



FIRST PRELIMINARY STATEMENT

Abuja, 25 February 2019

Serious operational shortcomings put undue burden on voters; civil society enhanced electoral accountability

This preliminary statement of the EU election observation mission (EU EOM) is delivered before the completion of the entire electoral process. Critical stages remain, including collation of results and adjudication of petitions. The EU EOM is now only in a position to comment on observation undertaken to date, and will later issue additional statements as necessary, including after the 9 March election. The EU EOM will also publish a final report, containing full analysis and recommendations for future electoral processes. The mission was invited to observe the elections by the Independent National Electoral Commission and is independent in its conclusions under the leadership of the Chief Observer, Maria Arena, Member of the European Parliament.

Summary

- The presidential and National Assembly elections were competitive and candidates were able to campaign freely. The rhetoric became more acrimonious and threatening closer to election day and there were an increasing number of violent incidents. The Independent National Electoral Commission (INEC) worked in a very difficult environment and made various improvements. However its serious operational shortcomings reduced confidence in the process and put undue burden on voters. More robust procedures and timely communication is needed. Incumbents at federal and state levels enjoyed advantages, to the benefit of both leading parties, most notably on federal government television and state-run media. The controversial suspension of the Chief Justice by the president was divisive and raised questions about process, timing and jurisdiction. Civil society and media contributed positively to accountability through scrutiny of the elections.
- The majority of polling units opened extremely late, leaving voters waiting for hours uncertain of when voting would begin. This was compounded by a general lack of public information from INEC. As a result, there was confusion and tension, and voters were likely deterred from participating. In nearly 90 per cent of 190 EU observations, agents of the two main political parties were both present. However, important polling procedures were insufficiently followed, and in 14 per cent some essential materials were missing. On four occasions, voting continued even when smart card readers malfunctioned. There were evident problems in completing results forms and they were not publicly displayed in half the counts observed, weakening transparency. Positively, in almost all cases party agents received copies. Reports from security forces and in the media indicated that between approximately 20 and 35 people were killed on polling day in election-related incidents.
- INEC had to operate in a complex security and politically-charged environment. Positively, INEC made a number of improvements, including making electoral participation more accessible through simplified voting procedures. However procedural weaknesses continue in relation to checks and transparency in the results collation process. INEC was widely criticised when, five hours before polling was due to start on 16 February, it postponed the elections by a week, citing logistical reasons. Although INEC increased its communication with

stakeholders after the postponement, there is a need for ongoing stronger public information on INEC decisions, plans and materials.

- There are over 84 million citizens on the voter register, including 14.3 million new registrants, although the total figure includes a sizeable number of voters who have died over the last eight years. INEC made efforts to facilitate the collection of permanent voter cards (PVCs), but EU observers noted some logistical problems that hampered collection. INEC did not provide public data on PVC collection until 21 February. There was considerable variation between states in the numbers collected, with some implausibly high: in six states the collection rate was 94 per cent or more.
- There have been positive changes to the Constitution since the last elections. These include reducing some of the minimum age requirements for candidacy, enabling more inclusive participation. There are now time limits for pre-election cases, which improves opportunity for meaningful remedy. However, attempts to amend the Electoral Act were unsuccessful and legal shortcomings continued, including in regards to specific procedures for the use of smart card readers in polling units.
- The vast majority of 640 pre-election legal cases, mainly from the 2018 party primaries, were not resolved before election day, creating uncertainty. At times, cases were lodged at multiple courts, with consequent overlapping judgments creating practical challenges and confusion.
- Three weeks before the original election day, the Chief Justice of Nigeria was suspended by President Buhari, which divided opinion on the constitutionality of the action. The EU election observation mission noted concern over both the process and timing of the suspension.
- The elections were competitive, although the primaries involved prohibitive financial costs, confusion and substitution of winners by party leaderships. Overall, contestants were able to campaign freely and both the main presidential candidates held rallies nationwide. As the original election date drew nearer, campaign rhetoric became more acrimonious and hostile. Political finance regulation is dysfunctional due to incomplete legal provisions and lack of enforcement. Cases of misuse of state resources were generally left unaddressed.
- Federal government-owned radio and a few commercial broadcasters at national and regional levels offered a diversity of views. However, there was evident partisan programming by the federal government-owned Nigerian Television Authority (NTA), state-run media, and local commercial radio stations owned by politicians. Overall, media coverage of the campaign was dominated by antagonistic commentary by the two leading parties. Consequently, with the exception of a few states, voters had limited access to diverse and factual information on which to make an informed choice.
- Parties used online platforms to campaign, at times distorting the information environment and spreading false news. There was vigorous political discussion online and several fact-checking initiatives countered frequent disinformation messages. While paid-for online advertising was also used, its extent could not be assessed due to a lack of transparency by the platforms.
- At least 46 people were killed in pre-election day violence as well as several dozen more in crowd-control incidents at rallies. In the last weeks of the campaign, speeches by APC and PDP leaderships implied readiness to respond with force to attempts to disrupt the election. The president also called for the military and police to be ruthless with ballot box snatchers.
- Nigeria has the lowest rate of women in parliament in Africa. The percentage of female candidates fell for the National Assembly, showing a lack of promotion of women by political parties.

- A range of civil society organisations effectively contributed to election reform, voter awareness and scrutiny. Various groups increased accountability in the election through coordinated independent observation of different aspects of the election.

The European Union Election Observation Mission (EU EOM) has been in Nigeria since 5 January 2019. The mission includes a core team of 11 experts and 40 long-term observers deployed to 20 locations on 21 January. On 23 February, the EU EOM deployed 91 observers from 26 EU member states, Canada, Norway and Switzerland across 31 states. On election day, observers visited 261 polling units and 91 collation centres. Observers assess the whole electoral process against international obligations and commitments for democratic elections to which Nigeria is signatory, as well as the laws of Nigeria. The EU EOM is independent from EU institutions and member states. EU EOMs adhere to the Declaration of Principles for International Election Observation signed at the United Nations in 2005.

