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I. EXECUTIVE SUMMARY

- The 2017 legislative elections, the 9th parliamentary elections since independence, were overall competitive and voters turned out in high numbers across the country. However, the election process was negatively impacted by limited financial resources provided by the government to the Electoral Commission and by serious shortcomings of the voter registration process, resulting in large numbers of people being omitted from the electoral roll. The significant delays, postponement and prolongation of polling and counting further decreased public confidence in the process. Furthermore, while the campaign period was marred by few isolated incidents of violence, election-related violence seriously increased in the post-election days and resulted in a number of deaths of voters, election officials and security personnel.

- The legal framework generally provides a reasonable technical basis for the conduct of democratic elections. However, fundamental shortcomings are identified in several areas, such as the lack of guarantees of transparency in candidate nomination and the absence of any procedures to challenge rejections by the election administration; the absence of mechanisms to promote the participation of women; the lack of legal provisions to ensure a neutral role of state-owned media during the campaign and a level playing field for all electoral contestants; the absence of campaign expenditure ceilings for political parties and candidates; and the absence of time limits for the courts to render their decisions on petitions following the return of the writs.

- The members of the Parliament are elected for a five-year term through a majoritarian Limited Preferential Vote (LPV) system, in place since the 2007 elections. The current delineation is based on a boundary review of 1977. Considering the substantial population growth and demographic changes in the country over the last 40 years, the current electorate boundaries do not ensure the principle of equality of the suffrage as established in international standards.

- The accuracy of the 2017 electoral roll was a major concern throughout the process. The final electoral roll comprised 5.06 million voters, this figure representing an approximately 330,000 increase over the 2012 roll that already contained a significant number of errors, such as names of deceased and underage persons as well as names of voters residing in other electorates. The update process of the roll was significantly delayed due to late release of funds. Similarly, the display of the provisional roll for verification was not proficiently conducted or not conducted at all in several electoral districts. This had a negative impact on voters, political parties and candidates’ opportunity to verify their names or to challenge incorrect entries on the roll. Most importantly, a high number of people throughout the country that registered during the update process were not included on the final electoral roll, while names of voters who had exercised their right in previous elections were omitted this time.

- The EU EEM interlocutors praised an inclusive candidate registration process, concluded on 27 April, with no discriminatory criteria for qualification as a candidate.
and reasonable technical requirements to register. Overall 3,337 candidates were registered, out of which only 167 were women. In the absence of rigorous requirements for registration, the number of independent candidates has been constantly rising in every electoral contest since 1977, thus rendering the organisation of the elections even more challenging for the election administration.

- Candidates and political parties enjoyed the rights of freedom of assembly, expression and movement during the campaign period without any major restrictions on their activities. Nevertheless, the campaign was low-key and less intensive than in the past elections, due to the limited financial resources of political parties and candidates. In addition, a widespread apathy of voters was noted, related mainly to unfulfilled promises given to the electorate from the previous elections. The campaign was generally peaceful, despite some isolated incidents of violence, but the security situation was volatile predominantly in the Highlands region.

- The illegal practices of distributing small material goods, food and money were often mentioned by EU EEM interlocutors and also reported by the media. As in the past, voters had expectations of financial or material reward in exchange for their votes and candidate vote-buying behaviour was widespread across the country. The non-binding Code of Conduct for political parties and candidates, initiated by the Papua New Guinea Electoral Commission (PNGEC) and signed only by half of the parties participating in the race, failed in having a positive impact on the process.

- No specific restrictions were imposed on media during the electoral period; freedom of expression was generally respected and the media was free from overt government censorship. However, neither the Organic law nor the other media specific regulations include any provisions on the role of media during the election campaign that would aim to ensure a balanced coverage of the electoral contestants. The increasing use of social media contributed, nonetheless, to a more pluralistic media environment. The majority of broadcast media have a countrywide coverage, albeit not consistent in the rural areas; the only two daily newspapers have a broad distribution network, however, they are considered as being biased in favour of the ruling party. The EU EEM interlocutors reported some isolated cases of attacks against journalists committed by party supporters during coverage of campaign events.

- The Electoral Commission did not manage to organize the elections within the gazetted polling schedule. The polling process in all Highlands provinces was postponed and prolonged for a couple of days. Similarly, the schedule for mobile teams in many other provinces was modified. In addition, voting was supposed to start at 8 am and finish by 6 pm, however, in many polling stations across the country the voting was reduced by three or more hours leading to the disenfranchisement of a high number of voters.

- Several factors led to the postponement and prolongation of polling in some electorates: the lack of accuracy of the electoral roll; delays due to logistical problems and timely distribution of election materials; problems related to the security of the polling stations were also noted, as in some areas police personnel was not deployed on time or was not present at all at polling sites.

