, as amended in 1996, and other subsidiary legislations provide the legal architecture for elections and incorporate all international legal instruments for the conduct of democratic and credible elections. The international legal instruments, signed and ratified by Ghana, include the International Covenant on Civil and Political Rights, the International Convention on the Elimination of all Forms of Discrimination against Women, the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Political Rights of Women, the Convention on the Rights of Persons with Disabilities, and the United Nations Convention Against Corruption. In addition, Ghana has ratified a number of important regional treaties, including the African Charter on Human and Peoples' Rights, the African Union Convention on Preventing and Combating Corruption, and the ECOWAS Protocol on Democracy and Good Governance. Ghana is also a signatory to the African Charter on Democracy, Elections, and Governance; The Declaration of Principles on Freedom of Expression in Africa; and is party to the Universal Declaration of Human Rights.

⁴ Three political parties - Great Consolidated Popular Party (GCPP), United Front Party (UFP) and Independent Peoples Party (IPP) fielded only parliamentary candidates as their presidential candidates were not registered by the EC.

B Constitutional Human Rights

The Constitution (GC) is the supreme law and enshrines all basic fundamental rights and freedoms, including the right to vote, right of association, and freedoms of expression, movement and assembly. It also establishes jurisdictional guarantees for the protection of fundamental human rights, mainly before the High Court and the Supreme Court.

A Commission on Human Rights and Administrative Justice (CHRAJ) was established in 1993 to promote human rights, monitor state administrative abuses, and investigate complaints⁵. The CHRAJ also serves as an anti-Corruption Agency. In the performance of its mandate CHRAJ benefits from powers of investigation and the power to initiate legal proceedings. Through its legal aid scheme CHRAJ has also opened the door for the protection of rights of groups that were not originally envisaged in the Constitution, such as the LGBT⁶ community.

C Electoral Legislation

The two main legal instruments regulating the registration of voters and the conduct of elections are the Public Elections Regulations (Constitutional Instrument 94 or CI 94) of 2016 and the Public Elections (Voter Registration) Regulations (CI 91) of 2016, which specify all aspects of the conduct of elections. CI 94 replaced CI 75 and CI 91 replaced CI 72⁷. Both regulations were enacted following the 2013 Supreme Court judgment on the presidential election petition against the 2012 elections, which required a series of reforms be implemented to further improve the regulatory framework, notably with regard to transparency measures for the collation of votes.

The legal framework comprises the Constitution, Acts of Parliament, existing laws, and common law as well as orders, rules and regulations issued by constitutional bodies. Existing laws are defined as laws passed prior to the promulgation of the Constitution and have to be in conformity with its provisions. Orders, rules and regulations from constitutional bodies, which are referred as Constitutional Instruments (CI), are published in the Gazette, and come into force at the expiration of 21 parliamentary working days after being laid before Parliament unless voted against by a two-thirds majority.

According to the Constitution, the EC shall not be subject to the direction and control of any person or authority. The EC expresses its independence and autonomy through the making of Constitutional Instruments or regulations in order to implement its constitutional mandate and to

⁵ The CHRAJ consists of a commissioner and two deputies (Section 216 GC) appointed by the President (Articles 70 & 217 GC). They are supported by a lean administrative structure made up of four departments, namely Legal and Investigations, Anti-Corruption, Public Education, Finance and Administration. The CHRAJ has ten regional offices as well as two sub-regional and 99 district offices across the country.

⁶ Solace Brothers Foundation report that LGBT Ghanaians are harassed by the police and the general public and this acts as a deterrent to standing for elections and from going to cast their vote.

⁷ Presidential and parliamentary elections are further regulated by a diverse range of laws and regulations, such as the Electoral Commission Act (451) 1993, the Representation of the People Law (PNDCL 284) 1992, the Presidential Election Law 1992 (PNDCL 285), the Political Parties Law (Act 574) 2000, Public and Political Party Office Holders Declaration of Assets and Eligibility Law (PNDCL 280) 1992, the Citizenship Act (Act 527) 1996 and (Act 591) 2000, the National Media Commission Act (Act 449) 1993, the Criminal Code 1960, as amended by the Criminal Code (Amendment) Act, the Representation of the People Parliamentary Constituencies Instrument (C.I.78) 2012, the Citizenship Regulations (L.I.1690) 2001 and the Supreme Court Rules (C.I.16) 1996.

regulate the electoral process for the effective performance of its functions (which are established in the Constitution), “in particular, for the registration of voters, the conduct of public elections and referenda, including provision for voting by proxy”⁸. The EC’s constitutional instruments must conform to the core mandate of the EC and the provisions of the constitution or risk being declared as unconstitutional.

The EC, working alongside other commissions, also plays a significant role in passing general electoral laws and in making electoral constitutional reforms. The 2016 Constitutional (Amendment) Bill was an attempt to amend the 1992 Constitution to move the constitutionally mandated 7 December date for presidential and parliamentary elections to the first Monday in November of every election year. It is anticipated that the reform may be implemented for the 2020 elections. The memorandum accompanying the Amendment stated that “the bill amends Article 112 (4) of the Constitution to make provision for parliamentary elections to be held well ahead of the expiration of the tenure of Parliament to ensure an effective and smooth transition”, particularly in instances when there is a runoff election, as was the case in 2000 and 2008. The Amendment Bill was first drafted by the EC and then given to the Attorney General who, according to the Constitution, must officially submit it to the Parliament for ratification. Following the elections and according to the Presidential Transition Act (Act 845) 2012, as Amended on 27 October 2016, on 11 December 2016, just two days after the official result, the Transition Team chaired by the incumbent President Mahama and the incoming president Akufo-Addo started to work for a peaceful and transparent transfer of power.

Overall the legal framework conforms to international standards and best practices, addressing the majority of areas related to the electoral process. However, there are some areas that need to be better enforced and more precisely regulated so as to ensure greater transparency and legal certainty, rather than being left to the discretion of political parties and the EC, notably with regard to candidate nomination and the funding of political parties and campaigns.

D Electoral System and Constituency Delimitation

The President of Ghana enjoys extensive powers, is elected for a four-year term and can serve a maximum of two terms. A candidate is elected president if s/he secures an absolute majority of the valid votes. If no candidate obtains an absolute majority, a second round is organised within 21 days between the two leading candidates. For the parliamentary elections, candidates are elected from 275 single member constituencies on the basis of first past the post.

The Constitution states that the number of inhabitants of each constituency should be, as nearly as possible, equal to the population quota⁹. However, there are marked disparities in the relative size of various constituencies, undermining equal suffrage. For instance, Sekyere Afram Plains constituency in Ashanti Region has 13,976 registered voters and Ketu South in Volta Region has 142,008. Among the 34 constituencies in Greater Accra, nine of them have at least two times more registered voters than the national average.

⁸ Article 51 of the Constitution.

⁹ The population quota means the number of inhabitants of Ghana divided by the number of constituencies.

According to the Constitution, the EC has responsibility to “demarcate electoral boundaries for both national and local government elections”, with a responsibility to review boundaries at intervals of not less than seven years. The EC undertook a revision of boundaries just prior to the 2012 elections, increasing the number of constituencies from 230 to 275. During such reviews, the EC has tended to simply increase the number of constituencies each time by dividing existing constituencies rather than demarcating on the basis of a need to achieve some sort of balance in the respective sizes of the constituencies. As a consequence, the number of constituencies, and therefore members of parliament, in Ghana has increased from 200 to 230 and later on to 275, and equal suffrage is not properly provided for. It can also create a governance issue for the country, with questions as to whether such an increase, with associated costs, is reasonable.

V. Election Administration

The EC is an independent constitutional body composed of seven members including the Chairperson and two Deputy Chairs. All members are appointed by the President, acting on the advice of the Council of State, for an indefinite term of office without any need for consultation with the opposition. Currently five members including the Chairperson and two Deputies were appointed by NDC Presidents and two by an NPP President. The existing appointment mechanism is not as inclusive as it might be to ensure independence and confidence and before elections the main opposition party NPP, as well as some other smaller parties, openly questioned the neutrality and competence of the EC.

The EC has a broad mandate to conduct and supervise elections and referenda, compile and revise the voter register, demarcate the electoral boundaries and educate the people on the electoral process and its purpose. Apart from the national headquarters in Accra the EC has a permanent office in each of the ten regions and 216 districts. On election day some 148,000 temporary staff were working at 28,992 polling stations and 275 constituency collation centres across the country.

Ahead of the 2016 elections opposition parties frequently levelled criticism at the EC¹⁰ and it has faced several, partly self-induced, problems which were gradually undermining stakeholder trust. These problems included, a series of lost court cases, including on voter registration and candidate nomination; the unilateral imposition of a significant increase in candidate nomination fees; the initial disqualification of 13 out of 17 presidential aspirants; an announcement by the Chair of a possible recount of all polling stations in case of a result which was too close; the introduction of 10 GHC (2.3 EUR) accreditation fee for journalists and domestic observers; the delayed submission of voter registers to political parties; and the alleged abrasive treatment of presidential aspirants during the extended nomination period.

¹⁰ During the immediate pre-election period NPP made a number of accusations, such as the EC distributing pre-marked ballot papers for NDC, printing parliamentary ballot papers without NPP initials and polling station results forms without serial numbers, deploying faulty biometric verification devices in NPP strongholds and adding voters to the special voter register after the legal deadline. These were generally refuted or clarified by the EC, but the proliferation of such accusations had a damaging effect on public perceptions of the institution. The presidential candidates of NDP, PNC and PPP issued a joint statement on 24 November also strongly criticizing the EC, largely linked to the lost campaign time due to their initial disqualification.

EC communication with stakeholders and its relationship with political parties at the national level were problematic. The EC website, which was supposed to be the main communication channel, was inaccessible due to technical problems from mid-October until 2 November. It contained minimal useful information and some essential information, such as the EC decisions, minutes of EC meetings, key legislation (public elections regulations C.I. 94) while detailed voter registration data, was missing completely. Social media was underused and the monthly periodicity of IPAC meetings proved insufficient¹¹ to adequately inform the political parties.¹² The EC communication was generally limited to ad hoc press releases, public presentations, media interviews and occasional TV programme “#AskTheEC”. The situation across the country was somewhat different, with the EC regional and district structures enjoying more cordial relations with political parties and a better reputation among stakeholders.