Findings

1. BACKGROUND

This is Nigeria's sixth general election since the restoration of democracy in 1999, all of which have been observed by the EU. The federal elections held on 23 February 2019 were for the president, vice-president and the two chambers of the National Assembly. In total, 109 senators and 360 members of the House of Representatives were voted for in single-member constituencies. There is a majority run-off system for the presidential election,¹ and first-past-the-post for the National Assembly.²

Two parties dominated the political landscape. President Muhammadu Buhari ran again for the incumbent All Progressives Congress (APC). The opposition Peoples Democratic Party (PDP), in power between 1999 and 2015, had the former Vice-President, Atiku Abubakar, as its candidate. Since the 2015 elections, which resulted in Nigeria's first civilian change of party in power, there have been defections in both directions. In the nine months prior to the election, the APC lost its majority in the National Assembly and three governors defected, leaving the party with 22 out of 36 states. There were 91 contesting parties, a significant increase from the 27 parties of 2015.

The elections took place in a complex security environment, with insurgencies in the North East zone, succession agitations in the South East zone, and high levels of violence due to the farmer-herder conflicts in the Middle Belt. In the re-run of the Osun governorship election held in September 2018, the role of security forces in the electoral process became increasingly controversial. This resulted in concerns about possible interference in the general elections.

In 2015, the EU EOM made 30 recommendations. Of these, four were fully implemented, including two priority recommendations. These included the introduction of “*continuous voting*” rather than the cumbersome procedure of voters being “*accredited*” in the morning and voting in the afternoon. In addition, time limits were established for pre-election day petitions. Recommendations that were not implemented included establishing a more transparent results

¹ If the highest-scoring candidate doesn't get at least 25 per cent of votes cast in the first round, in at least two-thirds of the states and the Federal Capital Territory (FCT), a run-off takes place between the candidate with the highest number of votes and the candidate with the majority of votes cast in the highest number of states.

² The rescheduled 9 March election is for State House of Assemblies in all 36 states. Twenty-nine of the states also have governorship elections, the rest having had “*off-cycle*” elections as a result of court rulings related to previous electoral cycles.

process, stronger measures for parties to promote women, and provisions for stronger media freedoms.

2. LEGAL FRAMEWORK

Positive changes in the Constitution, but failed attempts to improve electoral law

Nigeria is State Party to most of the key universal and regional treaties relevant to democratic participation, but provisions have generally not been enacted into law.³ The Constitution provides for democratic elections, including guarantees for fundamental freedoms and access to remedy. However problems with the legal framework include undue restrictions on candidacy, limitation on who can file petitions, weak transparency and accountability measures, and an absence of sanctioning powers for INEC. There are also no provisions for voting by INEC temporary staff and security personnel working away from home on election day, which leaves well over one million people disenfranchised.⁴

There have been positive changes to the Constitution since the last elections. These include lowering some candidacy age requirement, and establishing time limits for pre-election cases, thereby increasing opportunity for remedy. Without the time limits, some cases took the entire parliamentary term.

However attempts to amend the Electoral Act were unsuccessful. An amendment bill passed the National Assembly four times, but the president first refused assent on 13 March 2018 and finally on 6 December, when he indicated that an amendment so close to the elections would create uncertainties. The bill contained positive provisions, including codification of the use of electronic devices and the supplementary electronic transmission of results, ceilings for nomination fees in primaries, and a stricter definition of over-voting. The lack of legal reform was a missed opportunity and the late rejection of the bill put more operational pressure on INEC.

Legal amendments are not easily available and there is insufficient awareness of legal changes, including at times amongst the judiciary and INEC. This risks legal confusion and contradictions.⁵

3. ELECTION ADMINISTRATION

Positive efforts to improve the conduct of the election, but better operational planning, communication and transparency needed

The Independent National Electoral Commission (INEC) operates in a complex security and politically-charged environment, with the biggest electorate in Africa and a large number of parties. Prior to the elections, INEC identified various risks, including: physical attacks on INEC

³ Section 12 (1) of the Constitution 1999 states that an international treaty shall not have the force of law and become binding until enacted into law by the National Assembly.

⁴ INEC has approximately one million ad hoc polling staff working on election day. The right of prisoners, including those with convictions, to vote was upheld by the Federal High Court (Victor Emenuewe & 4 Ors v. Independent National Electoral Commission 2014). However INEC has yet to operationalise arrangements in detention centres.

⁵ INEC's regulations and guidelines contain a few inconsistencies with legislation, as it appears that they were prepared with the expectation of the Electoral Act being amended. For example, under the new regulations, a voter can only cast a ballot if their permanent voter card (PVC) is read by a smart card reader in a polling unit. However Supreme Court jurisprudence refers to provisions for manual accreditation provided in law, whereby a voter can still vote if their name is on the register (Rivers Election Petition Case 2015; Nyesom v. Peterside & Ors 2016 and section 49 of the Electoral Act). The guidelines also establish an offence that is not stipulated in law, specifically when a poll official fails to use the smart card reader for accreditation.

staff and facilities, as well as attacks on security personnel on election duty. Two weeks before the scheduled 16 February elections, three of its premises were burnt.⁶ INEC coordinated activities of the Interagency Consultative Committee on Election Security (ICCES) that includes police and other state security agencies.

Positively, INEC has introduced various improvements over recent years. These included making electoral participation more accessible through a much faster voting process whereby voters no longer need to spend prolonged periods of time at polling units.⁷ INEC also tried to strengthen the use of smart card readers and have a more systematic way of recording people who are manually identified if fingerprints are not recognised.⁸ Secrecy of the ballot was enhanced to mitigate risks of vote-buying, including by a change in polling unit layout, a new method of ballot folding, and a ban on the use of mobile phones in voting booths. INEC demonstrated independence in rejecting candidates from the ruling APC in Zamfara, on the basis of primaries not being conducted as required, although this was later overruled by the Court of Appeal.