- The main problem during polling identified by all international and domestic observers was the high number of people not included on the electoral roll. Reportedly voters were
turned away because their names were not on the roll in virtually all polling sites visited by international and local observers. There are no precise data available on the scope of the problem, as the presiding officers were not instructed to collect names or numbers of missing voters. Many EU EEM interlocutors estimated the number of omitted voters up to 20 per cent.

- The counting process was centralised in the district headquarters counting centres, with heavy police presence guarding the areas. It was generally transparent. Before a ballot box was opened, the returning officers announced the polling station/ballot box data to allow for the scrutineers to confirm with their records. The ballot reconciliation figures were also announced so that scrutineers were informed on the number of ballots cast in each polling station.

- Nevertheless, the results publication process was not sufficiently transparent, as there were no official data published on voter turnout per district including gender breakdown, number of invalid votes per district and number of ballot boxes excluded from the count by the returning officers’ decision. In addition, there were no officially available data on total number of voters on the final voter list per polling station.

- Many instances of violence related to counting process and the post-election process were noted. A high number of aggrieved candidates did not accept their defeat arguing that the inaccuracy of the electoral roll and delays in polling should lead to the elections being declared as failed. The political atmosphere was very tense and there were several cases of serious election violence including the killings of polling officials, police personnel and supporters of candidates. Most of the violent cases were reported from the Highlands region.

- Although the Constitution provides for equal participation of women in political activities and the Organic Law on the Integrity of Political Parties and Candidates offers a financial incentive to parties to nominate women candidates, no other legal measures have been adopted to promote the participation of women in the electoral process. Moreover, economic, cultural and social barriers impeded their competing on an equal footing with men, thus resulting in no women being elected in the 2017 parliament, a decrease compared with the three women members of the previous parliament.

- The civil society in the country was too weak to play an important role in the process, lacking sufficient capacity and coordination as well as oversight capabilities. The observation conducted by domestic observers enhanced the transparency of the voting; however, due to limited funding, there were no observation activities of other important parts of the process, such as of the voter registration, the candidate nomination, the campaign, the counting and establishment of results. Several organisations deployed international observers, most importantly the Commonwealth Secretariat, the Australian National University, the Melanesian Spearhead Group and the Pacific Islands Forum, and issued post-election statements.

- Numerous objections were filed to the Electoral Commission during the voting and mainly during the counting process by candidates and their scrutineers, which, combined with staff strikes over allowances not having been paid, seriously obstructed the conduct of counting according to the initial schedule. A few objections were also filed before the courts, despite the law not providing this possibility prior to the return of the writs. Their
submission at this stage of the process demonstrated not only their frustration over various alleged malpractices but also a lack of understanding of the rules related to the election petitions.

- The newly-adopted National Court 2017 Election Petition Rules offer a couple of notable improvements, in particular by limiting the number of respondents and offering the possibility to publish the petition on a national newspaper as a mode of service, aiming to facilitate and accelerate the process. The absence, however, of legally binding time limits for the National Courts to render their decisions after the hearing, in combination with the judicial review process before the Supreme Court, is a contributing factor to the delays in the dispensation of justice.

- There is no specific law promoting the political participation of persons with disabilities. In accordance with the UN CRPD, the Organic Law on National and Local-Government Elections foresees that physically incapacitated voters may be assisted by a person of their choice to mark their ballots; it lacks, however, any other requirements for reasonable accommodation of disabled voters. No data for the participation of persons with disabilities in the electoral process were made available by the election administration or disability organisations.

- The full recommendations of the EU EEM are detailed at the end of this report. They are addressed to the authorities of Papua New Guinea, particularly in view of the new election cycle. The Mission would like to draw attention to the most important ones, namely:

  a) The PNGEC to prioritise a thorough review of the electoral roll. The management of the voter registration process and data collection, including the display of the preliminary roll and public verification period, need to be strengthened. With a view to ensure public and political confidence in all stages of the process, voter identification could be reinforced by issuing voter cards with simple biometric data. The electoral roll with breakdown at polling station/ward level should be accessible to all electoral contestants.

  b) In order to preserve equal voting power, the boundaries of Open electorates to be revised well in advance of the next electoral event, so as to provide for the territorial distribution of seats in accordance with Constitutional provisions as well as the recommendations of the Electoral Boundaries Commission.

  c) Aiming to review and strengthen the effectiveness of the PNGEC management, a lesson-learned exercise to be conducted. Consideration could be given to increase the number of electoral commissioners vested with geographical and horizontal responsibilities, for instance to five commissioners. The PNGEC regional offices could benefit from more human resources and financial support throughout the election cycle.