In a positive development, the EC adopted and published a comprehensive electoral events calendar for the 2016 elections. Despite challenging logistics, some problems with the poor print quality of ballot papers¹³ and several court cases which at times threatened to derail the election calendar, the EC managed to complete all technical preparations for the elections on time, and was well prepared for 7 December, though its management of the collation process was less efficient. The EC’s regional and district level permanent structures performed professionally and competently, and internal communication within the EC appeared to be effective.

Biometric voter verification¹⁴ at the polling station is the main safeguard against impersonation and multiple voting. The biometric verification device (BVD) pre-programmed for the particular constituency verified a voter’s identity by matching the scanned fingerprint with the barcoded data in the voter register. In a positive change to 2012, a voter whose fingerprint verification failed was still allowed to vote providing the other data (photograph and personal details) could be read by the BVD and s/he successfully passed the manual verification by the presiding officer.

Voting, counting and collation procedures included a number of safeguards intended to protect the integrity of the process. These were namely: voting only in the polling station where a voter’s name appears on the voter register, mandatory biometric or manual verification, application of indelible ink, serially numbered ballot papers and counterfoils¹⁵ and polling station-specific results forms (EL 21/22 A and B, so called “*pink sheets*”) with pre-printed polling station name, code and serial number. On the other hand, collation procedures, with the exception of over-

¹¹ The lack of previous communication between the EC and political parties at the national level was evident during the last IPAC meeting held on 25 November. The parties were raising a number of pertinent issues which accumulated since the last IPAC meeting on 28 October and clearly the discussion with the EC Chairperson and other EC members helped to reach a consensus on some contentious issues, which would have been beneficial earlier.

¹² The independent candidates were not being invited to IPAC meetings though they could participate as observers. They were also not entitled to receive a copy of the voter register from the EC.

¹³ Due to the problematic print quality the EC had to destroy and reprint ballot papers for several constituencies in Ashanti and Northern regions. LTO team 06 based in Ashanti region reported several cases of ballot paper booklets printed without or with incomplete serial number, and in black and white colours only. Also the media reported at least two cases of ballot papers printed with a smear in the box for thumb-printing.

¹⁴ Out of the 6.57 mil. voters who participated in the voter register exhibition, claims and objections exercise, 6.32 mil. (96.2%) were successfully biometrically verified. A similar success rate was observed also during all e-days.

¹⁵ The C.I. 94 Regulation requires ballot papers and their counterfoils to be serially numbered and thus any ballot paper is potentially traceable back to the voter.

voting¹⁶, did not include any automatic audit triggers, such as suspiciously high or low figures on turnout, large scale or no rejected votes or votes that are solely or overwhelmingly for an individual candidate.

The EC also put in place robust transparency measures for counting and collation of results. Both polling station and constituency collation centre results forms were to be distributed to agents and publicly displayed. Although some of these measures were not always strictly adhered to, generally they contributed largely to the overall transparency of the process. The EC Chairperson also made a public commitment that all polling station results will be published on the EC website within 72 hours, however this had not materialised by the time the mission left the country.

On 26 November, just ten days before elections, the EC presented the complementary Election Results Management System to parties and other stakeholders. The in-house developed system for electronic results transmission from the constituency to national level was supposed to run parallel to the main manual collation system and boost transparency of the process by, among other things, displaying progressive results on screens in collation centres. However, the system was completed extremely late in the process and there was only very limited time available for field testing and staff training. During the collation process the system experienced several technical problems and instances of malfunctioning and consequently the EC decided on 8 December to stop using it, which caused consternation among stakeholders and a void of information at a critical juncture.

LTO teams reported that the most visible voter education activities at the regional, district and grassroots level were conducted by the National Commission for Civic Education (NCCE), however overall the quantity and quality of the voter education provided by a variety of actors was assessed as insufficient. Financial and human resource constraints limited NCCE grassroots level activities particularly in remote areas. Furthermore, LTOs also reported that many voter education materials were produced only in English although having them in local languages would have been much more useful. A key aim of the EC in terms of voter education was to reduce rejected ballots by 50% although they represented only 2.2% of the total votes cast in the 2012 presidential election. At the end the 50% reduction was not achieved although the share of rejected votes was reduced to just 1.54%.

The EC managed to declare the final presidential results within its publicly stated, self-imposed deadline, of 72 hours. The EC used the official manual results transmission system, by which hardcopies of polling station results forms were physically delivered to the respective returning officers at the constituency level and constituency collation centre results were then delivered to the respective regional office for faxing to the national collation centre, where the final collation of presidential results took place. The results of the parliamentary elections were declared by the returning officers at the constituency level.

¹⁶ Over-voting is a situation when the number of ballot papers found in the ballot box exceeds the number of ballot papers issued to voters in a particular polling station. The results from such polling station were quarantined.

VI. Voter Registration

The right to vote is guaranteed by the Constitution to all citizens of Ghana who are, among others things, at least 18 years of age.¹⁷ There are no unreasonable restrictions on the right to vote and the principle of universal suffrage is generally respected.

Ghana uses an active registration system whereby potential voters are required to personally visit the registration centre during a specified period and prove their identity using one of the four accepted ID documents¹⁸ or by the identification guarantee form signed by two registered voters. Then the biometric data – a photograph and ten fingerprints – are captured and barcoded in the voter register and on the voter ID card which is issued instantly on the spot. Voters registered ahead of the 2012 and 2015 elections in principle did not have to register again. The voter registration regulations C.I. 91 provide for an inclusive voter register¹⁹, however the provision allowing registration of a person based solely on the guarantee provided by two registered voters makes the system vulnerable to potential abuse by political contenders.²⁰

Since 2015 some parties, notably NPP, called for a new voter register alleging the existing one is inflated by large numbers of deceased voters as well as non-nationals²¹ and minors. The call was rejected by the EC as well as by the Supreme Court (SC), which however in its judgement of 5 May ordered the EC to immediately take steps to “clean” the voter register.

The voter register for the 2016 elections was based on the 2012 biometric register. People who turned 18 since 2012 or did not register previously could register during limited voter registration in August 2014 and April/May 2016 and continuous voter registration in August 2016²². In total some 1.7 million new voters were registered since 2012. This is a justifiable number as according to the 2010 census some 2.2 million Ghanaians turned 18 in 2012-2016.

Registered Voters 2012 – 2016

Region	Registered voters 2012	Registered voters 2016 ²³	Increase in numbers	Increase in %
Ashanti	2,559,157	2,878,673	319,516	12.49

¹⁷ C.I. 91 specifies that a person is entitled to be registered as a voter if s/he is at least 18 years of age. As a consequence, around 150,000 persons who turned 18 between 29 August and 7 December 2016 were disenfranchised.

¹⁸ Passport, driver’s licence, national ID card or existing voter ID card.

¹⁹ E.g. according to the pre-election survey by CDD Ghana 93% of adults were registered (margin of error $\pm 2\%$).

²⁰ CODEO reported cases of abusing the guarantee forms for registering minors and suspected non-nationals.

²¹ In August 2015 NPP announced that they had found over 76,000 Togolese unlawfully included in the voter register. The EC denied this claim as unsubstantiated. These allegations were also not reflected in the number of objections filed during the exhibition period, as only some 5,000 voters were objected to on other grounds than being deceased.

²² In July/August 2016 there was also a re-registration of the voters who were, based on the SC judgement, removed from the register because of using their national Health Insurance Scheme (NHIS) cards as a proof of identity in 2012. While the regulations provide for registration on a continuous basis, in reality voters could register in 2016 only during the two registration periods lasting 14 days in total. Nevertheless, more than 1.1 million new voters were registered.

²³ The initial voter registration figures released by the EC were later on slightly reduced.

Brong Ahafo	1,246,145	1,407,023	160,878	12.91
Central	1,228,544	1,403,697	175,153	14.26
Eastern	1,420,080	1,605,004	176,924	12.39
Greater Accra	2,788,091	3,068,608	280,517	10.06
Northern	1,264,881	1,429,361	182,480	14.43
Upper East	565,852	642,399	76,547	13.53
Upper West	365,769	413,531	47,762	13.06
Volta	1,189,512	1,281,415	91,903	7.73
Western	1,424,562	1,588,542	163,980	11.51
TOTAL	14,060,573	15,718,253	1,675,660	11.92

The exhibition of the voter register, which provided for biometric verification, correction, inclusion and objection/deletion of voters' entries, took place in July/August 2016 and was followed closely by the EU Election Expert Mission. Some 6.5 million (41%) voters turned up. The EC presented the exercise as a measure to comply with the SC order to "clean" the voter register, however such an interpretation was largely criticised. Only some 69,000 entries (0.4%) were objected to and overall the exercise did not adequately serve the purpose of removing the deceased or otherwise unqualified voters, primarily because the burden of cleaning lies with individual voters rather than with institutions. It should be noted that the regulations do not allow the EC to initiate removal of deceased voters as only individual registered voters can object to the inclusion of any other voter.

The certified voter register contained 15,712,555 voters. This represents 98.6% of the projected voting-age population, which is an implausible figure. The available demographic data suggest that some 500,000 deceased voters are still in the register accounting for about 3-4% of all registered voters. There were also plausible reports of registering minors and some non-nationals.²⁴

The EC provided electronic copies of the certified main voter register to parties on 28 October, but was unable to respect the deadlines for providing the transferred²⁵, special and absent²⁶ registers, largely because these deadlines²⁷ do not correspond to the technical realities on the ground, whereby many ad hoc election staff, for instance, are only recruited and assigned to an area after this deadline. The Transferred Voter Register contained 238,892 voters and the Proxy Voter Register only 534 voters.

The Special Voter Register (SVR), for election, security and media personnel, was supposed to be closed 42 days before elections, i.e. on 26 October. The EC initially stated on 14 November that the SVR contains 65,001 voters, however a few days later after including the newly-

²⁴ E.g. election officials in Upper East acknowledged to the LTO team that some Togolese may have been registered.