However, various procedural weaknesses identified by previous EU election observation missions were not addressed, particularly regarding checks and transparency in the results and collation processes. The guidelines and manual for polling staff did not include sufficient provisions for dealing with questionable polling unit results and anomalies during collation. Despite the use of technology to scan results forms, INEC has no plans to publish results with a breakdown by polling unit after the election. This reduces the ability to independently crosscheck results.⁹

INEC gave regular updates on election preparations during the week before the rescheduled election day, but before this there was a lack of full public information on INEC decisions, plans and materials. For example INEC's website doesn't include key materials, such as election officials' manuals and voter registration guidelines. There could have been more frequent communication between INEC and political parties in the run-up to the scheduled 16 February election.¹⁰ Positively, EU observers noted that some state-level consultations with parties took place more regularly. There was variation in performance of state-level INEC offices, with some stakeholders expressing high levels of confidence in the work undertaken locally.¹¹

Training of polling staff was often late, overcrowded, and without sufficient copies of the manuals. Training on smart card readers sometimes took place without the devices, precluding opportunity to practise. Accreditation for observers was distributed late, putting undue operational pressure on citizen observers, and was incomplete in some states.

Five hours before polling was due to start on 16 February, INEC postponed the elections for a week citing logistical reasons. EU observers saw the failure to distribute materials to polling units on time, including ballot papers and results sheets. Political parties and civil society strongly criticised the postponement. Their main concerns were the timing, insufficient explanation of the decision, lack of consultation with political parties, and the security of sensitive materials. However the main stakeholders ultimately accepted the necessity of INEC's decision but

⁶ Abia local government area (LGA) office, 3 February; Plateau LGA office, 9 February; Anambra state office storage container, 12 February, reportedly destroying 4,695 smart card readers.

⁷ INEC reports that in 2015 there were approximately 2.3 million registrants who were "accredited" with their PVCs in the morning but who did not actually vote in the afternoon.

⁸ INEC reports that it recalibrated smart card readers enabling fingerprints to be read more reliably. They were also due to have 24-hour batteries instead of the eight-hour ones used previously.

⁹ In 2015, polling unit results for the presidential election were published, albeit after the deadline for petitions.

¹⁰ National meetings between INEC and the Inter-Party Advisory Council (IPAC) were held only on a quarterly basis. In addition, one stakeholder meeting was held on 7 February 2019.

¹¹ EU observers particularly noted this in Akwa Ibom, Anambra, Benue, Cross Rivers, Enugu, FCT, Imo, Kebbi, Kwara, Ogun and Sokoto.

emphasised that it would likely reduce turnout given that voters would need to make journeys to their home constituencies again. INEC subsequently improved its communication and held daily press conferences providing operational updates.

There was only limited opportunity for Nigeria's more than one million adult internally displaced persons (IDPs) to vote. While arranging for IDPs to vote is challenging, INEC guidelines were produced only in December 2018.¹² As a result, there were differences in practice resulting in extensive variation in IDP registration rates, and IDPs reported insufficient opportunity to register and to collect their PVCs.¹³ INEC tried to arrange for IDPs to vote in their current location for their constituency of origin. In practice, however, they were often encouraged to return to their constituency of origin to vote or were registered to vote for their current state, reducing connection with their home area. INEC released almost no public information about IDP voting arrangements or the number of IDPs registered to vote.

4. VOTER REGISTRATION

High numbers of new registrants but problematic distribution of cards

On 7 January, INEC announced 14.3 million new registrants bringing the official number of registered voters to 84,004,084, a 21 per cent increase from 2015. Positively, this followed an extended period of continuous registration of voters from April 2017 to October 2018. However there is no effective system for removal of the dead, meaning the register also includes a sizeable number of deceased voters. Voter registration is a challenging exercise due to the lack of reliable identification documents, limited population registration, and an absence of systematic recordings of births and deaths.

During voter registration, a person's biometric data is captured and then the registrant must return to collect their permanent voter card (PVC).¹⁴ As PVCs are mandatory for voting, it is crucial that voters can easily collect their cards. In a positive step, INEC decentralised collection points from 16 to 21 January to all 8,809 ward offices, and extended the deadline for the collection of cards from 8 to 11 February. However, PVC distribution and collection was negatively affected by some poor logistics, and procedures for distribution of voter cards were insufficiently followed. EU observers noted that PVCs were sometimes delivered to incorrect offices and some were not available due to late printing.

INEC did not provide regular updates on the numbers of uncollected cards, with data provided only on 21 February, five days after the original election date. Out of 84 million registered voters, 72.8 million collected their voter cards, 86.6 per cent of the total. Data was given by state although disaggregated data by polling unit would have provided an extra integrity check, allowing parties to know the maximum possible turnout on election day, thereby reducing concerns of multiple

¹² The regulations essentially concern IDPs living in camps. In the North East zone, which has more than three quarters of Nigeria's IDPs, an estimated 40 per cent live in camps.

¹³ Within a single state, the registration rate in different IDP camps reportedly varied between 30 and 60 per cent, while the rate of IDPs with PVCs varied between 15 and 80 per cent. In Plateau, a camp reported that INEC registered 121 of 2,600 IDPs during an unannounced visit, with another 500 IDPs unable to register as they were away at the time. The registered IDPs were asked to collect their PVCs in their LGA of origin, which involves security, logistical and financial challenges.

