



THE JOINT ELECTION OBSERVATION MISSION OF THE AFRICAN UNION (AU) AND COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA (COMESA) TO THE 16 NOVEMBER 2023 PRESIDENTIAL ELECTION IN THE REPUBLIC OF MADAGASCAR

PRELIMINARY STATEMENT

Antananarivo, 18 November 2023

I - INTRODUCTION

At the invitation of the Government of the Republic of Madagascar, the President of the African Union Commission (AUC), His Excellency Moussa Faki MAHAMAT deployed a Joint Short Term Mission of AU-COMESA Observers, to assess the presidential election of 16 November 2023. This deployment was done thanks to the excellent cooperation existing between the Continental Institution and the Regional Economic Communities (RECs). The Joint Mission shall stay in the country from 10 to 20 November 2023.

The Joint Mission was led by Her Excellency Catherine SAMBA-PANZA, former Transitional President of the Central African Republic in collaboration with Ambassador Patrice Eugene Cure, Member of the COMESA Committee of Elders from Mauritius. The Mission was reinforced by the effective presence of the His Excellency Bankole ADEOYE, Commissioner for Political Affairs, Peace and Security of the African Union.

The Joint Mission comprised of Seventy (70) Short Term Observers (STO) drawn from countries representing the geographical diversity of the continent and included notably: Eminent Diplomats of Member States accredited to the AU, Members of Pan African Parliament (PAP), Officials of Election Management Bodies (EMB), members of African Civil Society organisations (CSO), African election experts, Human Rights specialists, gender and media experts, and representatives of youth organisations. The observers come from the following Thirty-five (35) Member States: Algeria, Angola, Benin, Burkina Faso, Burundi, Cabo Verde, Cameroon, Chad, Central African Republic, Comoros, Congo, Democratic Republic of Congo, Equatorial Guinea, Egypt, Eswatini, Ethiopia, Gabon, Ghana, Ivory Coast, Kenya, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Sahrawi, Senegal, Seychelles, Sao Tome and Principe, South Africa, Tanzania, Tunisia, Uganda and Zimbabwe.

This deployment of the Joint Mission was done in conformity with relevant International, continental and regional legal instruments on election observation as well as the national legal framework. They include:

- the Universal Declaration of Human Rights (UDHR);
- the International Covenant on Civil and Political Rights (ICCPR);
- the Declaration of Principles for International Election Observation;
- the African Charter on Democracy, Elections and Governance (ACDEG);
- the OUA/AU Declaration on the principles governing democratic elections in Africa;
- the AU Directives for Election observation and monitoring Missions;
- the Aspiration N° 3 of Agenda 2063;
- the African Peer Review Mechanism (APRM);
- the Principles for Election Management, Monitoring and Observation (PEMMO) and COMESA Elections Observation Guidelines; as well as
- the Constitution, laws and regulations of the Republic of Madagascar.

II – OBJECTIVES AND METHODOLOGY OF THE MISSION

The Joint Mission conducted an objective, impartial and independent assessment of the presidential election and formulated pertinent recommendations aimed at contributing to ameliorate future electoral processes. The methodology adopted for this election was the short term election observation.

In order to attain these objectives, the Joint Mission, prior to deployment, held a series of meetings with key stakeholders of the electoral process notably State authorities, the High Constitutional Court (HCC), the Independent National Electoral Commission (CENI), the candidates, Civil Society Organizations and representatives of the International Community accredited to the country, as well as with other Election Observation Missions (EOM) deployed to observe the vote.

Furthermore, the Joint Mission organized an information and orientation session on the sociopolitical context, the legal framework and on the methods and tools of observation; particularly the use of tablets to collect and electronically transmit data from the field. The Joint Mission also observed the last part of the election campaign.

On election day, the Joint Mission deployed twenty-nine (29) teams of observers within four (4) of the six (6) provinces of the country, to note: Antananarivo, Fianarantsoa, Mahajanga et Toamasina; and to ten (10) of the twenty-three (23) regions of the Republic of Madagascar which are: Boeny, Bongolava, Itasy, Vakinankaratra, Amoron'i mania, Vatovavy-Fitovinany, Haute matsiatra, Atsinanana, Alaotra-mangoro, Analamanga.

The present Statement outlines the observations during the pre-electoral phase and the preliminary findings on the operations of voting and counting at the polling stations. The Mission will continue to monitor the evolution of the electoral process and will produce a Final Report which will constitute a comprehensive coverage of the post-electoral phase and the related national sociopolitical dynamics.

III- ACTIVITIES OF THE MISSION: THE PRE-ELECTORAL PHASE

A) POLITICAL CONTEXT OF THE ELECTION

The election was conducted within a political atmosphere that was marked by demonstrations led by the Coalition of ten (10) opposition candidates who alleged a crisis of confidence in the State institutions, and advocated for a second postponement of the vote. The initial date for the election was: 9 November 2023.