²⁵ The transferred voter register includes voters who applied for a transfer from the constituency where they had originally registered to the constituency where they are currently residing for at least one year. The number of transferred voters has no impact on the presidential election, as the whole country is one constituency.

²⁶ An absent voter register is a combination of the special and transferred voter registers.

²⁷ A copy of the special and transferred voter register shall be provided to parties on request. An absent voter register shall be provided at least 14 days before election day. There is no deadline stipulated for the proxy voter register.

recruited temporary staff the total number rose to 114,813. Opposition parties, notably NPP and PPP, strongly criticised this increase. On 25 November the EC informed parties about a further increase to 127,394 voters (0.81% of the total electorate). The EC openly admitted that some election and security personnel were added to the register after the legal deadline, justifying such a move by the need to respect the spirit of the law (i.e. to facilitate voting for voters who were on election-related duty on 7 December). Parties, including NPP, appeared to accept this justification. During special voting on 1 December it was evident that there were lapses in the SVR, poor information and a lack of understanding among some voters as to where they should vote, necessitating an extra day of special voting three days later.

VII. Registration of Candidates and Political Parties

A Registration of Candidates

The right to stand as a candidate is provided for and candidate qualification criteria for presidential and parliamentary elections are fairly reasonable, with the notable exception of nomination fees. On 8 September the EC announced a significant increase in the candidate deposit, with presidential candidates having to pay 50,000 GHC (11,550 EUR) and parliamentary candidates 10,000 GHC (2,310 EUR). This represented a fivefold and tenfold increase for presidential and parliamentary candidates respectively. Furthermore, it was practically non-refundable for the vast majority of candidates as the deposit was refunded only to the candidates who obtained at least 25% of votes in the presidential and 12.5% in the parliamentary elections. Except for NDC almost all political parties condemned the EC for setting such high nomination fees, although NPP was rather cautious in its criticism.²⁸ Overall the nomination fees were unreasonably high given the economic reality in Ghana where the GDP per capita in purchasing power parity in 2015 was 4,200 USD (3,845 EUR). The fees, particularly for parliamentary candidates, are likely to have prevented a number of potential candidates from running, with a likely high impact noticeably on female aspirants.

Nomination forms for presidential or parliamentary elections were to be submitted to the respective returning officer. The presidential nomination form shall include, *inter alia*, at least two signatures of the registered voters from each district (i.e. altogether 432 signatures with each voter being allowed to sign for only one candidate), designation of the vice-presidential candidate, statutory declarations by the presidential and vice-presidential candidates and banker's draft in respect of depositing the nomination fee. The parliamentary nomination form had to be signed by 20 registered voters in the given constituency.

The registration process of presidential candidates was problematic. The process was not sufficiently inclusive and the spirit of the law was not fully respected. The EC in its press release of 8 September advised the presidential candidates to submit their nomination forms in the last two days of the nomination period, i.e. on 29 and 30 September, however it failed to clearly communicate that forms could have been submitted also before these dates (i.e. from 16 September onwards). As a result, all 17 nomination forms were submitted during these last two

²⁸ PPP challenged the legality of the process of setting the fees by the EC at the court, but the High Court refused to grant an injunction to prevent the EC from collecting the nomination fees and later on dismissed the case due to the lack of jurisdiction.

days of the nomination period and therefore the candidates were in effect denied an opportunity, provided in the regulations, to make amendments or any alteration necessary to correct the anomalies identified by the EC in their nomination forms within the stipulated nomination period.

On 10 October the EC announced that four presidential candidates were accepted and 13 were disqualified. The disqualifications were mostly due to a relatively small number of problematic signatures of the supporting voters and some rather arbitrary decisions on the inconsistency of signatures on different copies of the nomination. Following the series of court appeals (see Election Disputes) both by the disqualified candidates and the EC, the SC finally on 7 November ordered the EC to extend the nomination period till 8 November and to provide all disqualified presidential candidates with an opportunity to correct any anomalies in their nomination papers.

Subsequently on 8 November all disqualified candidates were given a hearing by the EC often after waiting many hours for their turn. To their surprise during these hearings they learned that tens and sometimes even hundreds of new anomalies were identified in their forms. The EC maintained that all the new anomalies were pointed out in the interest of the candidates, they were not to be used as a basis for repeated disqualification and candidates were informed accordingly.

However, the PNC presidential aspirant and a representative of the PPP aspirant met by the mission were unable to confirm these EC claims and understood that they were supposed to address all identified discrepancies within the short time available till 5 pm. On 17 November the mission met also with the disqualified presidential aspirant of APC who provided copies of the letters received from the EC regarding his nomination. The letters revealed that he was requested to correct also the newly discovered discrepancies and inconsistent signatures on his nomination form, i.e. alleged errors identified after the Supreme Court ruling. This move raises questions regarding the equal treatment of all candidates and could be seen as an impediment to their participation.

Just after 5 pm on 8 November the EC held a press conference during which it announced that out of 13 initially disqualified candidates, two withdrew their nominations, three were accepted and eight were disqualified again. No details were provided as to the grounds for their repeated disqualification, so there is no clear transparency on the matter.²⁹ The balloting for the order of presidential candidates on the ballot was conducted immediately after the press conference.

There were seven candidates contesting the presidential election and 1,158 candidates, including 136 women contesting the 275 parliamentary seats in the single-member constituencies. The number of candidates per constituency varied between two and seven. On 18 November, 49 days after the deadline for submitting nomination forms, the EC had finally published on its website a list of contesting parliamentary candidates by region and by constituency. However, no

²⁹ The EC letter of 9 November to the disqualified APC presidential aspirant contains only a general statement that the EC “*is unable to accept your nomination because your nomination form does not meet the requirements of C.I. 94 Regulation 9(2).*”

information was provided as to the number of disqualified parliamentary candidates and the grounds for their disqualification.

B Registration of Political Parties

Freedom of association is guaranteed by the Constitution, however certain requirements to register a political party appear to be highly cumbersome and arguably somewhat restrictive. These include the requirements to have branches in all ten regions, to be organised in not less than two-thirds of the districts in each region (i.e. in 156 out of 216 districts) and to have a founding member, who is ordinarily resident or registered as a voter, in each district of Ghana. Ahead of the 2016 elections there were 26 registered parties in Ghana, however only nine of them participated in the elections.

VIII. The Election Campaign (Including Campaign Finance)

A The Election Campaign

The campaign period was characterized by a highly competitive election environment and intensive campaigning. Political parties and candidates campaigned freely and basic freedoms of association, movement and assembly were respected. The campaign was dominated by the two major parties, NDC and NPP, though campaign events of presidential candidates of the Progressive People's Party (PPP), and to a lesser extent Convention People's Party (CPP), also attracted fairly large crowds. Campaign events of the presidential candidates of the People's National Convention (PNC) and the National Democratic Party (NDP) were also observed.

The campaign environment was lively and vibrant. Presidential candidates conducted multiple tours around the country during the lengthy campaign with high number of large rallies and town hall meetings. Parliamentary candidates conducted largely smaller-scale activities, including door-to-door campaigning and small neighbourhood meetings. Candidates extensively used advertisement on radio and posters, party flags and billboards. The campaign was issue based and candidates generally focused on issues as healthcare, education, jobs and infrastructure. There were a few media reports of inflammatory language used by some of the candidates.

There is no specific legal framework regulating the campaign. The official campaign period is not defined in the law and presidential candidates started to campaign even before the close of the candidate nomination process (30 September). Four presidential candidates were registered by the EC on 10 October including candidates of both major parties, CPP and an independent candidate. The presidential candidates of PPP, PNC and NDP were only registered on 9 November (see Candidate and Party Registration), and they issued a joint statement in which they criticised the EC for denying them equal opportunity to campaign. They claimed that the EC decision to disqualify them led to a loss of one month of campaigning in comparison to the other candidates.

The political stakes were high and a pervading fear of the potential for violence persisted throughout, not helped by the presence of gangs associated with the two main parties. A number of vigilante groups were formed by some of the candidates in the pre-election period and several

violent incidents occurred during the voter registration period and prior to the elections. The EC and state security agencies identified 81 constituencies and some 5,000 “flashpoints” with the potential for election violence.

Various initiatives and statements on the need for peace were made, including the “Accra Declaration”. The peace declaration was signed by presidential candidates on 1 December after calls for a peaceful election from national and international personalities. However, the vast majority of campaign activities passed without incident, attracting large numbers of people and EU EOM observers reported a generally calm and peaceful atmosphere. A small number of isolated incidents – predominantly clashes between the supporters of the two major parties – did occur, with some deaths. The most serious incidents took place in Accra where two serious clashes³⁰ occurred between NDC and NPP supporters. On 13 November a large group of NDC supporters participating in the organized walk through the city clashed with the security personnel of NPP in front of the NPP presidential candidate’s residence in Accra. Problems were also highlighted in Brong Ahafo (Asunafo South, Asutifi South), Northern (Wulensi, Chereponi), Greater Accra, Ashanti (Kumasi Metro) and Eastern (New Juaben Constituency) regions. An apparent lack of police action against perpetrators led to accusations of impunity.

The abuse of state resources and incumbency is a recurring problem in Ghanaian elections and leads to an un-level playing field³¹. The campaign period is not regulated by any specific law and no measures to regulate use of state resources have been introduced. The system of direct presidential appointment of regional and district chief executive officials limits the ability of public administrations to act neutrally and impartially. Many regional ministers and district/town chief executive officials were directly participating in the campaign of the ruling party, with some of them contesting the parliamentary election on the NDC ticket, contributing to the widespread abuse of incumbency. As reported by EU EOM observers, district administration employees, vehicles, buildings and other assets were used for the NDC campaign. There were also several reports of the President using the official inaugurations of state projects for campaigning³².

Distribution of money and goods (treating) to individuals and communities was a widespread phenomenon in the campaign³³. Major parties also distributed party materials such as t-shirts and

³⁰ On 8 November, NDC and NPP supporters clashed in Odododiodio constituency. Two people were shot as fire arms were used.