¹⁴ INEC reports deleting some one million duplicates after cross-checking each state register. However, de-duplication across states is more complex and therefore was reportedly difficult to complete.

voting and other fraudulent activities. Numbers in some states appear implausibly high, given migration and that the voter register includes deceased persons.¹⁵

INEC also released PVC collection figures for the most recent voter registration update in 2017-2018. Of 14.3 million new registrants, 76 per cent collected their voter cards, with considerable variation between states from 49 per cent in Sokoto to 96 per cent in Osun.

5. ELECTORAL DISPUTE RESOLUTION

Overlapping jurisdictions with conflicting decisions; controversial suspension of the Chief Justice

Electoral dispute resolution mechanisms were used extensively, with INEC party to 640 pre-election petitions and 40 court orders filed by aspirants from the primaries for the general election. The 180-day time limit for adjudication of pre-election petitions and subsequent appeals meant that the vast majority of cases were not resolved before election day. This reduced opportunity for remedy and created uncertainty over which candidates and parties would be running.

There are similar protracted timeframes for post-election petitions, with submissions required within 21 days of the declaration of results, judgments within 180 days, and appeals disposed of within 60 days.¹⁶ This lengthy process is partly due to petitioners having to provide proof beyond reasonable doubt, with long and complicated evidence requirements involving INEC documents, which are often hard to obtain.

On 25 January, President Buhari suspended the Chief Justice of Nigeria based on an order of the Code of Conduct Tribunal (CCT) dated 23 January. This was divisive, with different opinions on the jurisdictional powers and procedures followed by the CCT.¹⁷ The EU EOM noted its concern over both the process and timing of the suspension in a statement on 26 January.¹⁸

On the day the Chief Justice was suspended, the Supreme Court delayed its decision on the high-profile case of whether the APC could run candidates in Rivers state. Two aggrieved APC factions had previously searched for favourable judgments in various courts simultaneously, resulting in numerous decisions and appeals on the same issue. Finally, on 12 February, the Supreme Court ruled that the incumbent APC's list of candidates was null and void. Similarly, in Zamfara state, two courts issued conflicting judgments over INEC's decision on candidacy.¹⁹ Cases were lodged to multiple courts, and consequent overlapping judgments created practical challenges for the election administration and confused claimants.

¹⁵ In six states the collection rate was 94 per cent or more (Katsina 98.7, Taraba 97.3, Gombe 95.7, Kebbi 95.1, Bauchi 94.8 and Zamfara 94.7 per cent).

¹⁶ Dedicated Election Petition Tribunals were established with appeal to the Court of Appeal. Petitions on presidential races go to the Court of Appeal, with appeal to the Supreme Court.

¹⁷ While the suspension of the Chief Justice was seen as a "*conscious shift of policy to fast track the fight against corruption*" by the Buhari Media Organisation, other organisations such as the Nigerian Bar Association and citizen observers described it as a violation of the constitutional procedure and called for the decision to be reversed. Problems included jurisdiction without involvement of the National Judicial Council, repeatedly mentioned in different higher judiciary decisions. There were also procedural shortcomings: the CCT order was dated 23 January, yet the CCT postponed on 22 January the case to 28 January; the CCT did not make available to the defence the records of its proceedings; and the affected party was not informed as is required with such an *ex parte* order.

¹⁸ [EU EOM statement, 26 January 2019](#)

¹⁹ A subsequent appeal was made, resulting in the Court of Appeal ruling on 21 February that the Federal High Court did not have jurisdiction as the original petition was filed out of time. This left standing the Zamfara state High Court ruling.

6. CANDIDATE NOMINATION

A non-inclusive and acrimonious candidate nomination process

There were a large number of candidates: 73 for the presidency, 1,899 for the 109 senatorial seats, and 4,680 for the 360 House of Representative seats. INEC is legally obliged to register all candidates nominated by parties based on the primaries, yet it lacks power to reject or disqualify, with challenge only possible through a legal process.²⁰

However there was extensive controversy over party primaries, a pre-condition for running for office as there is no possibility for independent candidacy. An advance team of EU experts noted multiple problems in the primaries.²¹ These included prohibitive financial costs, with party fees for running in primaries as high as NGN 45 million (around EUR 110,000). Confusion and substitution of winners by party leaderships were also reported.

Positively, the minimum age to contest the presidency has reduced from 40 to 35, and from 30 to 25 for the House of Representatives and State House of Assemblies, allowing for more inclusive political participation. However, there are still discriminatory legal provisions including restrictions based on educational requirements and mental incapacity.²²

7. THE CAMPAIGN

Competitive national campaign but with some antagonistic rhetoric and violence

Overall, the campaign was competitive and contestants were able to campaign, with freedoms of assembly, expression and movement broadly respected. Both leading presidential candidates held rallies nationwide across all six zones.²³ However security considerations reduced opportunities to campaign in some of the country, including parts of the North East affected by insurgency. Of 29 rallies and campaign events attended by EU observers, security forces were assessed as behaving professionally in all but one. In nine, observers saw evidence of attendees being paid or provided with travel costs.

Positively, the presidential candidates signed the “*Abuja Accord*” under the auspices of the National Peace Committee (NPC) in December 2018, and again on 13 February 2019, enhancing confidence in the electoral process. Similar accords were frequently signed at state level at the instigation of the NPC, civil society organisations, governors or the police.²⁴

There were increasing instances of intimidation and violence during the campaign, particularly in the week after the original election date.²⁵ According to observers and media reports, at least 46 people were killed in election-related violence since the start of the campaign on 17 November

²⁰ Due to its lack of powers to refuse nominations, INEC accepted candidates that did not meet constitutional age requirements. According to INEC: 147 senatorial, 25 House of Representative, and one presidential candidate.

²¹ The EU deployed a three-person election expert mission to Nigeria from 14 September to 17 October 2018.

²² The Convention on the Rights of Persons with Disabilities (CRPD) committee’s interpretation of articles 12 and 29 notes that mental incapacity should not serve as a basis for the deprivation of the right to vote and to be elected under any circumstances. The UN HRC’s General Comment (GC) 25, paragraph 15, refers to any restriction on candidacy being objectionable, similarly for the educational requirements.