This presidential election is the third in line, under the fourth Republic, after those of 2013 and 2018. Amongst the twenty-eight (28) candidatures received by the High Constitutional Court, fifteen (15) were rejected for failure to present receipts attesting the deposit of the required caution of 200 million Ariary (forty-one thousand 41 000 Euros). No female candidate was amongst the candidatures validated. Two (2) former presidents,

H. E. Marc RAVALOMANANA and Hery RAJAONARIMAMPIANINA as well as the outgoing president Andry RAJOELINA are amongst the candidates competing in this election.

The political scene at the eve of the 2023 presidential election was crystalized particularly around three preoccupations which were: the decision of the High Constitutional Court on the question of double nationality of one of the candidates; the interim presidency and; the absence of consensus over the voters roll to serve for the organization of the presidential election.

The Joint Mission was informed of attempts of mediation and dialogue between the stakeholders, engaged by the Platform for Dialogue and Mediation.

The Mission notes that these initiatives did not achieve a compromise between the Malagasy political class. These preoccupations are at the core of the division within the political class, the demonstrations, violence, and the refusal by ten (10) of the 13 candidates to take part in the election campaign. This has deprived the Malagasy electorate of benefiting from a more inclusive election campaign. It is within this atmosphere of political uncertainty that **11 043836** Malagasies were called to the polls on 16 November 2023, to vote for their President.

B) LEGAL FRAMEWORK

The legal framework regulating the president election in Madagascar is comprised of both national and international instruments. The Constitution of 2010 outlines the conditions for eligibility, the electoral system of two rounds and defines the mandate of the president; the Organic Law (O.L.) on the High Constitutional Court of 2001, confers on this court the competence to validate candidatures and to adjudicate over election related petitions at the first and last instance; the O.L. relating to general elections and referendums of 2018, which defines the electoral procedures and the roles of the different stakeholders involved in the electoral process meanwhile the more specific O.L. of 2018 related to the Election of the President of the Republic précises the conditions of eligibility and the production of ballot papers. In addition to these include:

- Law N° 2015-020 of 8 October 2015 relating to the CENI;
- Decree N° 2023-863 of 11 July 2023 convoking the electoral college for the presidential election, modified by Decree of 13 October 2023 to fix the new date for the election;
- Decree N° 2023-865 of 11 July 2023 on the modalities of organizing the presidential election, as modified by Decree N°2023-1397 of 13 October 2023.

C) ELECTION ADMINISTRATION

In line with Article 5 of the Constitution, the organization and management of operations of elections and referendums fall under the competence of CENI, whose functioning modalities are regulated by Organic Law N° 2015-20 and concretized by the Decision N°

31-HCC/D3 of 16 October 2015 by the High Constitutional Court. In effect Article 3 of this Law confers to CENI a legal personality endowed with administrative and financial autonomy. The CENI is organized at two levels: a permanent composition, and a non-permanent composition which comprises of local structures formed during the election period. It has an Executive Secretariat endowed with a technical personnel to facilitate its functioning.

Within the framework of this election, CENI proceeded with a reconstitution of the Voters Roll and its audit by national and international experts. If the Voters Roll served to organize the presidential election, it was nevertheless not a subject of consensus to all the stakeholders in the electoral process.

The Voters Roll after the reconstitution from the level of the 19 340 local representations called Fokontany and centralized at the level of CENI, led to the registration of **11 043 836** voters in total, amongst whom **5 360 757 are women making 48.54%** and **5 683 079 are men, making 51.46%**.

The Joint Mission was however informed by CENI that it had distributed 91% of the total number of voters' cards before the election day. Distribution continued in polling centers on the day of the vote.

The deployment of election materials to the different representations of CENI was organized with the help of security forces and in collaboration with territorial authorities. Meanwhile, the training of polling staff was done in a stepwise manner, from 9 October to 14 November 2023.

According to CENI, an electronic application for traceability and securing the election results has been put in place from the polling station up to CENI.

D) FUNDING OF THE ELECTION

The Joint Mission noted that the funding of the first round of the presidential election was assured by the State of Madagascar with the support of the Basket Fund by the International Community through the Project for the Reinforcement of Electoral and Democratic Processes in Madagascar (RPEDEM), managed by the United Nations Development Program (UNDP). According to CENI, the Budget estimated to this effect stood at: 55 113 134 494 Billion Ariary, or 12 252 182 US Dollars.

E) REGISTRATION OF CANDIDATURES

The deposit of candidatures for the presidential election at the High Constitutional Court (HCC) took place from 23 August to 6 September 2023. Out of the twenty-eight (28) candidatures received at the Registry of the HCC, thirteen (13) were validated by Decision N° 10-HCC/D3 of 9 September 2023.