  d) In accordance with constitutional provisions for equality and with the aim to ensure women’s participation in public office, an organic law providing for reserved seats for women in the parliament to be adopted. The OLIPPAC could be amended in order to include a compulsory quota for women for political parties nominating candidates for elections.
e) Aiming to ensure equality of opportunities and provide the conditions for a level playing field for the electoral contestants, consideration should be given to provide for a reasonable campaign expenditure ceiling for political parties and candidates, dissuasive and proportionate sanctions for exceeding the campaign ceilings and requirement for publication of the financial returns of the parties.

f) In order to ensure a timely adjudication of petitions following the return of the writs and the right to an effective remedy, a time frame could be set by the Organic law for the National Courts and the Supreme Court to render their decisions on post-election petitions and requests for judicial reviews.

g) Consideration should be given to develop regulations allocating free airtime to political parties and candidates by public audio-visual broadcasters, on an equal or a proportional basis. The procedures to be decided and announced to electoral contestants in due time, prior to the start of the campaign period. The Media Council to be strengthened through technical and financial support in order to respond to its role as a self-regulatory body.

h) In order to increase the transparency of the PNGEC in the implementation of the elections, a periodic and inclusive public communication mechanism could be introduced. A liaison committee with regular information meetings with external election stakeholders could be a particularly useful tool of communication, together with organised dissemination of relevant documentation pertaining to the electoral framework.

i) The strict enforcement of the secrecy of the ballot needs to be ensured by all key stakeholders including election officers, the police, candidates’ scrutineers and voters.

j) The capacity of civil society organisations to be strengthened through financial and technical support, in order to be able to undertake more comprehensive and long-term observation activities apart from voting, in particular voter registration, campaign, counting and establishment of results.

II. INTRODUCTION

The European Union Election Expert Mission (EU EEM) to Papua New Guinea was deployed in Port Moresby from 31 May to 2 August 2017, with the mandate to conduct an independent and comprehensive evaluation of the upcoming parliamentary elections and to produce analysis and reporting on the electoral processes.1 The objective was also to provide recommendations for further improvements, in accordance with the international legal instruments for genuine democratic elections, which Papua New Guinea (PNG) ratified, as well as with the national legal framework.

1 The EU EEM was composed of Ms. Eirini-Maria Gounari (Legal expert) and Mr. Marian Gabriel (Electoral expert).
The EU EEM operated autonomously under its specific mandate and in compliance with the Declaration of Principles for International Election Observers, defined at the United Nations in New York in October 2005.

The Mission rapidly established working relations with all the national institutions, as well as the international stakeholders related to the electoral process; notably with the PNG Electoral Commission (PNGEC), the Integrity of Political Parties and Candidates Commission (IPCCC), the National Courts, the PNG Media Council (PNGMC), the Constitutional & Law Reform Commission, the Election Advisory Committee, the UNDP, the UNHCR, the Transparency International PNG, the Commonwealth Secretariat, as well as the major political parties.

The Mission would like to thank the European Union Delegation in PNG as well as the FPI and the EEAS for the excellent cooperation and support they offered throughout its duration.

III. POLITICAL BACKGROUND

These were the 9th parliamentary elections since independence. The previous parliamentary elections were held amid the deep political crisis between political party members and supporters of the then serving Prime Minister Peter O’Neill and his predecessor and long serving politician Michael Somare. As was stated in the 2012 reports of national and international observers, the 2012 parliamentary election did not meet several international standards including the right to vote, the right to universal and equal suffrage and the right to a secret ballot. Thus, almost all parliamentary seats were contested at the national courts by opposing candidates.

The People’s National Congress (PNC) party of Peter O’Neill that won the 2012 elections with 27 seats subsequently formed the new government. Only five political parties won more than a couple of seats in the outgoing parliament, including the National Alliance (NA), the Peoples Progress Party (PPP), the United Resources Party (URP) and the Triumph Heritage Empowerment (THE) party.

The local political parties are characterised by weak ideology, party structure and management. They are personally driven by their leader or founder and have limited number of members. Floor crossing is a common practice in the parliament and a high number of candidates change their allegiance once they are elected. Notably, following the first months after the 2012 elections the PNC doubled its number of MPs to 54, and many other members of the parliament joined the ruling coalition. As a result, the opposition was at some point represented by only 21 MPs, led by Don Poyle, the leader of THE party.

Nevertheless, the PNC-led ruling coalition with Prime Minister Peter O’Neill was tested several times by the vote of no confidence initiated by the opposition. In particular, a major political crisis, which erupted in 2016, was connected with a corruption scandal that allegedly involved Peter O’Neill. Series of no confidence votes against Prime Minister were organised in the Parliament. Students’ protests in June 2016 demanding the Prime Minister’s resignation over the corruption allegations were violently stopped by the police and several students were gravely injured. Despite the mounting popular
unrest across the country, the government of Peter O’Neill survived a no confidence vote in the parliament as the opposition secured only 21 votes against 85 for the government.