²³ However the PDP claimed that permission was withdrawn to hold rallies on 9 February at locations owned by FCT authorities.

²⁴ The NPC sponsored local signings in Benue, Kaduna, Kano, Kwara and Sokoto. The police initiated other state-level accords. For example, in Adamawa, Bayelsa, Ekiti, Katsina, Lagos, Ondo, Oyo, Taraba and Zamfara.

²⁵ Following the postponement there was confusion over campaigning. INEC initially announced that no further campaigning would be allowed, but later retracted this given the law permits campaigning until 24 hours before election day.

2018, and dozens of others died in crowd-control incidents at rallies. Several of these cases involved intra-party violence, particularly within the APC, reportedly as a result of post-primaries conflicts. There were also several reports of party offices destroyed, and EU observers frequently saw damaged posters and billboards, predominantly of opposition parties in different states.²⁶

Although parties had manifestos, much of the campaign was personal and at times included allegations of interference in the electoral process itself.²⁷ Closer to the original election date, the campaign rhetoric became more acrimonious, at times threatening. In the last week of the scheduled campaign, speeches by APC and PDP leaderships included calls to protect the vote on election day and implied readiness to respond with force.²⁸ Many of these speeches were broadcast live on paid-for programmes and widely circulated online, thus reaching large audiences.

There was extensive discussion of a statement by the president on 18 February in which he referred to giving orders to the military and police to be “*ruthless*” and that those who steal ballot boxes do so “*at the expense of his own life*”.²⁹ Two days later, the chief of army staff reinforced the president’s message. While it was argued that this would help protect the integrity of the vote, there were also concerns that this might deter some people from voting.

8. POLITICAL FINANCE

Ineffective and unenforced campaign finance rules, giving incumbency advantage at federal and state levels

Political finance regulation is dysfunctional, undermining transparency and equality of opportunity among contestants, at odds with Nigeria’s international commitments.³⁰ Legal provisions are incomplete, allowing for the rules to be easily circumvented. While candidates are subject to contribution and expenditure limits, there are no corresponding reporting requirements.³¹ Conversely, parties are required to submit financial reports but have no contribution or spending limits. Limits and reporting requirements are therefore ineffective. The latest constitutionally-mandated INEC audit of financial statements of political parties was published in 2011.

The EU EOM observed misuse of state offices and institutional websites for campaigning by both APC and PDP incumbents.³² Additionally, concerns were raised about public funds potentially

²⁶For example, on 28 January an APC office in Yamaltu Deba (Gombe) was attacked and destroyed, with the PDP blamed. On 11 February, a PDP office in Kano was destroyed by arson, with the APC blamed.

²⁷For instance, the Minister for Information, Culture and Tourism claimed that the PDP intended to “*scuttle the 2019 general elections by instigating widespread violence across the country*”, accusing it of plotting with Boko Haram, [4 February 2019](#). On the same [date](#), the PDP national publicity spokesperson referred to “*plots by the leadership of the INEC to rig the 2019 general elections for President Muhammadu Buhari*”.

²⁸For example, on 6 February, the APC governor of Kaduna stated on a live election talk-show: “*Those that are calling for anyone to come and intervene in Nigeria... we are waiting for that that persons would come and intervene and they are going back in the body bags*”. On 7 February, a PDP spokesperson at a rally in Kaduna called for “*betrayers to be killed*”. On 10 February at a rally in Zamfara, the president while calling to protect the vote on election day stated: “*I want everyone’s stomach to be full even if it’s trouble/attack we are going to make*”.

²⁹APC party caucus, 18 February 2019.

³⁰[African Union Convention on Preventing and Combating Corruption](#), article 10, states: “*Each State Party shall... incorporate the principle of transparency into funding of political parties*”. [United Nations Convention Against Corruption \(UNCAC\)](#), article 7.3, states: “*Each State Party shall... enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties*”.

³¹INEC previously tried to establish reporting requirements for candidates, but without legal backing.

³²EU observers saw state offices used for campaigning in Benue, Kano and Lagos. There were consistent reports of the opposition having more difficult access to state-owned stadiums for campaigning in Ogun and Kogi. Additional

being spent on voter inducement through various social and financial initiatives with cash and in-kind disbursements.³³ In particular, the TraderMoni scheme, launched in August 2018 by the federal government, provided at least NGN 20 billion (approximately EUR 48 million) for interest-free loans to traders.³⁴ At state level, both APC and PDP governments announced similar schemes.³⁵

INEC's lack of administrative sanctioning powers, and the need to rely on cumbersome judicial processes, results in insufficient enforcement, thereby weakening compliance with Nigeria's international commitments.³⁶ There were widespread concerns about vote-buying. INEC, media, civil society and several state agencies ran multiple awareness campaigns against vote-selling.

9. MEDIA

Media freedom curbed by regulatory framework; federal government-owned TV favoured the president

Positively, the federal government-owned radio (FRCN), which has a reported audience of 90 million, as well as leading commercial broadcasters at national and regional level, equitably divided airtime between the APC and PDP.³⁷ Lively radio talk shows and fact-checking projects assessed candidates' statements against statistical data and economic viability, adding to voters' awareness and fostering public accountability.³⁸ After the postponement of the polls, electronic media, called for active participation, and documented how voting materials were safeguarded in state capitals, thereby improving trust in the integrity of the process.

However systemic drawbacks curtailed pluralism in the media, except in a few states. Key obstacles to freedom of the media include vague legal provisions, the media's financial dependence on government advertising at state level, and cumbersome and costly licensing requirements for broadcast media. Controversially, the National Broadcasting Commission (NBC) has granted many local radio licences to politicians.³⁹ Such a legislative and operational

examples were also reported in the media. Institutional webpages at the federal level as well as those of governors in one-third of states were used for campaigning.