F) PARTICIPATION OF WOMEN, YOUTHS AND PERSONS WITH DISABILITIES

The Joint Mission noted that there were fewer female voters compared to the male and that no female candidature was validated for this election. The Mission also remarked the lack of national legal provisions, aimed at stimulating female and juvenile representation in this type of election, notably the absence of positive discrimination measures or quotas related thereto.

However, the Mission commended the introduction of voting with the aid of braille carton for the visually impaired, to be able to exercise their civic duty without assistance as a major innovation geared towards enhancing inclusivity of this target group of voters.

G) ELECTION CAMPAIGN AND THE MEDIA

Officially opened on 10 October 2023, the election campaign closed on 14 November 2023, at midnight.

However, only three (3) candidates of the thirteen (13) carried out campaign activities as the Coalition of ten (10) candidates advocated for the postponement of the vote.

The traditional media, the social media and the organization of meetings were the campaign tools preferred by the candidates. The public media notably: The National Television of Madagascar (TVM) and the National Malagasy Radio (RNM), broadcasted campaign activities of the candidates. However, the radio constituted the principal source of information especially in the rural areas.

The CENI ensured the allocation of time of access to the candidates over the public channels of RVM and TVM, through equitable daily electoral spots of five (5) minutes per candidate.

Meanwhile, a televised contradictory debate was organized on Monday 13 November during which the three (3) candidates campaigning, debated on TVM.

Additionally, the candidates used posters and banners and engaged in door-to – door and also used the ICT and the websites of their parties to inform their electorates.

The Joint Mission nevertheless, regretted the absence of a Law which regulates election campaign, with provisions to limit campaign spending. This would have promoted equality in the means allocated by all the candidates for the campaign.

H) CIVIL SOCIETY

The Malagasy civil society, in partnership with EISA was involved in Civic Education activities, election information and sensitization of the population notably through organizing workshops for discussions and by using the social media. The Civil Society

Organizations such as TOLOTSOA, the National Council for Women of Madagascar (CNFM), the SAFIDY Observatory, amongst others, carried out sensitization campaigns inviting the citizens to register on the voters roll.

I) SECURITY

The Presidential election of 16 November was organized within an environment characterized by acts of violence.

Certain candidates and their supporters were wounded during the manifestations. This was the case with the candidate Andry Raboelina. A situation which led to the postponement of the date of the election.

The security situation on the eve of the vote worsened in the capital Antananarivo following acts of violence on certain Fokontany. This caused the Government to Decree a curfew from 9:00 p.m. to 4:00 a.m. in Analamanga. However, the electoral process followed its course.

IV- OBSERVATION ON ELECTION DAY OF THE FIRST ROUND

On the election day, the 70 STOs were divided into 29 teams. They were deployed to their respective areas of responsibility from the 15 to 17 November 2023. They visited **343** polling stations amongst which 196 (57.1%) were located in the urban milieu and 147 (42.9%) in the rural milieu.

a) Opening of the polling station

The teams observed the opening procedures in 29 polling stations, with 84% of them in the urban areas and 16% in the rural areas.

In all the polling stations visited, the atmosphere at the opening was calm and serene and there were no campaign activities or materials around the neither the polling stations nor polling centers.

The observers noted the presence of queues before certain polling stations.

The teams observed that in 32% of the polling stations visited the opening process was delayed by: from 0 – 15 minutes in 71% of the cases and by 30 – 45 minutes in 29% of the rest, due mostly to the late arrival of election material in 36% of the polling stations observed as against 27% owing to the late arrival of polling staff.

b) Election participation

At the opening of the polling station the Mission noted the lack of enthusiasm to come out to vote, on the part of the voters in most of the polling stations visited.

c) Voting operation and election materials

Voting took place in an orderly and peaceful manner and the Mission noted that election materials were available and in sufficient quantities. The ballot boxes were presented to the public before being sealed correctly in all the polling stations visited. The polling stations were organized in a way that permitted voting to be orderly.

d) Secrecy of the vote

The Mission noted that the secrecy of the vote was guaranteed in the quasi-totality of polling stations visited.

e) Election Personnel

In the quasi-totality of polling stations visited by the Mission, the number of polling staff varied from 3 to 5 per polling station.

The Mission noted that voting procedures were mastered by the polling staff in 76% of the polling stations visited.

f) Female participation

The Mission observed that amongst the members of the polling staff, women represented more than half the total number in the polling stations visited.