Following these protests and towards the end of the parliamentary term in April, the ruling coalition was weakened by the decision of several political parties and individual MPs to gradually withdraw - including the National Alliance (NA), the second largest coalition party. Prior the elections several opposition parties including the NA announced the plan to form a new government without the ruling party.

IV. LEGAL FRAMEWORK

A. International Standards


B. National electoral legal framework

The national elections in Papua New Guinea are governed by the 1997 Constitution, the Organic Law on National and Local-level Government Elections 1997 as amended\(^2\) (referred to as “the Organic law” in this report), the Organic Law on the Integrity of Political Parties and Candidates (referred to as the OLIPPAC)\(^3\) and its Regulations, the Organic law (National Elections) Regulation 2007, the Organic Law on Provincial Boundaries and the 2017 National Court Election Petition (EP) Rules.

The fundamental civil and political rights and freedoms necessary for democratic elections are set out in the Constitution, which guarantees the right to vote and to stand for public office, the freedoms of expression, assembly, association and movement, and the equality of citizens irrespective of race, tribe, place of origin, political opinion, colour, creed, religion or sex.

The legal framework for the 2017 national elections generally provides a reasonable technical basis for the conduct of democratic elections in accordance with international standards. It guarantees wide competencies of the election administration in accordance with its duties to organise the elections, the possibility of postal voting for voters housebound due to illness or maternity or for voters temporarily away from their

\(^2\) In 2002, 2006 and 2012.

\(^3\) The initial Organic Law on the Integrity of Political Parties and Candidates of 22 February 2001 was repealed and replaced by the current Organic Law of 2 March 2003. Similarly, its Regulations adopted in July 2002 were replaced by the current Regulations of March 2005.
electorate as well as for citizens abroad, an expanded list of electoral offences and
detailed provisions for the powers of the national courts during adjudication of election
petitions.

However, fundamental shortcomings can be identified in several areas, such as the
absence of clear procedures for the public display of the preliminary voter roll; the lack
of guarantees of transparency in candidate nomination and the absence of any
procedures to challenge rejections by the election administration; the absence of legal
mechanisms to promote the participation of women and their representation in the
Parliament in accordance with international standards; the lack of legal provisions to
ensure a neutral role of state-owned media during the electoral campaign and a level-
playing field for electoral contestants; the absence of detailed provisions regulating the
campaign apart from related offences. The legal framework is equally characterized by
the lack of campaign expenditure ceilings for political parties and candidates alike, of
dissuasive and proportionate sanctions for exceeding the campaign donation limits and
the lack of requirements for the Integrity of Political Parties and Candidates
Commission to make public the financial returns of the parties or of its conclusions
to thereof. The EU EEM additionally notes the absence of provisions in the law
guaranteeing the rights of national and international observers and the absence of legal
deadlines for the National Courts to render their decisions on election petitions.

Furthermore, other important deficiencies of the electoral process identified so far by the
Mission are not only related to partial non-compliance of the electoral legislation with
international standards, but also to the actual difficulties faced by the electoral
administration to efficiently implement the existing legal provisions. This particularly
applies to the revision of electoral boundaries at regular intervals, to the update of the
voter rolls and to the identification of voters.

C. The Electoral System

The members of Parliament are elected for a five-year term through a majoritarian
Limited Preferential Vote (LPV) system that replaced the First-Past-The-Post (FPTP)
system during the 2007 elections and was used again in 2012; according to EU EEM
interlocutors, it has promoted inter-tribal voting and contributed to a decrease of the
electoral violence. The unicameral parliament consists of 89 members elected from
single-member Open electorates (constituencies) across the country, and 22 members
elected from single-member Provincial electorates who become also the Provincial
Governors. The number of members of the Parliament was increased during the 2012
elections from 109 to 111, as the Parliament accepted the recommendations of the
Electoral Boundaries Commission report in 2011 on the creation of two new provinces
(Hela and Jiwaka) thus increasing the number of Provincial electorates to 22.

4Apart from Section 129 (1)(h) of the Constitution stipulating that an Organic Law “shall make provision
authorizing the payment in certain circumstances of a percentage of electoral expenses by a female
candidate in an election” and Section 83 of the Organic Law on the Integrity of Political Parties and
Candidates providing for partial funding to a successful female candidate endorsed by a political party.
5The FPTP system was used from 1977 to 2002.
6According to Sections 101 and 105 of the Constitution and 35 of the Organic Law.
Under the LPV system, voters indicate their preferences by ranking three candidates in their order of their choice on each ballot, for the Open and the Provincial electorate. The candidates with the highest number of first preference votes are elected for each electorate, provided that this number is an absolute majority of the valid votes cast (50 per cent plus one). A series of counts take place if no candidate obtained an absolute majority in this electorate; at the end of each count, there is either an elected candidate or an eliminated lowest-scoring candidate whose votes are reallocated to the second preferences.