³³ These included interest-free loans, healthcare benefits, food packages and infrastructure development projects. Some started earlier but their extensive promotion close to election day could provide incumbency advantage.

³⁴ Applicants received NGN 10,000 (around EUR 25) in the first instance, with a promise of more if the first loan was repaid. Investigative journalists reported that loans were granted automatically without checking applicants' effective registration as traders or repayment ability, and banks in charge of administering the refunds did not receive any instructions. Interest-free loans were denounced by the chairmen of INEC and the Economic and Financial Crimes Commission as a potential form of vote-buying but no legal action was taken.

³⁵ Delta and Ebonyi (PDP) as well as in Bauchi, Kano, Lagos and Yobe (APC).

³⁶ Legal prosecutions are inherently prohibitive due to the costs involved, the time delay, and the evidence requirements with a dependence on the police for investigations. Consequently, vote-buying, misuse of state resources and non-compliance with campaign finance rules remained generally unaddressed. This weakens compliance with UN HRC GC 25 paragraph 19, which states that voters must be free to vote without undue influence. [UNCAC](#), article 17, also requires State Parties to ensure that public officials don't misappropriate public funds.

³⁷ FRCN, Channels TV, Wazobia FM and TVC afforded 17 - 34 per cent of primetime news coverage to the APC and 20 - 34 per cent to the PDP. All of them also employed a critical tone towards both parties.

³⁸ For example, the debate between the governorship candidates in Lagos on 12 January was "*fact-checked*" by the CSO budGIT, which published its findings on all major social media platforms. The results were re-published by traditional media. The International Press Centre recorded all public promises made by lead presidential candidates.

³⁹ For example, in Kwara, the new radio station is affiliated with the APC candidate for governorship; in Ekiti, two licences were granted to APC-leaning and one to PDP-leaning media houses. In a further eight states, local radio station owners have direct political affiliations.

framework undermines fulfilment of regional standards related to diverse, independent private broadcasting.⁴⁰

Media coverage of the campaign was highly polarised.⁴¹ The campaign discourse was shaped by antagonistic APC and PDP allegations of corruption and undue influence on state authorities. On average, 80 per cent of news and political shows featured such matters, leaving little space for non-partisan scrutiny of campaign platforms and incumbents' records in office.

There was evident partisan programming by the federal government-owned Nigerian Television Authority (NTA), state-run media and local commercial radio stations owned by politicians. On NTA, the joint share of exposure for the president, the government and the APC was over 84 per cent. During the EU EOM's 32-day monitoring period, President Buhari had two hours and eight minutes of direct speech within the news, while Atiku Abubakar had seven minutes. Half of NTA news featured the president's institutional activities, while many public service announcements promoted federal schemes that correlated with 2015 campaign promises. Such coverage blurred the line between governing and campaigning.⁴²

Most state-owned, state-level radio stations monitored served the interest of the incumbent governor.⁴³ Eight out of nine stations afforded up to 85 per cent of their news to the governor and the presidential candidate he endorsed. This negatively affected voters' access to independent reporting, particularly in areas without commercial channels.⁴⁴ There were several cases of candidates being denied access to radio broadcasts.⁴⁵ Consequently, voters had limited access to diverse information, key to make an informed choice.

Several actions stifled the reporting environment. The military and other security actors temporarily closed the Daily Trust's offices in Abuja and Maiduguri on 6 January.⁴⁶ The NBC issued warnings related to alleged hate speech in paid-for programmes to four leading TV news channels.⁴⁷ EU observers received credible first-hand information on state and partisan actors harassing journalists in a number of fiercely contested states.⁴⁸ In such conditions, self-censorship is inevitable.

⁴⁰ [Declaration of Principles on Freedom of Expression in Africa](#) (DPFEA), Chapter V.

⁴¹ From 11 January to 21 February, the EU EOM monitored 15 broadcast media: NTA, FRNC, AIT, Channels TV, TVC, Wazobia FM; state-owned FM radios from Anambra, Benue, Borno, Cross River, Gombe, Kaduna, Lagos, Rivers, Sokoto. Up to 40 per cent of their primetime programming was devoted to political and election-related broadcasts.

⁴² Article VI of DPFEA requires that "*the public service ambit of public broadcasters should... ensure that the public receive adequate, politically balanced information, particularly during election periods*".

⁴³ In Anambra (APGA governor), Bauchi (APC), Benue (governor defected from APC to PDP), Borno (APC), Rivers (PDP), Taraba (PDP), Yobe (APC), state broadcasters told the EU EOM that their key objective is to "*assist the government*". While the state-radio in Sokoto (governor defected from APC to PDP) identifies itself as pluralistic, 90 per cent of its primetime programmes on political and electoral matters were devoted to the governor.

⁴⁴ Commercial channels are accessible via cable operator services at a cost and rarely available outside of big cities.

⁴⁵ As reported to the EU EOM in Adamawa, Akwa Ibom, Bayelsa, Enugu, Jigawa, Kano, Ogun, Taraba.

⁴⁶ Citing the Official Secrets Act, the military, without a warrant, arrested three journalists. No charges followed.

⁴⁷ On 30 January, AIT, NTA, TV Channels and TVC were warned for airing "*hate speech*". Two broadcasts in question were paid for by the APC and the PDP, and featured rallies during which contenders criticised each other.

⁴⁸ Three journalists were hit by bullets during the APC rally (Lagos), a broadcaster was kidnapped (Calabar) and a journalist was attacked after an interview with a politician (Bauchi). Commercial radio stations in Edo, Kaduna and Kebbi reportedly received threats, including financial, from governors' offices, while in Bauchi media dependence on state government advertising resulted in coverage favouring the governor. Two days before the scheduled elections, the Ekiti state government closed the commercial radio due to noncompliance with environment impact laws.