³¹ As reported by EU EOM LTOs: Regional Minister in Brong Ahafo used government vehicles and security personnel to campaign; two helicopters and many government vehicles used to inaugurate Ho airport by the President as a part of the NDC campaign; NDC candidate and Municipal Chief Executive in Bekwai in Ashanti used the inauguration of two social projects for campaigning; campaign activities in the premises of Mampong Municipal Office by NDC candidate/Municipal Chief Executive Officer; in Ashanti several cars with NDC campaign materials were observed in public premises of several District Executive Offices.

³² EU EOM LTOs reported NDC campaigning at the inauguration of Kotokuraba market in Cape Coast and the inauguration of railway in Western region, inauguration of airport in Ho.

³³ As reported by EU EOM LTOs: the candidates of both major parties in Brong Ahafo admitted the distribution of money while campaigning door-to-door; large scale distribution of money by the NPP candidate observed in Adansi Asokwa constituency to people attending his campaign meeting and also the NPP candidate admitted that he paid for transport of voters from Accra and Central region; NDC candidate in Asante Akim North constituency admitted the delivery of goods, money and food during the meetings with voters; the NDC candidate in Oforikrom (Ashanti) informed observers that he was giving 20 to 50 GHC while campaigning door-to-door. Several interlocutors

provided food at rallies. Parliamentary candidates of both major political parties openly admitted to the EU EOM that they distribute money and goods while campaigning. According to a report from domestic observers, a majority of the electorate is not aware that vote buying constitutes an electoral offence punishable by law. Practices such as the abuse of state resources and vote buying could become endemic to elections in Ghana if not seriously addressed.

As in the previous elections there were several reports of traditional authorities openly endorsing one or other party and even directly participating in campaign events. Traditional Chiefs are influential leaders in their respective areas and by law they are prohibited from taking part in active party politics. However political parties were actively seeking their support while campaigning.

B Campaign Finance

The legal framework does not contain provisions on campaign finance to ensure a level playing field. There is no campaign spending limit or limit on financial donations to political parties or candidates. Nor does the law provide for direct public funding of political parties or the election campaign. Further, there are only basic provisions in relation to regulation of political party finance and campaign finance in the Political Parties Law (Act 574, 2000). The law obliges parties to declare their assets, expenditures and liabilities within six months of each year, within 21 days prior to elections and within six months after elections, and also prohibits foreigners from funding parties directly or indirectly.

EC officials informed the EU EOM that not all parties had complied with the law, including the two major political parties, NDC and NPP. Parties were supposed to submit to the EC their statements of accounts, sources of funds, membership dues paid, contributions and donations in cash or kind, property of the party and audited accounts of the party by 1 June 2016. Only a few registered parties submitted their yearly financial statements and the PPP, NDP and PNC candidates criticised the EC for not being able to ensure that all political parties comply with the laws on funding of political parties. In addition, political parties contesting the elections should submit their financial statements within 21 days prior to Election Day. However, parties did not comply and the EC did not enforce these requirements and the whole system of political and campaign financing remains unaccountable and non-transparent.

Campaign costs appear to be growing significantly with each successive election, though no official figures are available. Parliamentary candidates received some financial support from their parties however the major costs were covered by the candidates themselves. Many parliamentary candidates including those from major parties raised the issue of necessity of public funding with EU EOM observers.

reported to observers distribution of money by NDC in Oforikrom; in Abetifi constituency the NDC distributed to its supporters fishing nets; the NPP candidate in Bosomtwe (Ashanti) gave money to some 2,000 supporters to pay for transportation on election day; widespread allegations of NDC distribution of sewing machines and gas cylinders in Bole constituency; the police informed observers of large-scale distribution of rice by NDC activists in poorer areas of Mpohor (Western); Regional Minister for Greater Accra distributed money to party supporters at his campaign meeting.

Accusations of abuse of state funds and receiving foreign donations were widespread, but a lack of enforcement of the law and a lack of adequate regulation means there is no real accountability. The EC commissioners admitted that the EC does not have the capacity to enforce the law in relation to political and campaign finance.

IX. Domestic and International Election Observation

A large number of Ghanaian NGOs were involved in the election observation. In total some 12,000 domestic observers were deployed on Election Day. The Coalition of Domestic Election Observers (CODEO) was the largest observer group, consisting of 42 civic, secular and religious NGOs. CODEO observed all phases of the electoral cycle and deployed LTOs to 138 electoral constituencies to report on the campaign environment. The network deployed 8,000 trained observers across the country on Election Day. CODEO also conducted a parallel vote tabulation (PVT) exercise based on a statistical sample of 1,500 polling stations. The Institute for Democratic Governance (IDEG), in cooperation with other organisations including the Catholic Church, also deployed a significant number of observers on Election Day.

A number of international organisations including the African Union (AU), ECOWAS, the Commonwealth and the US-based National Democratic Institute (NDI) deployed observation missions. The AU deployed its core team and 10 long term observers six weeks before the Election Day. NDI, the Commonwealth and ECOWAS deployed relatively short term missions. In addition, the US Embassy deployed some 150 Election Day observers, cooperating also with observer teams from the embassies of UK, Canada and Australia. A pre-election meeting of heads of observer missions from the AU, ECOWAS, Commonwealth, EU, NDI and some embassies, was held on 6 December and a post-election meeting was held on 8 December.

X. Media and Elections

A Media Environment

Ghana enjoys a vibrant and pluralistic media landscape, though some concerns arise from media ownership by politicians, varying standards of journalism and reports of financial influence exerted on some media professionals. The fundamental human rights of free speech and expression are protected by the Constitution and are in line with Ghana's regional and international commitments. Freedom of expression is provided for and largely respected and there are no major concerns in this regard. However, according to a report by the Media Foundation for West Africa (MFWA), in the first half of 2016, Ghana recorded eight violations of the right to freedom of expression against journalists and seven cases in the third quarter. These were in the shape of physical attacks, threats, arrests and censorship, with security personnel, state and party officials the main perpetrators.

More than 350 radio and 50 TV stations are currently on air across the country. Major media houses disseminate their news and morning shows from Accra to their local radio and TV stations. The role of the print media and its circulation seems to be declining. No newspapers are published in local languages. Radio is the main media in Ghana, many stations broadcast in vernacular languages, and even small minorities have their own outlets. The state-run Ghana

Broadcasting Corporation (GBC) currently operates six TV channels³⁴ and ten radio stations, broadcasting in a variety of Ghanaian vernacular languages throughout the country. Online news and social media are the second most important source of information in Ghana³⁵. Social media, especially WhatsApp, became essential in political campaigning. Political parties used digital applications to spread information and raise funds.

According to media experts, one of the biggest challenges the media environment is facing today is strong partisanship in the media arising from ownership by politicians. Some interlocutors also point out that the process of obtaining TV and radio station licences is costly and vulnerable to corruption. It is controlled by the government through the National Communications Authority (NCA) and licences are often issued to ruling party sympathizers. The dominance of party interest has had the effect of lowering journalistic standards, in a profession in which some journalists are already poorly trained. Furthermore, many media rely on advertising for economic sustainability and can be pressured into accommodating politicians buying their airtime. The politicization of the media has often led to poor ethical journalistic standards and a widespread use of indecent language, especially on radio. In April 2016, the MFWA launched an indecent expression monitoring programme of 70 radio stations. In May it recorded 68 cases of indecent language³⁶, in September 14 and in October 11. Its naming and shaming tool is believed to have helped reduce the use of indecent language on radio.

In November, the Ghana Journalist Association (GJA) introduced its revised “Code of Ethics” seeking to address “falling journalism standards” and to include social and new media. The Code’s revision started in the summer after the Montie 3 case, in which a Monti FM journalist and two panellists were jailed after threatening the Chief Justice with rape and calling for judges to be killed. GJA plans to distribute the Code to all media practitioners, not only its members. However, some journalists view the Code with scepticism, arguing there is no training, no implementation and no sanctions for breaches.

The phenomenon of “soli” has been mentioned by many interlocutors. Soli, coming from the word solidarity, is an incentive given to journalists to encourage them to cover a particular story. Soli can also mean cash payments for the services of journalists at all levels, editors included, to secure publication of a story. Soli was widely used in the electoral campaigning; for example, the current Minister of Youth and Sports and incumbent NDC Member of Parliament for Odododiodio invited journalists from seven media houses to report on his daily campaigning for one and a half months up to Election day, reimbursing their expenses.

B Legal Framework for the Media

Freedom of the media in Ghana is guaranteed by the Constitution. During the elections the media are regulated by a Supreme Court interpretation of the 1992 Constitution. The majority of EU

³⁴ GTV, a first 24-hours news channel in Ghana *GBC 24, GTV Govern, GTV Life, GTV Sport, Obonu TV*.

³⁵ According to the National Communications Authority (NCA) there were over 19 million mobile data subscribers in Ghana in August 2016, which means a penetration rate of almost 69 per cent.

³⁶ MFWA identified 12 categories of indecent language: insult, prejudice and bigotry, inflammatory expressions, incitement, expletives, hate speech, tribal slurs and stereotyping, provocative remarks, unsubstantiated allegations, gender specific insults, divisive expressions, innuendo.

EOM interlocutors indicated that the legal framework for the media is dysfunctional and needs improvement. The National Media Commission (NMC), a constitutional body mandated to promote free and independent media, media quality and to ensure independence of the state-owned media from governmental control, registers newspapers, sets standards, monitors the media and appoints the chairmen and other members of the governing bodies of the state-owned media. By contrast, the National Communications Authority (NCA), which does not have any constitutional basis, has a broader mandate, gives licences to TV and radio stations, has sanctioning power, but is fully controlled by the President.

Ghanaian law is restrictive as far as access to official information is concerned. The Freedom of Information Bill, drafted in the second half of the 1990s, has not yet been passed in Parliament due to a lack of political will and commitment to the constitutional provision on the right to information³⁷. Several independent bodies operate according to self-regulated Codes of Conduct; however, these are not always followed by member journalists and media practitioners. Some media houses call for the Ghana Independent Broadcasting Association (GIBA) to reinforce its activities and defend the interests of its members. For example, one of the main media houses told the EU EOM that they had applied to enter digital broadcasting three years ago but were not allowed yet because digital platforms are controlled by the government.