D. Boundary delimitation

The Constitution and the Organic Law on National and Local-Government Elections stipulate\(^7\) that the number and boundaries of Open and Provincial electorates shall be determined by the Parliament in accordance with recommendations from the Electoral Boundaries Commission\(^8\) at regular intervals of no more than ten years. In order to redistribute the boundaries of Open electorates, the Commission must determine a population quota according to which there should be no more or less than a 20 per cent variation of the population in each electorate, based on population density and geography criteria, as well as existing electoral boundaries, administrative areas and the relevant community.

The current delineation of Open electorates is based on the review of the first Electoral Boundaries Commission in 1976, approved by the then Parliament in February 1977, and the review of the Boundaries Commission in 2011 on the creation of two new provinces; in-between, the Parliament rejected the 1981, 1985-1986, 1991 and 2005 recommendations of the Commission, which were however submitted near the end of the term of each tenure thus provoking concerns about the MPs re-election. According to the Boundaries Commission, the 1977 boundaries have split traditional, cultural and ethnic affiliations as they were drawn by the colonial administration without addressing issues such as “the rugged terrain, the extensive river systems and the sea areas of the country”.\(^9\) Considering the substantial population growth and demographic changes in the country over the last 40 years, the current electoral boundaries do not ensure the principle of equality of the suffrage\(^10\) as established in international standards.\(^11\)

\(^7\) Sections 5(2) and 125 (6) of the Constitution and 35-37 of the Organic Law.
\(^8\) The Electoral Boundaries Commission is a six-member independent body appointed for a six-year term; it consists of the Electoral Commissioner, the Surveyor-General, the National Statistician and three other persons appointed by the Head of State in accordance or with the advice of the Electoral Commission. The Parliament may accept or reject, but may not amend the recommendations of the Boundaries Commission.
\(^10\) For instance, based on the 2012 voter roll figures (as at the time of writing this report official data on the 2017 final voter roll break down to electorate level were not made available), the number of registered voters in each Open electorate varies from 22,403 (Rabaul Open) to 122,202 (Lagaip-Porgera Open). Similarly, there are significant discrepancies in regards to the distribution of Open electorates to each province, as for instance Western Highlands with 362,850 inhabitants as per the 2011 population census is divided to 7 Open electorates while East New Britain with 328,369 inhabitants has 4 Open electorates; West New Britain with 264,264 inhabitants is divided to 2 Open electorates while West Sepik with 248,411 inhabitants and Central with 269,756 inhabitants to 4 Open electorates; while the population of NCD amounts to 364,125, the population of Western Highlands to 362,850 and of Chimbu to 376,473, there are 3 Open electorates allocated to NCD, 6 to Chimbu and 7 to Western Highlands.
\(^11\) CCPR, General Comment 25, par.21, emphasises the principle that “within the framework of each State’s electoral system, the vote of one elector should be equal to another. The drawing of electoral...
V. ELECTION ADMINISTRATION

A. Electoral Commission

The Papua New Guinea Electoral Commission (PNGEC) is responsible for the effective and efficient conduct of National and Local Level Government elections. The other primary functions include preparing and maintaining an accurate electoral register, conducting voter education and information campaign and providing support to the Electoral Boundaries Commission.

The PNGEC is headed by an Electoral Commissioner, appointed by the Governor General on the advice of an Election Appointments Committee comprising the Prime Minister, the Leader of the Opposition, the Chair of the Parliamentary Committee and the Chair of the Public Service Commission. The current Electoral Commissioner Patilias Gamato was appointed in 2015.

The PNGEC HQ office employs some 100-permanent staff. Provincial election managers (EM) and assistant election managers are also permanent employees of the PNGEC, responsible for administering all electoral matters within the province. The election managers during the polling and counting periods serve as provincial returning officers (PRO). The returning officers and assistant returning officers for each Open electorate district (89 Open electorates) are appointed on a temporary basis.

During the 2017 election process, public confidence in the election administration was low. Several interlocutors, including the Registrar of Political Parties and Candidates, expressed their lack of trust in the process and in the performance of the election administration. The appointment of returning officers (ROs) and assistant returning officers (AROs) across the country, many of whom also served during the previous parliamentary elections, was politicised and many candidates met by the EU EEM expressed their disagreement with the appointment of some of them.\(^\text{12}\)

Representatives of political parties as well as of civil society organisations continuously commented on the lack of transparency of the PNGEC. Notably, no inter-party election committee or any other similar instrument was formed, that would allow for regular dissemination of information by the PNGEC to political parties and other key stakeholders on the election process and the commission’s decisions.