10. DIGITAL COMMUNICATIONS

Vigorous online political discussions, distorting use of platforms, and a lack of advertising transparency

For the growing population of internet users, 111 million in December 2018, online media and social networks were important platforms to impart and access information. This was demonstrated in vigorous political discussions, and online space giving an alternative platform to journalists from traditional media to express their views anonymously.

Political parties used online platforms for campaigns, at times in a distorting manner. EU EOM analyses found that multiple Twitter accounts, which are relatively easy to establish, appear to have been strategically used in a coordinated way to amplify partisan messages.⁴⁹ The EU EOM also found that “*social influencers*” (with a substantial number of followers) were sometimes synchronised in promoting contestants. Party affiliates informed the mission that these strategies were used in the campaign and that various groups of social network users were employed by parties to promote contestants or attack opponents. Comments sections were found to include some inflammatory language along party lines, as well as regional and ethnic lines.

Major parties also used paid advertising on online platforms. The EU EOM saw videos attacking both leading candidates, which appeared to target specific populations and were likely promoted through paid advertising on online platforms. However, the nature and range of online advertising could not be assessed due to a lack of transparency on various platforms.⁵⁰ Nigeria lacks specific data protection laws, leaving personal data, collected by several state institutions including the Nigerian Communications Commission and INEC, potentially vulnerable to potential abuse.⁵¹

Disinformation was a key focus of political discussion with concern about its potential impact on the campaign and risk of violence. While government officials repeatedly alerted the public to the risk of disinformation, actors affiliated with both major parties posted false partisan information online.⁵² Incidents of disinformation, with a potential to confuse or mislead voters, increased

⁴⁹ The EU EOM examined a random sample of Twitter accounts involved in several discussions on political and campaign-related issues. It identified about 10 per cent of accounts that appear to be either automated accounts (bots) or anonymous accounts used to amplify certain political messages and set the discussion trends. Notably, messages that first appeared on Twitter then trended on other platforms.

⁵⁰ The EU EOM came across anonymous profiles on social networks created in the week preceding the scheduled 16 February elections that promoted these controversial videos. While Facebook has made increasing commitments to transparency over the last year, full information relating to paid-for advertising in the Nigerian elections has not been made public. In mid-2018, Facebook and Instagram established a library with a wide range of information related to political adverts, but this does not include clips relating to Nigeria. There was also a lack of transparency regarding the advertising of other major platforms such as Google and Twitter.

⁵¹ ICCPR, article 17 states: “1. *No one shall be subjected to arbitrary or unlawful interference with his privacy... 2. Everyone has the right to the protection of the law against such interference or attacks*”. GC 16 states “*The gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law*”.

⁵² For instance, Laurretta Onochie, affiliated with President Buhari, posted on her social profiles before the elections several false claims that were later debunked by various fact-checking initiatives; she subsequently retracted the posts. On 15 January, the former PDP Minister of Aviation, Femi-Fani Kayode, alleged on his social network account that the Chief Justice’s house was under siege by the EFCC. Kayode later apologised and retracted his statement.

closer to the election.⁵³ Positively, civil society and media houses were involved in several fact-checking initiatives to counter disinformation.⁵⁴

11. PARTICIPATION OF WOMEN

A fall in the percentage of female candidates, showing a lack of promotion of women by political parties

Nigeria has the lowest rate of women in parliament in Africa, with the number steadily decreasing since 2011.⁵⁵ In key appointed and elected positions, women did not reach the 35 per cent national target.⁵⁶ For example, women comprised only six per cent of the outgoing National Assembly. Women's groups refer to conservative societal expectations, the risk of violence, and high nomination and campaign costs as key factors hindering participation. There is a lack of affirmative action measures to promote women's political participation, at odds with Nigeria's international commitments.⁵⁷

While attempts have been made to introduce legal reform, political parties continue to lack policies and practices to promote women in party leaderships or as candidates.⁵⁸ Compared to 2015, the percentage of female presidential candidates remained the same, and decreased by four percentage points for senatorial and House of Representative candidates, respectively to 12 and 11 per cent.⁵⁹ Most female candidates were nominated by smaller parties, and therefore had less chance of being elected.

Positively, INEC consulted with women's groups and undertook gender-sensitisation efforts. Media with a close-to-nationwide reach promoted to some degree female candidates within the primetime newscasts and special interview programmes.⁶⁰ However, no debates, including on state media, tackled gender equality-related issues.

12. CIVIL SOCIETY AND ELECTION OBSERVATION

Civil society effectively scrutinises the electoral process and advocates for reform

⁵³ There were numerous examples of disinformation that supported certain political narratives, using unrelated sound or footage, or information that was taken out of its original context. In some cases, there was a high level of production sophistication, including videos targeting both leading presidential candidates and false opinion polls.

⁵⁴ The most active fact-checking initiatives included Africa Check, the Centre for Democracy and Development West Africa, CrossCheck Nigeria and Dubawa. In January and February, they jointly publicised over 100 cases.

⁵⁵ [Women in National Parliaments](#), as of 1 December 2018, Inter-Parliamentary Union.

⁵⁶ 2006 National Gender Policy.

⁵⁷ [The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#) requires State Parties to take affirmative action to promote women's participation in political life. Similarly, [the Convention on the Elimination of all forms of Discrimination against Women](#) encourages adoption of temporary special measures.

⁵⁸ Although the two main parties provided discounts for female aspirants during the primaries, the nomination costs were still prohibitively high. Civil society reported that female aspirants often faced gender-based intimidation, violent attacks and substitution by men on the final list of party candidates despite their victory in the primaries. A Women Participation Bill that seeks to prescribe a one-third quota of female candidates for party nominations for elections is pending at the National Assembly.

⁵⁹ There were six women among 73 presidential candidates, with one withdrawing before election day; 234 women of 1,899 senatorial candidates; and 543 women of 4,680 candidates for the House of Representatives.