The court challenge by the International Standards Journalist Association (ISJA), seeking to prevent the EC from charging media accreditation fees for journalists planning to cover the elections, was transferred to a different judge on 30 November. Adjudication could take several months. The ISJA chairman informed the EU EOM that charging the fees is against the Constitution. Many saw the fees as unacceptable since covering elections is of national interest.

For election coverage, state-owned media are obliged in the Constitution to provide equal access to all parties and candidates. Based on 2008 NMC Guidelines on fairness and equality, GBC introduced a “Policy on Coverage of Political Parties” in May 2016. In keeping with this, GBC invited all seven presidential candidates to participate in its three-hour long encounters. Only four candidates took part in the exercise: Jacob Osei Yeboah (independent), John Mahama (NDC), Papa Kwesi Nduom (PPP) and Edward Mahama (PNC).

The Institute of Economic Affairs (IEA) and GBC tried to organize presidential debates. However, these attempts failed to bring all presidential candidates together. The IEA, which has held televised debates with political leaders since 2000, was able to bring together only three candidates this year: Edward Mahama, Papa Kwesi Nduom and Jacob-Osei Yeboah. Only five presidential candidates took part in the GBC/NCCE event on 30 November; the NPP candidate, Nana Akufo-Addo, did not participate in the debate, claiming that GBC is biased towards the incumbent president.

³⁷ Article 21 of the Constitution, paragraph (1) “All persons shall have the right to (f) information, subject to such qualifications and laws as are necessary in a democratic society.”

C Media Monitoring Findings

The EU EOM monitored four TV channels and nine radio stations³⁸. During prime time, these gave over 385 hours to election-related content, in different types of programmes, including news, free and paid airtime, information programmes and debates. NDC and NPP received the majority of the prime time election coverage, over 60%. Smaller parties and their presidential candidates collected altogether only 12%, the Electoral Commission 7% and voter education 6% of time. When challenged on this imbalance some media houses claimed the small parties had refused to take part in their programmes.

Media campaigns were intensive, with political parties using a variety of means to promote their programmes, focusing strongly on radio and social media to reach voters in every part of the country. At the end of November, political parties further intensified their advertising. NDC advertising was noticeably higher than that of other parties, especially on TV and radio (61% of political advertising in prime time to NDC, 26% NPP, 5% PPP). Due to the absence of adequate regulation on campaign financing, there is no transparency for such expenditure. On the other hand, NPP advertised extensively in the monitored newspapers (72% NPP, 11% NDC, 9% PPP).

State-owned GTV failed to meet its obligation to provide equal access to all parties and candidates. It dedicated 35% of its primetime election coverage to the NDC and the incumbent President, 13% to voter education, 9% to PPP, 8% to NPP. The tone of coverage of the President was mostly positive. GTV provided almost four hours of live coverage of the final rally of the NDC on 5 December, but none, live or in the news, to the final NPP rally the day before. Also, other monitored TV channels gave more primetime to the NDC than to other parties (Adom TV: 44% to NDC, 28% to NPP; TV3: 29% to NDC, 12% to NPP; UTV: 46% to NDC, 30% to NPP). It is important to recognize the extent to which President Mahama and the NDC used official functions for political campaigning. Almost all TV and radio coverage of these events, which were presented as official presidential business, could actually be characterised as campaigning.

The main radio station of GBC, Uniiq FM, did not meet its legal obligation to provide equal access to all parties and candidates. NDC received 35% of the prime time election coverage, NPP 22%. Similarly, Joy FM favoured the NDC (37% NDC, 18% NPP). The other three monitored radio stations based in Accra were more balanced in their coverage (Adom FM: 33% NDC, 24% NPP; Citi FM: 35% NDC, 27% NPP; Peace FM: 38% NDC, 34% NPP).

Additionally, the state Daily Graphic and Ghanaian Times did not succeed in providing equal coverage to all parties. NDC was favoured in both of them³⁹. By contrast, the private Daily Guide and The Chronicle were noticeably in favour of NPP⁴⁰. Monitored online media were more focused primarily on the NDC and NPP, with the NPP presidential candidate receiving

³⁸ EU EOM monitored prime time (18:00-23:00) political coverage of four TV channels (state *GTV*, private *UTV*, *TV3*, *Adom TV*); prime time (06:00-11:00) political coverage of five Accra-based radio stations (private *Adom FM*, *Peace FM*, *Citi FM*, and state *Uniiq FM*); four local private radios, incl. *Kessben FM* - Ashanti Region, *Shalom FM* - Brong Ahafo) from 9 November to 6 December 2016. Four newspapers (state *Daily Graphic* and *The Ghanaian Times*; private *The Chronicle* and *Daily Guide*) and five news websites were monitored in the same period (Myjoyonline, Citifmonline, Peacefmonline, Ghanaweb, Ghananewsagency).

³⁹ Daily Graphic: 24% NDC, 13% NPP; The Ghanaian Times 30% NDC, 14% NPP

⁴⁰ Daily Guide: 55% NPP, 15% NDC; The Chronicle 43% NPP, 23% NDC

slightly more space than the President. Both NDC and NPP were very active on social media, notably Facebook and Twitter, the NPP slightly more. The 24-hour period of campaign silence prior to Election Day was largely respected.

XI. Participation of Women

Women accounted for just 11.8% of the total number of candidates standing in the elections, with just one female presidential candidate, one female presidential running mate,⁴¹ and 136 parliamentary candidates out of 1,158. There are 37 (13.5 %) female members in the new parliament and there were only 29 (10.5%)⁴² in the out-going one. However, the issue of women in politics in Ghana cannot be captured solely in reference to the low number of women standing as candidates. Many of the female candidates across the regions reported obstacles to their participation in the public arena, citing discrimination, harassment and abusive behaviour, even from within their own party.

Organizations such as Abantu for Development (female lawyers' association), International Federation of Women Lawyers (FIDA Ghana), Women in Law and Development in Africa-WILDAF Ghana; female MPs such as Dr. Zanetor Rawlings; the only female presidential candidate, Nana Konadu Agyeman Rawlings; and most of the EU EOM LTOs reported that the four main problems are: (i) the lack of quotas or any other form of affirmative action; (ii) the special harassment and environment of gender discrimination that women suffer; (iii) the lack of financing to run as candidates; and (iv) the strong resistance from their own political parties. All organisations listed above agree that this is a structural social problem that starts at an early age⁴³. EU EOM monitoring also indicated that women are noticeably under-represented in campaign coverage in the media.

Almost all female candidates across the regions reported obstacles to their participation in the public arena. In Ashanti region, female NPP and PPP candidates recounted that they face discrimination, harassment and abusive behaviour specifically from within their own party. In the Northern Region the situation is worse, with a declining number of women participating in politics⁴⁴ and no specific message for women in the campaign.

Many initiatives are targeting women but not always with the same aim. In Northern Region, NGOs for women are geared towards maternity, health and reproductive programmes, in accordance with the Ghanaian Constitution (Article 27 entitled Women's Rights begins: "Special care shall be accorded to mothers"). In Eastern Region, Sunrise FM has a show promoting gender and children's issues in Twi and Dangbe languages. Female politicians are invited to appear on the shows. In Eastern Region, the NCCE conducts activities to boost political engagement of women.

⁴¹ The female presidential candidate was Nana Konadu Agyeman Rawlings (NDP) and the VP running mate Ms Brigitte Dzogbenuku (PPP).

⁴² In 2016 female elected MPs are from NPP (24) and NDC (10) and in 2012 were from NPP (17) and NDC (13).

⁴³ The Coalition of the Women's Manifesto for Ghana hosted by Abantu for Development 2004 (Second edition: 2016) put together The Women's Manifesto for Ghana which is a political document that sets out critical issues of concern to women in Ghana and makes demands for addressing them.

⁴⁴ The only female incumbent MP out of 31 constituencies, Mary Salifu Boforo, was not nominated.

For these elections, the EC organised “sensitisation” events for female MPs and a number of initiatives around the country sought to promote women’s participation as candidates and voters. In November in Greater Accra female candidates from all parties also pointed out the difficulties in attracting financial support for nomination and campaigning. The conflict between the need to increase female participation and the rise in parliamentary nomination fees by the EC (from 1,000 GHC to 10,000 GHC) has been widely discussed along with the idea of reduced fees for women candidates.

At public events female parliamentary candidates have also declared they are a disadvantaged group not only because they face abusive language but also due to their financial difficulties, lack of support, boycotting by male colleagues, and other negative personal experiences. In November the EC held similar meetings in Ashanti, Eastern and Volta Regions and came to the same conclusions. In Volta Region, Global Action for Women Empowerment (GLOWA) also supports women in politics through training, peace marches and meetings with female parliamentary candidates. In Volta, an Inter-Party Dialogue Forum has been held with women candidates contesting parliamentary elections.

Although there was a reasonable gender balance among staff in polling stations only 14% of presiding officers were female. At 42.3% of the polling stations at least one party agent was a woman. The number of female volunteers participating as observers at the polling stations with CODEO and other organizations was high as well. However, in the leadership of political parties, women have a secondary role or no role at all.

Innovations such as a Women’s Situation Room (WSR) tap into the expertise of women to prevent situations that could lead to violence. WSR sent 400 female observers across Ghana to follow the electoral process. On 17 November women’s peace marches were held across the country. The main goal was to sensitize women, the public, and representatives of the NPP and NDC, to the WSR, with the aim of promoting peaceful and respectful elections.

It is notable that Ghana’s Supreme Court Chief Justice is a woman, as are three of the other 10 Supreme Court judges, five out of the seven members of the EC, including the Chairperson and one of her Deputies. Although the number of female candidates for MP did decrease for the 2016 election, the number of women elected as an MP increased slightly and has been rising slowly since the new Constitution was passed, going from 16 in 1992 to 29 in 2012 and 37 in 2016⁴⁵. The elected President has pledged that, in accordance with his party manifesto, a minimum of 30% of the ministerial appointments will be given to women. WILDAF has prepared a list of 500 well prepared women that could be appointed to public offices.