B. Election Advisory Committee

The Organic law foresees the establishment of an Election Advisory Committee comprising three members, the Chief Ombudsman, a representative of Transparency International PNG and a retired judge or lawyer; the mandate of the Committee is to provide recommendations and advise to the Electoral Commission exclusively, “on any matters related to elections” or “provided in the Organic law”. While the law stipulates boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.”\(^\text{12}\)

\(^{12}\) Almost all parliamentary seats were contested at the courts following the 2012 elections.
that the Advisory Committee shall adopt its own procedures and convene its meetings as often as required, it remains silent on the conditions and timeframe of its formation and the prerogatives of its mandate, such as the right to conduct enquiries in order to fulfil its duties.

As the Committee is convened at the discretion of the Electoral Commissioner, it was not formed during the 2012 elections due, allegedly, to the high number of writs not returned at the time. Nonetheless, its establishment was deemed essential this time and it was officially constituted on 9 June, which, being only two weeks before the beginning of polling, was already belated.

Although the Organic law does not require the formation of the Election Advisory Committee to be mandatory, Section 96A(2) provides for one occasion where the Electoral Commission may act only on the recommendation of the Committee. This concerns the advise of the Electoral Commission to the Head of State to cancel an election through the withdrawal of a writ, a possibility that can only take place between the issue of the writ and the declaration of results; it leads to the election being declared failed and to the necessity to organise a supplementary election when, according to the law, the circumstances so permit. The ratio legis of the requirement of the Election Advisory Committee’s opinion seems to ensure the impartiality of a decision with such grave consequences, considering the composition of the Electoral Commission of one only Commissioner.

C. Election Preparations

Since the beginning of the election preparations, the PNGEC was facing serious budgetary problems. The Mission was informed that the Commission received only 75 per cent of the requested budget while the funds were usually not released on a timely manner. This affected all stages of the process but most importantly the update of the voter register and the voter education and awareness campaign.

Due to logistical and security challenges, voting was planned to be conducted over a two-week period on a rolling schedule, from 24 June to 8 July. In urban centres and in the Highlands provinces polling would take place within a single day, while for the rest of the electorates multiple-day polling was foreseen with the use of mobile polling teams. In total, 10,825 polling places were identified prior to the elections by the electoral administration. Some 30,000 polling personnel was recruited and divided into 4,882 polling teams. There were 3,550 “single-day teams” and the rest were “multiple-day teams”, operating for several days in different polling locations. The PNGEC prepared on time all key training manuals and organised the polling staff training using the cascade method.

Due to the poor infrastructure in the country, the organisation of the elections was an enormous and very expensive exercise. More than 1.6 million individual items had to be designed, printed and distributed for 89 electorates across the country. One-third out of 4,882 polling station teams in the country received the electoral materials by air and
with support by the Australian Civilian Corps\textsuperscript{13} the non-sensitive and sensitive materials were distributed prior to the commencement of the polling.

According to the law, the electoral commission should print candidate posters as soon as possible after the declaration of nominated candidates, which should contain the names and photographs of all candidates arranged in the order determined by the draw for each constituency. The PNGEC was supposed to provide posters to each candidate for campaign purposes, while the law prohibits candidates to print these posters without the approval of the Commission. However, the Mission was informed that the provincial election managers received the posters just a few days prior to the elections, this significant delay having a negative impact on both candidates’ campaign and voter information activities.

D. Voter information

Around 60 per cent of PNG inhabitants are illiterate and therefore the need for a robust awareness campaign prior to and during the electoral roll update and prior to the elections was of key importance. As all EU EEM interlocutors admitted, the knowledge on how to register and vote and the understanding of the complex Limited Preferential Vote (LPV) system among the general population is rather limited.

One of the key tasks of the PNGEC is to conduct an effective awareness campaign. With the support of the IFES international expert team, the PNGEC prepared voter awareness material including graphic material such as posters, flyers and digital billboards, radio jingles and TV spots, that included cross-cutting messages appearing to all products, such as violence prevention, corruption and good governance, and additional messages for the disadvantaged groups of women, youth, people with disabilities and people living with HIV-AIDS. The official launch of the IFES external assistance activities was done on 29 March, due to the late release of funds to the PNGEC. The TV spots and radio jingles, in English and two local languages, were broadcasted by the National Broadcasting Corporation (NBC), while local announcements were made in local radios. The late release of funds to the Commission led to delays in dispatching the graphic materials, resulting in the implementation phase failing to meet the target. In addition, while the involvement of several civil society organisations was foreseen, this was cancelled due again to the delays in printing and dispatching the material. The PNGEC representatives admitted that the 2017 electoral awareness campaign was worse than in 2012.