With regards to citizen observers, the Mission noted that 54.41% of them were female.

g) Accessibility to polling stations

The Mission noted that 64% of the polling stations visited were accessible to persons with disabilities. The 36% of inaccessible polling stations were either on storey buildings or having staircases without flattened accesses.

h) Assistance to voters

For voters requiring assistance to vote, the polling personnel intervened in the majority of cases. The Mission noted that these persons could also be accompanied in the polling booth by persons of their choice.

i) Delegates of Candidates and Observers

In the quasi-totality of polling stations visited, the observers and delegates of candidates were able to accomplish their tasks without restriction. Overall 84% of them proved to be competent.

However, the Mission found that only Candidates N° 3 and N° 13 were represented in the majority of polling stations visited.

The Mission noted a low presence of citizen observers. Nevertheless, the Mission met with some national observers from: KMF-CNOE, SAFIDY Rohy and others. As for International Observers, the Mission noted the presence in polling centers of

Observers from Diplomatic Missions and those of the Southern African Development Community (SADC).

j) Security Personnel

In all the polling stations observed, the security personnel were visible in 65%, and their presence was assessed as professional in 64% of the cases and discreet in 36%.

k) Closing and Counting

The Mission noted that most of the polling stations visited closed on the official time. However, in certain polling stations, voting was prolonged to permit voters arriving late to still exercise their right to vote.

The Mission observed that the polling stations were arranged to facilitate counting of the votes before the public. In addition, closing and counting procedures were respected.

At the end of counting, the results sheets were signed by the election personnel, the delegates of candidates and the scrutinizers. A copy of the results sheet was given to each delegate and posted before most of the polling stations observed. The results were also electronically sent from the polling station to the CENI.

V. BEST PRACTICES LINKED TO THE ELECTORAL PROCESS

- a) The putting in place of a secured electronic application, to secure the transmission of results and to be able to obtain results trends in real time, after the vote.
- b) The introduction of cartons with braille for the visually impaired: The CENI with the support of the UNDP introduced the carton with braille to permit voters who are visually impaired to vote without assistance.
- c) The possibility for voters to consult the electoral register online.
- d) The independent audit of the Voters Roll has the positive impact of reinforcing confidence amongst the stakeholders.
- e) The number of voters assigned per polling station, limited to 700, to reduce congestion in polling stations.
- f) The supply of all election materials before the election day, to limit the late distribution to polling centers.

VI- CONCLUSION

The Joint Mission of AU-COMESA has taken note of the conduct of the presidential election on 16 November 2023 in the Republic of Madagascar, in a calm and peaceful atmosphere despite the boycott by part of the opposition.

The Mission congratulates the Malagasy people for the serenity which prevailed throughout the day of the vote.

However, the Mission regrets the lack of enthusiasm in voters in most of the polling stations observed, which would affect the rate of voter turnout.

Meanwhile, the Mission urges the authorities, political actors and the other stakeholders in the electoral process to create a conducive framework for dialogue in order to quell the tense political environment.

VII- RECOMMENDATIONS

In order to preserve peace and with the aim to contribute to the improvement of future electoral processes in Madagascar, the Joint Mission of AU-COMESA formulates the following recommendations:

To the Government:

1. Put in place a framework for concertation and national dialogue, bringing together all the stakeholders in the nation, in order to find a solution to the current political crises;
2. Restore the institutions outlined in the law in order to enable them deliver their missions of good governance and the rule of law;
3. Provide CENI with sufficient means to enable it perform its missions;
4. Proceed with the codification of the different texts relating to the electoral process in order to render them more accessible.

To the Independent National Electoral Commission:

1. Reinforce the internal mechanisms for dialogue with stakeholders in the electoral process;
2. Intensify civic and voter education activities, in collaboration with civil society organizations;
3. Ensure that polling stations are accessible to persons with disabilities, the elderly and pregnant women by flattening the accesses into polling stations;

4. Propose projects of law to enhance the participation of women, youths and others in the political life of the country;
5. Consolidate the training of electoral personnel.

To Candidates:

1. Collaborate to create a framework for dialogue in order to preserve a peaceful and serene environment;
2. Take all necessary measures to deploy delegates in polling stations;
3. Maintain calm during the period of compilation of election results and to resort to legal means in case of any contestation;
4. Promote female and youth candidatures in the electoral processes so as to enhance inclusive and participatory democracy.

To Civil Society Organizations:

1. Continuer with advocacy in favour of key legal reforms in the electoral process, to improve upon citizen participation;
2. Reinforce further, the actions of election sensitization and civic education, to increase the participation of women and youths in the electoral process.

To the International Community:

1. Continuer and intensify these initiatives of the Joint Mission AU-COMESA;
2. Maintain cooperation between the actors of the International Community in order to support the Republic of Madagascar in the reinforcement of democracy, good governance and the preservation of peace, guarantor of sustainable development.

Done at Antananarivo, on 18 November 2023

For the Mission

**H.E Madam Catherine Samba-Panza,
H.E. Ambassador Patrice Eugene CURE**

Heads of the Joint Mission