Overall, the number and profile of women in politics and public life remains limited. At present, despite a requirement for affirmative action in the Constitution and Ghana’s international and

⁴⁵ In 1992, 23 women contested the first multi-party Parliamentary elections and 16 were elected to the 200 seats Parliament (8% of the seats). In 1996, a total of 53 women contested the elections and 18 were elected (9 % of the seats). In 2000, women candidates rose to 95 while 19 secured a seat in one of the 230 single-member constituencies countrywide (8.26% of the seats). The 2004 parliamentary elections saw 104 women running and 25 of them becoming Members of Parliament (10.9% of the seats). For the 2008 Parliamentary elections, among 103 women candidates, 20 were elected (8.7% of the seats). In 2012, while 133 women contested the polls, women accounted for only 29 of the 275 Members of Parliament (10.5% of the seats).

regional commitments,⁴⁶ the Affirmative Action Bill promoting a 30 per cent quota of women in governance and decision-making positions still has yet to be achieved.

XII. Participation of Person's with Disability

According to the Ghana Federation of Disability Organizations (GFD) there are over 3 million persons living with disabilities in Ghana, approximately 10 percent of the population. Ghana signed the United Nations Convention on the Rights of Persons with Disabilities on 30 March 2007 and ratified it on 31 July 2012.⁴⁷ The Ghanaian constitution provides a constitutional guarantee for the rights of persons living with disabilities.⁴⁸ In 2006, the Parliament of Ghana, in accordance with the constitutional provision to make laws promoting the rights of the disabled, enacted the 'Persons with Disability Act. 715. Even though the law was gazetted in August 2006, the National Council on Persons with Disability, created by the law to champion issues on disability, was not inaugurated until November 2013. The enabling regulations, which would provide practical implementation of the law to ensure that public bodies and institutions provide and maintain facilities and services for the disabled, are yet to be passed.

However, the legal framework clearly provides that persons with disabilities have the right to vote and the right to be candidates in any presidential and parliamentary election. In this electoral cycle, it is also noteworthy that one of the presidential candidates was a person living with disability, and a visually impaired person was a parliamentary candidate for a major political party.⁴⁹ An event organised by the GFD enabled political party candidates to promote their message to the disabled community. Generally, polling stations were adequate to accommodate the physically disabled and provisions were made for those voters requiring assistance to exercise their right to vote.

CHRAJ conducted an election observation specifically focused on assessing how the rights of the disabled were met in the administration of the elections. The EC provided tactile ballot jackets for use by visually impaired voters at all polling stations to ensure total secrecy during the process. In addition, there is a provision for assisted voting in the polling station to help those

⁴⁶ CEDAW was ratified by Ghana in 1980. The Convention recognizes the rights of women to participate in the political process. In 1975, the first United Nations Women's Conference adopted a world plan of action that mandated governments to initiate policies and strategies to provide women with the opportunities to participate meaningfully in decisions that affected their lives. Two decades later, the Beijing Platform for Action set a target of 30% representation of women in all decision-making positions. The ECOWAS Protocol on Democracy and Good Governance requires also members to take appropriate measures to ensure women's representation as does the Commonwealth Plan of Action for Gender Equality. The African Union, the New Partnership for Africa's Development (NEPAD), the Nairobi Forward-Looking Strategies for the Advancement of Women 1985, the African Charter on Human and People's Rights, 1981 and its Women's Protocol all promote a Gender Policy plan of 50% representation of men and women in decision making processes at all levels.

⁴⁷ United Nations Convention Rights of Persons with Disabilities. Article 29 of the Convention requires that all Contracting States protect "the right of persons with disabilities to vote by secret ballot in elections and public referendums".

⁴⁸ Article 29 of the Ghanaian Constitution provides a constitutional guarantee of the rights of disabled persons. Article 29 requires all public facilities – including polling stations and courts – to provide access for persons with disabilities. Article 29(8) mandates Parliament to "enact such laws as are necessary to ensure the provisions of this article"

⁴⁹ Ivor Kwabena Greenstreet presidential candidate of the CPP and Dr. Henry Seidu Daanah, parliamentary candidate of the NDC.

requiring physical assistance to vote. The GFD also provided identity cards to be produced at the polling stations to account for the needs of persons living with disability, such as the need for the hearing impaired to be addressed in sign language. Party manifestos were published in braille and television coverage of the presidential debates and voter education included sign language for the hearing impaired. EU EOM observers reported that in some polling stations, stairs leading to the polling station made it inaccessible for the disabled.

XIII. Electoral Disputes

A Electoral Complaints and Offences

The judiciary has an important role to play in the handling of electoral complaints and petitions. Seventeen High Court judges across the country were identified by the Chief Justice to handle electoral disputes arising before, during and after the December polls. The Election Task Force Committee of the Supreme Court trained all judges and magistrates in trial courts to prepare them to deal expeditiously with all election-related disputes, both civil and criminal, and a manual on election adjudication was launched⁵⁰.

The electoral process does not offer administrative dispute resolution. A citizen with an electoral complaint has to go to Court to seek redress, which can be a very expensive and lengthy process. There are also alternative dispute resolution mechanisms outlined in the Courts Act but they are rarely used⁵¹. However, during the Election Day, as well as several days before and after the elections, various situation rooms (including an EC situation room, and a Women's Situation Room) were set up to informally resolve election-related issues. All of them had a hotline to enable prompt responses to minor problems. They were a useful tool to resolve electoral issues peacefully, and the Women's Situation Room had the added benefit of promoting gender inclusiveness

Situation rooms played an important role in addressing tension and curbing electoral offences. Nonetheless, some electoral offences involving destruction of election materials (Tema Central), tearing of campaign posters (Tema Central and Ga East in Greater Accra) and threats, tension and minor violence between the two main parties (Asunafo South and Tain in Brong Ahafo, and Walewale and Wulensi in Northern Region) were still reported to the police. After election day, conflict increased between supporters of the two main parties in some areas. However, none of these cases of election-related violence or electoral offences ended up in Court as of the time of writing.

Conversely, criminal cases aside, the electoral process was highly litigious. In November 2015 the PPP unsuccessfully went to court to challenge the EC's increase in filing fees for presidential

⁵⁰ All this helped restore confidence in the Judiciary. In September 2015, a documentary by a local undercover investigative journalist showed High Court and Circuit Court judges, magistrates and staff of the judicial service, including court clerks, accepting bribes to influence decisions in court. The Chief Justice acted swiftly in respect of the lower court judges and magistrates, who were dismissed. The High Court judges were also dismissed by the President after hearings were conducted in accordance with the Constitution.

⁵¹ Although ADR mechanisms are not enshrined in the Constitution, Article 72 (1) of the Courts Act, 1993 (Act 459) provides that "a court with civil jurisdiction and its officers shall promote reconciliation, encourage and facilitate settlement of disputes in an amicable manner between and among persons over whom the court has the jurisdiction".

and parliamentary candidates (50,000 GHC and 10,000 GHC respectively)⁵²; four aspiring presidential candidates went to the High Court in October⁵³ following their disqualification by the EC⁵⁴; a case on procedures for special voting was ruled on by the Supreme Court on 14 November; and a case was also decided against the EC on 27 October, requiring it to ensure copies of the constituency collation sheets be made available to all parties. The EC's fee for media accreditation was also taken to court⁵⁵.

The High Court on 28 October ruled that the disqualified PPP presidential candidate should be allowed to correct his nomination papers.⁵⁶ The EC contested this ruling in the Supreme Court, which ruled on 7 November that the nomination period for all 13 disqualified presidential candidates should be re-opened from 7 to 8 November 2016. By virtue of this being a Supreme Court ruling, all the other pending cases of a similar nature that were still at the High Court were closed⁵⁷. In this sense, while the EC lost its case it achieved two very important things. First, all outstanding cases were brought to an end, avoiding a multitude of cases going through the courts, which was especially important given the need for the electoral process to move forward and for the printing of ballots. Second, because the EC has no power to reduce the time between the end of nomination period and the day of election, which should be not less than 30 days, the Supreme Court ruling gave the EC legal cover for holding elections 29 days after the nomination period, rather than at least 30 days as required.

At the regional level, some parliamentary candidates were disqualified for not paying the fees⁵⁸. Female politicians, gender activists and women's organizations point to a lack of means as one of the main reasons for the notable absence of women in Ghanaian politics.

⁵² PPP asked the Court to declare that Regulation 45 of the Public Elections Regulations, which provides guidelines on filing fees, was discriminatory, arbitrary and unreasonable. The High Court, held that the PPP's request lacked jurisdiction, and that because it is a constitutional matter the case should be decided by the Supreme Court.

⁵³ On 14 October 2016, Dr Papa Kwesi Nduom of the PPP filed an application for judicial review demanding the High Court quash the EC's decision to disqualify him from contesting in the 7 December 2016 presidential election. Later that month, other presidential aspirants, such as former first lady Nana Konadu Agyeman-Rawlings of the NDP and Dr Edward Nasigre Mahama of the PNC went to the Human Rights division of the High Court to seek an order directed at the EC to accept their nomination forms and to enable them to run in the presidential election.

⁵⁴ A number of signatories supporting presidential aspirants did not meet the requirements as stipulated in the CI 94. According to the EC some of the signatories also sponsored more than one candidate with the same names and voter registration details; they changed only their signatures.

⁵⁵ On 15 November the International Standards Journalists Association (ISJA) took the Electoral Commission to the Human Rights Division of the Accra High Court over its decision to ask journalists to pay 10 GHC (approx. 2.5 EUR) for EC accreditation. Journalists argue that the EC's decision was unfair and unreasonable because foreign journalists who had been approved to cover the elections were not being asked to pay. The case is pending.

⁵⁶ On 28 October 2016, the High Court granted one of the presidential aspirants, Dr Nduom (PPP), certiorari on the basis that the decision of the EC to reject his nomination form without giving him an opportunity to be heard constituted a breach of his rights to natural justice as enshrined in Articles 33 (5) and 23 of the 1992 Constitution.

⁵⁷ Nonetheless, after the 7 November Supreme Court ruling allowing the PPP presidential aspirant and 12 other disqualified presidential candidates to correct their nomination papers, Mr. Thomas Nuako Ward-Brew, presidential candidate of the Democratic People's Party (DPP), who was again disqualified by the EC, went one more time to the Supreme Court to stop the December polls. The DPP flagbearer's claim was dismissed by the SC on 23 November.