VI. VOTER REGISTRATION

The right to vote is guaranteed by the Constitution to all citizens of Papua New Guinea without discrimination. In order to be entitled to register, a person must be 18 years of age and residing within the electorate for 6 months or more. Section 57 of the Organic law provides for the compulsory enrolment of all eligible persons on the electoral roll

\textsuperscript{13} There was an enormous technical and financial support provided by Australia to the PNGEC for the organisation of the elections. The Australian Civil Corps and the Australian Defence Force is providing transport and logistical support, while experts from the Australian Electoral Commission were providing technical advice to the PNGEC.
for an electorate, with the failure to lodge a claim for enrolment being an offence punishable by fine. The electoral roll contains the voter’s name, election identification number, date of birth, gender and occupation, however, it does not include a photograph or any biometric information. Furthermore, the vast majority of citizens do not possess any national ID document or birth certificate.\textsuperscript{14}

The Organic law stipulates that voters who registered during the previous elections do not need to register again as their data remain on the roll. A year prior to each election the PNGEC officers are supposed to conduct a review of the electoral roll in order to remove any duplicates, while a new registration exercise is also foreseen. During this period new voters have the opportunity to register, as well as all eligible voters whose names do not appear on the roll. Requests by registered voters for transfer of their names to different constituencies are also treated. The enrolment agents are also tasked to identify all incorrect entries and propose corrections. The cleansing and electoral roll update period is followed by a display and verification period, during which people can request corrections of their details and submit objections against their non-enrolment or against underage/deceased persons or other incorrect entries on the roll.

The accuracy of the electoral roll during the 2012 parliamentary elections was of a critical importance, as it contained a significant number of errors, including ghost names, names of deceased and underage persons as well as names of voters residing in other electorates. According to an internal report,\textsuperscript{15} the enrolment program failed due to flawed methodology, lack of qualified fieldworkers, inadequate training, lack of skilled data entry officers, administrative ineptitude, mismanagement of funds, and due to politically-influenced manipulation of the enrolment process by the enrolment agents. Notably, the Election Commissioner in 2012 publicly admitted that the electoral roll was inflated and that the 800,000 increase in registrants over the 2007 electoral roll did not correspond with the population growth in the country.

The 2012 electoral roll included 4.8 million voters and served as a basis for the 2017 electoral roll. For these elections, the PNGEC initiated the cleansing process of the roll in January 2016. This was followed by an update process that took place from August to December 2016, during which the enrolment agents registered new voters, made alterations and examined objections. The update exercise was followed by the display of the roll for public scrutiny, which was however delayed for more than three months and finalised only in March-April 2017.\textsuperscript{16}

The final 2017 electoral roll comprises 5.06 million voters, approximately 330,000 more than the 2012 one. It should be noted that the 2012 electoral roll was updated for the first time in the electoral cycle prior to the 2013 local government elections; during that exercise some 120,000 new voters were registered. The cleansing of the voter roll prior to the elections resulted in 170,000 deletions. In order to proceed with the update exercise in 2016, the PNGEC issued a total of 850,000 new enrolment forms (Form 11)

\textsuperscript{14}It is estimated that only some 300,000 citizens possess the national ID document.

\textsuperscript{15}Internal PNGEC report “A Synthesis of Election Reviews and Observation Reports on 2012 PNG Elections, with Recommendations for future Research Outcomes”.

\textsuperscript{16}The whole process of the update and verification of the electoral roll was delayed for a couple of months and was not organised within the same period of time across the country. The EEM interlocutors attributed this delay mainly to the lack of funds provided to the PNGEC to carry out this nationwide exercise.
based on projections of the annual population growth rate of 3.1 per cent. Yet, only 380,000 new entries were registered, representing less than 50 per cent of the targeted eligible population. There is also a significant difference among the four regions in terms of increase in the number of voters.

The update process of the roll was not efficiently executed, as reported by all EU EEM interlocutors, and significantly delayed due to the late release of funds. Similarly, the display of the provisional roll for public scrutiny was not proficiently implemented or not implemented at all in several electoral districts. This had a negative impact on voters, political parties and candidates’ opportunity to verify their inclusion in the roll or to object incorrect entries. In addition, a high number of people who showed up to register and had their data captured by the election officials, were not included on the final roll by the PNGEC, as due to a shortage of the prescribed forms (Form 11) in some districts, their enrolment claims did not meet the formal criteria. Furthermore, high number of students in the universities of Port Moresby, Lae and Goroka were not registered.

The Electoral Commissioner Patilias Gamato admitted to the EU EEM that the 2017 voter roll was inflated, as it was based on the flawed 2012 roll, and included a number of duplicates, deceased and underage people as well as other incorrect entries. The process of update and cleansing of the electoral roll was negatively influenced by the late release of financial resources and lack of training and capacity of the Electoral Commission. Since the beginning of the process, all EU EEM interlocutors expressed serious doubts about the quality and accuracy of the electoral roll.