⁶⁰ On average, broadcast media devoted seven per cent of time allotted to electoral contestants to female candidates. This coverage was shared among 15 candidates, with half going to Dr Oby Ezekwesili of the Allied Congress Party of Nigeria. State-level broadcasters did not have any special primetime programming for female candidates.

A range of civil society organisations effectively contributed to election reform, scrutiny and voter awareness. The “*Not Too Young To Run*” campaign led to constitutional change reducing the minimum ages for candidacies.⁶¹ Disabled persons organisations have worked extensively with INEC for improved accessibility and monitoring of participation.

Citizen observers provided vital information updates throughout election day and also conducted longer-term scrutiny of different aspects of the process. YIAGA organised a parallel vote tabulation. The Centre for Democracy and Development organised comprehensive observation of ward collation centres and an election analysis centre. The CLEEN Foundation monitored the role of the security services in elections. The Situation Room coordinated an extensive network of observing organisations. Such coordinated independent observation of different aspects of the election positively contributed to the accountability of the process. In total, 116 Nigerian and 28 international observer groups were accredited.

13. POLLING, COUNTING AND COLLATION

Late opening of polling, largely open to scrutiny, but procedures insufficiently followed

The majority of polling units opened extremely late, leaving voters waiting for hours uncertain of when voting would begin. This was compounded by a lack of clear information from INEC about what was happening and whether the closing time would be extended. As a result, there was confusion and tension, and voters were likely deterred from participating. The problematic operational performance of INEC, an experienced election management body, warrants public explanation and a clear plan made for improvements before the upcoming state-level elections.

Only five EU observer teams saw polling units open on time, with the key reason for delay being the absence of sensitive election materials. Polling units were due to open at 8am, but INEC later gave figures showing that only 65 per cent were open by midday. Citizen observers requested an extension of voting hours beyond 2pm. However no resolute actions by INEC followed. Only after 1pm was there an announcement from an INEC commissioner that voting would be extended in polling units that opened late. However INEC did not publish this decision, nor did it provide further information on the number of polling units affected. Consequently, observers saw confusion over whether polling was extended and if this affected all polling units. EU teams reported that in seven of 29 polling units observed at the time of closing, voters who were in the queue before 2pm were not allowed to vote, contrary to INEC procedures.

EU observers saw polling in 190 polling units. Positively, in almost 90 per cent of observations, agents of the two main political parties were present; in 40 per cent, citizen observers were present. The environment outside polling units was assessed as conducive to the conduct of voting in 87 per cent of visited polling units. Security forces behaved appropriately in 89 per cent of observed locations.⁶²

Important polling procedures were not always followed. In 30 per cent, ballot boxes were not sealed; in 14 per cent, some essential materials were missing.⁶³ In the majority of the units visited, the layout did not sufficiently protect secrecy of the vote. In 23 per cent of observed polling units, the voter register was not always ticked as required. In 19 per cent, manual authentication

⁶¹ This helped to increase candidates under the age of 36 for the House of Representatives from 18 to 27 per cent. A total of 43 per cent were under the age of 40.

⁶² For example there were four occasions in Plateau when EU observers saw security forces enter polling booths and interfere with voters making their choices. The army obstructed one EU observer team in Ogun and was observed to overreact to a crowd in Bauchi.

⁶³ Ballot papers, seals, the voter register and indelible ink.

procedures were not correctly followed when a smart card reader was unable to read a voter's fingerprints. INEC had made mandatory the use of smart card readers to verify voters' data. However, in 11 sites observed they were not functioning and were replaced; in another four cases, voting continued without the use of smart card readers.

The counting of individual ballots was often undertaken in full public view. However in the majority of the 30 counts observed, procedures were not always followed. In ten counts, results forms were not completely filled out; in 13 the figures on results forms did not reconcile. In half of the counts observed, results forms were not publicly posted, reducing the transparency of the election. Positively, in almost all polling units party agents received copies of results forms.

Reports from security forces, and in the media, indicated that between approximately 20 and 35 people were killed on 23 February in incidents related to the elections. In addition, there were an unknown number of deaths in Yobe and Borno from terrorist attacks before voting started.⁶⁴ There were reports of violence in 11 states, with Akwa Ibom, Lagos and Rivers apparently most affected. According to INEC, security problems resulted in some polling being cancelled in Anambra, Lagos, and Rivers, and there were attacks on INEC staff resulting in one fatality.⁶⁵ INEC did not provide clear information on polling units where no voting or took place, or which were closed due to security problems.

Voting continued on 24 February in six states and the FCT as a result of the failure of smart card readers. However INEC did not provide clear information on these arrangements.

The collation process is ongoing. As of 24 February, the EU had observed 94 collation centres. In almost all, the results forms and smart card readers were not packed in tamper-evident envelopes as required. Numerical discrepancies and anomalies on polling unit results forms were identified and were mostly corrected by collation officers on the spot. APC and PDP agents were present in 81 and 84 of centres respectively; citizen observers in half. One EU observer team was denied access to a collation centre in Rivers. Civil society has also reported cases of being restricted in observing some collation centres, weakening transparency of the results process.

This preliminary statement is available on the mission's website. For further information, please contact: Sarah Fradgley, EU EOM press officer, mobile: +234 906 253 9438

Website: www.eueomnigeria2019.eu,

Facebook: [EUEOMNigeria19](https://www.facebook.com/EUEOMNigeria19), Twitter: [@EUEOMNigeria19](https://twitter.com/EUEOMNigeria19)

⁶⁴ There is no reliable data on number of casualties in two Boko Haram attacks to Maiduguri (Borno) and Gaidam (Yobe).

⁶⁵ Police announced the arrest of 128 people for electoral offences. The military and police advertised hotlines for reporting disturbances and electoral malpractices.