⁵⁸ For instance, in the Central Region the EC Regional Director stated that there were "many" rejections of MP candidacies due to failure to pay nomination fee although there were no objections filed as to the nomination. In the Northern Region, according to the EC Regional Director, ten MP candidates could not pay the nomination fee and therefore were disqualified.

B Electoral Petitions

The Constitution specifies that petitions with respect to parliamentary elections are initially decided by the High Court. Appeals against the ruling of the High Court go before the Court of Appeals, whose decision is final. Petitions arising from a presidential election are determined by the Supreme Court.

The validity of an election to Parliament can be challenged before the High Court through a petition introduced by a registered voter or a candidate from that constituency. The petition must be filed within 21 days of the publication of the results in the Gazette and is subject to the payment of a fee. The High Court may declare the election void, may declare another candidate duly elected, or may dismiss the petition. Legal grounds for nullifying parliamentary results include bribery, intimidation, other misconduct having prevailed so extensively as to affect the results, noncompliance with the laws or regulations impacting results, or disqualification of a candidate at the time of the poll. The decision of the High Court is submitted to the EC. In the case of an annulled election, the EC conducts a fresh election in the constituency.

Any citizen can challenge the presidential elections results within 21 days of the announcement of results, asking the Supreme Court to invalidate the results. Petitions are filed with the registrar of the Supreme Court. After the 2012 elections, the Supreme Court took eight months to rule on a petition against the results. Presently, there is still no timeframe for the resolution of petitions. However, an amendment to provide a 42-day deadline for the Supreme Court to decide on presidential election petitions was put before parliament, but is yet to be passed.

XIV. Polling, Counting and Collation (Including Special Voting)

Special voting for election, security and media personnel on 1 December experienced widespread problems. Many special voters, and security personnel in particular, were unable to vote since their names were not included on the voter register at the polling stations where they intended to vote. The institutions involved – the EC and security agencies – failed to clearly communicate to special voters that they have to vote in their home constituencies and not in the places where they are currently deployed. Also the extremely late finalisation of the polling station special voter registers may have contributed to the problem. Nevertheless, the turnout reached 72.69%. In an attempt to address the problems, the EC agreed with political parties to continue with special voting on 4 December. However, the problems persisted and, according to the EC, only 6.6% of special voters used this extra opportunity to vote.

For the Election Day on 7 December, the opening of polling experienced some delays and only 11 out of 34 polling stations observed by the EU EOM observers opened on time. The remainder largely opened within an hour. The opening procedures were largely followed and overall conduct of the opening was assessed positively in 30 out of 34 polling stations.

Voting was conducted in a generally peaceful atmosphere and procedures were followed. NDC and NPP party agents were present in nearly all polling stations visited. Only a few irregularities were observed, such as the polling station layout insufficiently protecting the secrecy of the ballot in 20% of places observed and no checking for traces of ink in 19%. The overall conduct

of the voting was assessed positively in 94% of the 321 polling stations observed by EU EOM observers. The only larger-scale problem was reported from Jaman North constituency in Brong-Ahafo region where a disagreement between the political parties over the voter register led to the postponement of elections in all 92 polling stations in the constituency. Polling in the affected constituency was re-scheduled for the next day.

Counting at the 37 observed polling stations was conducted in a largely transparent manner and in the presence of party agents. The overall conduct of the process was assessed positively in 34 out of 37 cases. Observers reported that counting procedures, including for reconciliation, were frequently not followed and presiding officers in most of the cases appeared to have difficulties completing the results forms, which could have impacted on the accuracy of the later collation process. Furthermore, polling station results forms were not publicly displayed in 24 out of 35 polling stations observed till the end of the count, although, critically, party agents received a signed copy of the results forms in all but one case. However, one notable exception on the conduct of the count reported by observers was polling station D160203 in Hohoe constituency of Volta region where EU EOM observers witnessed significant irregularities during the count, such as allocating the NPP-marked and blank ballots to NDC.

Collation at the constituency collation centres was largely transparent but was less well organised. EU EOM observers made 54 visits to 41 constituency collation centres and the overall conduct of the process was assessed positively in 47 out of 54 cases. The process was negatively affected by unrest outside the collation centre (9 cases), inadequate facilities (10 cases), overcrowding (13 cases) and rather tense atmosphere which at times led to agents and observers not having a clear view of the procedures (11 cases) and the filling in of forms (5 cases).

Security forces had to intervene to restore public order in/around the constituency collation centres in Ododiodioo, Ablekuma North, Ablekuma South, Weija/Gbawe (Greater Accra), Effiduase/Asokore (Ashanti), Hohoe (Volta), Amenfi Central (Western) and Tamale Central (Northern). Three EC collation staff were arrested in Sunyani West constituency collation centre (Bring Ahafo) for alleged results manipulation and presiding officers protested against long waiting times in Tamale South (Northern).

On 8 December the EC added additional verification measures to address “received reports on several possible instances of over-voting”. However, this created uncertainty as the EC did not provide any further details as to the nature of the additional measures and the extent of possible over-voting. In a later meeting with the EC, the EU EOM was informed that there was no over-voting, but rather administrative errors in the results forms which meant the number of verified voters was not properly accounted for. The EC’s decision to issue a statement in the heat of the results process indicating that there may have been over-voting was questionable and potentially inflammatory.

Collation of presidential election results at the national level was transparent but rather slow, as the EC asked candidate agents to verify each of the faxed constituency results forms prior to the final collation. This unforeseen extra verification further slowed down the process, however it provided the agents with an additional opportunity to thoroughly scrutinise the accuracy of the constituency results.

XV. Results and Post-Election Environment

The EC declared presidential election results on the late evening of 9 December shortly after President Mahama conceded defeat, with the opposition candidate Nana Akufo-Addo announced as winner of the presidential election. This was well within the originally foreseen time frame of 72 hours after the close of the polls. Nevertheless, there was some apprehension among the stakeholders and general public as the EC was not releasing any progressive results of the collation process⁵⁹ and both main contenders claimed to be in the lead. The failure of the EC's anticipated Election Results Management System (see Election Administration) exacerbated the general level of consternation regarding the results process, which was evident among media, the public and parties, again illustrating some shortcomings in the EC's communications capacity.

*2016 presidential election results (based on ballot order and from 271 out of 275 constituencies)*⁶⁰

Rankings	Presidential candidates	Party	Total valid votes	% score
1	Ivor Kobina Greenstreet	CPP	25,395	0.24
2	Nana Konadu Agyeman-Rawlings	NDP	16,878	0.16
3	John Dramani Mahama	NDC	4,713,277	44.40
4	Papa Kwesi Nduom	PPP	105,682	1.00
5	Nana Akufo-Addo	NPP	5,716,026	53.85
6	Edward Mahama	PNC	22,214	0.21
7	Jacob Osei Yeboah	IND	15,889	0.15
Total valid votes			10,615,361	98.46
Total rejected ballots			166,248	1.54
Total votes cast			10,781,609	

While it is clear that the NPP won a sizeable majority in the parliament, announcement of official results for the parliamentary elections from the respective constituencies was quite slow and a small number of results were challenged in the courts. The officially announced turnout was 68.62%, however this figure was calculated based on the total number of registered voters without taking into account that four constituencies were not included in the declared results. The turnout for the 271 constituencies declared was 69.59%. The real turnout, however was around 73% as there was an estimated 3-4% of deceased voters included in the certified voter register for the 2016 elections.

While the transition process was initiated in a calm and orderly manner and at senior levels the two parties acted very constructively, there were a number of incidents post-election. After the declaration of results there were reportedly several cases of violent attacks⁶¹ and clashes among

⁵⁹ The EC was instead publishing on its official Facebook and Twitter accounts provisional constituency results of the presidential election. By the time of the declaration of the final results only 99 out of 275 constituency results had been published.

⁶⁰ The results from three constituencies were contested and results from one constituency were not ready due to late voting. Total number of registered voters in these four constituencies was 220,270 and therefore their results could not change the outcome of election.

⁶¹ An NDC supporter was killed at Dunkwa-on-Offin in Central region and some well-known personalities who were involved in the NDC campaign were attacked by the pro-NPP youth.

supporters of the two major parties, and the destruction of government property⁶². There were also reports of NDC supporters being beaten by jubilant supporters of the NPP. On 14 December NDC issued a statement on post-election violence against its activists⁶³.

The National Peace Council condemned the attacks on NDC supporters and destruction of state property by youth associated with NPP and asked the police to deal with perpetrators. The police stated that the post-election day celebrations and street marches were also used by criminals and hooligans for looting and robbery. Both NPP and NDC presidential aspirants condemned the post-election violence and asked their supporters to accept the results and avoid such violence.

The inauguration of the new President of the Republic of Ghana took place on 7 January 2017.

⁶² The burning of toll booths in Fiapre (Brong Ahafo), looting warehouses and stores in Tamale, the seizure of toll booths on Tema-Accra highway.

⁶³ The NDC listed several cases of violence against its activists in Eastern, Brong Ahafo, Ashanti and Norther region.

XVI Recommendations

No.	Context	Recommendation	Suggested Change in Legal Framework	Responsible Institution	Relevant International/Regional Principle / Commitment
LEGAL FRAMEWORK					
1	The Right to Information Bill was first discussed in Parliament in 1999 and re-presented to Parliament in 2013. It is still in Parliament.	Pass the Right to Information Bill which would give substance to Article 21 of the Constitution and transparency to many aspects of the elections	Legislative Level Right to Information Bill	Parliament	UDHR, Article 19, Right to Information. ICCPR, Article 19 Transparency and Right to Information. ACHPR, Article 9 Right to Information.
ELECTORAL ADMINISTRATION					
2	All seven EC members, including the Chairperson and two Deputies are appointed by the President for an indefinite tenure of office without any need for consultation with the opposition.	Establish an inclusive parliamentary mechanism for cross-party involvement in the selection and approval of EC members and with a reasonable limited tenure of office, in order to increase stakeholder confidence and enhance independence of the body.	Constitution amendment	Parliament	Independent electoral authority ICCPR General Comment 25, paragraph 20 African Charter on Democracy, Elections and Governance (ACDEG), article 17.1
3	The EC normally does not publish its decisions or minutes of the EC meetings. The EC website contains minimal useful information and some essential information is missing completely.	The EC should work with full transparency, making all information of public interest immediately and easily accessible, including decisions, meeting minutes, key legislation, voter registration data and full and timely publication of polling station results.	Desirable to be secured in the C.I.	EC	Transparency CAC articles 7.4 and 10 ICCPR General Comment 34, paragraph 19

4	EC communication with stakeholders during the 2016 elections was problematic and monthly periodicity of the IPAC meetings was insufficient.	EC communication with stakeholders should be improved, including through more frequent IPAC meetings in the immediate pre-election period.	No	EC	Transparency CAC articles 7.4 and 10 ICCPR General Comment 34, paragraph 19
5	Currently there are marked disparities in the size of constituencies, with the smallest having 13,976 registered voters and largest 142,008.	The next review of parliamentary constituency boundaries should ensure a revision of such boundaries so as to adequately provide for equal suffrage.	Primary legislation (adoption of the new C.I.)	EC/Parliament	Equal suffrage ICCPR article 25 ICCPR General Comment 25, paragraph 21
VOTER REGISTRATION					
6	Currently only an individual registered voter can object to the inclusion of any other voter in the provisional voter register.	The EC be given the right to apply to court to remove deceased and other unqualified persons from the provisional voter register based on information provided by relevant state institutions.	Primary legislation (adoption of the new C.I.)	EC/Parliament	Universal suffrage ICCPR article 25 ICCPR General Comment 25, paragraph 11
7	The existing deadlines are rather unrealistic and consequently they were not respected during the 2016 election process.	Deadlines for the provision of various voter registers to political parties and for the closure of the special voter register be reviewed to correspond to the operational reality on the ground.	Primary legislation (adoption of the new C.I.)	EC/Parliament	Universal suffrage ICCPR article 25 ICCPR General Comment 25, paragraph 11
CANDIDATE REGISTRATION					
8	The amount of the financial deposit to be made by candidates increased significantly for the 2016 elections and it is unreasonably high, particularly in case of the parliamentary candidates. In addition, the level of women's participation in	The nomination deposits, particularly for parliamentary candidates be reduced, including a possible special dispensation for female candidates to also help promote women's participation in political life	EC decision	EC	Right to stand ICCPR article 25 ICCPR General Comment 25, paragraph 16 ICCPR, Article 3 Equality of men and women in the enjoyment of all civil and political rights.

	political life remains low.				ACHPR, Article 2, Right to Freedom from Discrimination. CEDAW, Article 4, 1 Equality of men and women. ECOWAS, Protocol on Democracy and Good Governance, Articles 2-3 UN Women's Conference, Beijing Platform for Action
9	The EC asked candidates to file nominations in the last two days of the nomination period, effectively denying them an opportunity, provided in the regulations, to correct any errors in the nomination forms within the stipulated nomination period.	The candidate nomination process be organised in a way that allows candidates a meaningful opportunity to correct any errors in the submitted nomination forms.	EC decision	EC	Right to stand ICCPR article 25
POLITICAL PARTIES AND CAMPAIGN ENVIRONMENT					
10	There is no specific legal framework that regulates the campaign. The official campaign period is not defined in the law.	Reiterating the recommendation from the EU EOM of 2008 - Provisions for regulating the campaign environment and the conduct of political parties in their campaigning should be included in statutory legislation that should include the length of the official campaign period, a period of moratorium for campaigning immediately prior to elections, and penalties for infringement.	Amendment of Political Parties Law (Act 574, 2000)	Parliament	Campaign Freedoms ICCPR articles 21 and 25
11	The abuse of state resources and incumbency is a recurring	An effective sanctioning mechanism against the misuse	Amendment of existing laws	Parliament	General Comment No. 25

	problem in Ghanaian elections and leads to an un-level playing field. The campaign period is not regulated by any specific law and no measures to regulate use of state resources have been introduced.	of state resources, including administrative and security apparatus, during the election period be established. This includes a limiting of role of the government during the election period as strictly limited to caretaker functions.			to Article 25 of the ICCPR. Article 17 of the UN Convention against Corruption (CAC)
12	There are no legal provisions on campaign finance which seek to ensure a level playing field. While there has been some discussion regarding public funding of parties there is currently no such provision.	If public funding of political parties is considered, it should be in the context of ensuring inclusivity, including women's participation, and a more level playing field. Such funding measures, should they be adopted, also need to ensure utmost transparency and accountability.	Public Funding of Political Parties Bill	Parliament	ICCPR Level playing field
CAMPAIGN FINANCE					
13	The EC is currently not enforcing the legislation for collecting, scrutinizing and disclosing financial reports. Not all political parties comply with the law on political party finance. The Political Parties Law provides only basic provisions in relation to regulation of political and campaign finance.	In order to ensure utmost transparency and accountability, the EC's capacity to enforce the provisions of the law on political/campaign finance should be enhanced. Alternatively, responsibility could be given to another body if deemed appropriate.	Political Parties Law (Act 574, 2000).	EC should enforce the law Parliament	ICCPR UN Convention against Corruption (CAC)
MEDIA					
14	The process of obtaining TV and radio station licences is costly and vulnerable to abuse. The National Media Commission (NMC), a constitutional body, has a narrow mandate, whereas the National	A broadcasting law should be introduced, with clear and detailed procedures for issuing broadcasting licenses. The provision of such licenses should be on the basis of	Draft Broadcasting Bill of 2014 to be revised, simplified and enacted by the	The Minister of Communications, The Parliament.	Declaration of the Principles on Freedom of Expression in Africa ICCPR Art. 19 Right to freedom of expression

	Communications Authority (NCA), which is controlled by government, provides licenses and has sanctioning powers.	guaranteeing pluralism, political independence and preventing monopolisation of ownership. To this end, the NMC could be given responsibility for content licenses and the NCA for technical licences following receipt of a content license. The independence of all existing licensing authorities should be reinforced and guaranteed.	Parliament or a new broadcasting law drafted. National Communications Authority Act, 1996 (Act 524) to be amended.		
15	For election coverage, state-owned media are obliged in the Constitution to provide equal access to all parties and candidates. State-owned GTV and Radio Uniiq (part of GBC) failed to meet this obligation.	GBC should be reformed to ensure it fulfils its obligations as a public service broadcaster. A transparent mechanism should be set up to ensure the independence and public accountability of state-owned media and a clear regulatory mechanism introduced to guarantee impartiality and balance in state media.	Ghana Broadcasting Corporation Act 1968 (NLCD 226).	The Parliament.	ICCPR GC 34.16 Fair and Equitable access to state controlled media – ACDEG, article 17.3
PARTICIPATION OF WOMEN					
16	The level of women's participation in political life remains low. For instance, women accounted for just 11.8% of the total number of candidates standing in the elections, with just one female presidential candidate, one female presidential running mate, and 136 parliamentary candidates out of 1,158. There are just 34 (12.3 %) female members in the new parliament.	Enact the Affirmative Action Bill promoting at least a 30 % quota of women in governance and decision-making positions.	Legislative Level. Affirmative Action Bill.	Parliament	UDHR, Article 7, Equal protection clause. ICCPR, Article 3 Equality of men and women in the enjoyment of all civil and political rights. ACHPR, Article 2, Right to Freedom from Discrimination. CEDAW, Article 4, 1 Equality of men and women. ECOWAS, Protocol on

					Democracy and Good Governance, Articles 2-3 UN Women's Conference, Beijing Platform for Action ACDEG, article 8
ELECTORAL DISPUTES					
17	The electoral process does not offer administrative dispute resolution. A citizen with an electoral complaint has to go to Court to seek redress, which can be a very expensive and lengthy process.	Consider to establish administrative dispute resolution mechanisms for 1 st instance grievances against decisions and actions of the election administration in order to reduce over-reliance on the court process and lessen the pressures on the election calendar	Amend Constitutional Instrument (Public Elections Regulations, 2016, CI 94) or equivalent regulation.	EC and Parliament	ICCPR GC 31, paragraph 15
18	Following the 2012 elections a petition to the Supreme Court against presidential election results took some eight months to resolve. An amendment to provide a 42-day deadline for the Supreme Court to decide on presidential election petitions was put to the previous parliament, but was not passed.	Establish a reasonable timeframe for the resolution of presidential and parliamentary election petitions, which will increase stakeholder access to an effective remedy and also increase public and political confidence	Constitutional Instruments regulating jurisdictional procedures. (CI 47 and CI 16). Supreme Court Rules, 2012, CI 74.	Court Committee and Parliament	UDHR, Article 8, Right to an Effective Remedy. ICCPR article 2.3. Right to an Effective Remedy ICCPR article 14.1 Right to a Fair and Public Hearing ACHPR, Right to Fair Trial.
19	The electoral calendar is tight and the judiciary dealt with cases expeditiously, yet presently there is no timeframe for the resolution of complaints and petitions, which can create challenges for the timely management of the process.	Ensure there is adequate time in the election calendar for the resolution of election disputes so as to avoid unduly impacting on subsequent phases of the process, especially during candidate nomination.	Constitutional Instruments regulating jurisdictional procedures. (CI 47 and CI 16). Supreme Court Rules, 2012, CI 74.	Court Committee and Parliament	UDHR, Article 8, Right to an Effective Remedy. ICCPR article 2.3. Right to an Effective Remedy ICCPR article 14.1 Right to a Fair and Public Hearing ACHPR, Right to Fair Trial.

POLLING, COUNTING AND COLLATION					
20	The existing counting and collation regulations are silent on how to proceed in case of any irregularities during the counting and collation process.	Clear procedures for the presiding and returning officers be stipulated on how to proceed in case of any irregularities occurring during the counting and collation process, including over-voting, not matching reconciliation and mistakes in the results forms.	Desirable to be secured in the C.I.	EC/Parliament	Security of the ballot and the counting of the votes ICCPR General Comment 25, paragraph 20