As a positive development, the 2017 electoral roll was the first electronic register in the country, as the previous rolls were kept only in paper format. In addition, for the first time voters could check their names through Internet, as advertised on the national media; however, the very low proliferation of Internet across the country limited this possibility.

VII. CANDIDATE REGISTRATION

A. Eligibility

The Preamble and Section 50 of the Constitution establish the right for all citizens of voting age to stand for election. Section 103 determines further eligibility criteria for

17 The estimated 3.1 per cent population growth (some 200,000 people) should be multiplied by four years (the last census update was done in 2011). According to this estimate, a maximum of 800,000 new voters could have been registered prior to the elections. The PNGEC did not publish any information concerning some 380,000 new entries (e.g. first time voters, transferred voters, eligible voters who were not previously registered or their data have been deleted from the register etc.)

18 The highest increase is recorded in the Highlands regions with some 260,000 extra voters. The other three regions, notably the Southern (including Port Moresby), the Momase and the New Guinea Islands had only a small increase in newly registered voters (around 2 per cent). This can be partially explained by late submission of the enrolment forms.

19 The EU EEM was informed by the Madang provincial election manager that the display and verification process was not conducted in the province.

20 The electoral officers due to shortage of the enrolment forms could not register some 26,000 voters in the Madang province. This figure represents some 10 per cent of the voting population in the province.
candidates to the Parliament, such as a minimum age of 25 years, having been born in the electorate where they intend to stand or residing for a continuous period of two years or five years at any time at this electorate. Candidates may either be endorsed by a political party or run as independents; parties can only endorse one candidate for each electorate. A nomination fee of K1,000.00 (the equivalent of approximately 272.00 EUR) is required. The law further provides for criteria for disqualification, such as not being entitled to vote in elections to the Parliament, being convicted for an offence related to elections in the last three years, being of an unsound mind or insolvent under any law or under imprisonment for more than nine months.

B. Nomination process

Candidate nominations could be submitted to the Returning or Provincial Returning or Assistant Returning Officers, during a period of seven days commencing on the day of issue of the writs for elections. The required documentation to support the application was minimal, being only a signed declaration that s/he is qualified to be elected and the payment of the non-refundable nomination fee of K1,000.00. The Organic law provides for the possibility of objections submitted by any person or the Electoral Commission acting ex officio against an application for nomination; contrary though to international commitments, the law does not explicitly foresee the right of aspiring candidates to challenge their rejection by the Electoral Commission to the relevant courts.21

In order to accommodate the high number of applications and to expedite the nomination procedure, a pre-registration process before the issue of the writs was organised in accordance with the Organic law (National Elections) Regulation 2007, during which around 4,300 aspiring candidates submitted their biodata at the RO of their electorates to be reviewed at the Electoral Commission’s HQ. The deficiencies of the identification process and of the voter roll allowed for only 20 per cent of the candidates’ data to be matched automatically on the voter roll; for the rest, a manual check of any of their data available (such as mobile phone numbers) had to be conducted in order to identify them in the roll for their electorate. In the opposite case, they were registered by the Returning Officer so as to be able to stand for office.22

Upon the issue of the writs and the official opening of the nomination on 20 April 2017, the candidates who had submitted their data during the pre-registration had to pay the nomination fee and submit another application to the Electoral Commission. On a positive note, the Organic law foresees that clerical errors do not serve as a ground for rejection of an application. The 27 April marked the end of the nomination process accomplished in an inclusive manner, with no discriminatory criteria for qualification as a candidate and reasonable technical requirements to register, while political parties did not claim any unjustified rejections. A total number of 3,340 candidates were finally registered,23 out of which only 167 women (or five per cent); 1,419 candidates were

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21 ICCPR, Art.2 (3), Right to an effective remedy. Leonid Sinitsin v. Belarus, Comm. No. 1047/2002, UN Doc. CCPR/C/88/D/1047/2002 (2006), p. 7.3: "...the Committee considers that the absence of an independent and impartial remedy to challenge the CEC ruling on the invalidity of the author’s nomination and, in the present case, the CEC refusal to register his candidacy, resulted in a violation of his rights under article 25(b) of the Covenant, read in conjunction with article 2. “

22 In accordance with Section 34 of the Organic Law (National Elections) Regulation 2007.

23 The main reasons for final rejection of candidatures were the submission of incomplete documentation and the failure to pay the nomination fee of K1,000.00.
endorsed by the 45 political parties contesting the elections while 1921 were independent.24

In the absence of rigorous requirements for nomination, such as the collection of a minimum number of signatures or a highest registration fee, the number of independent candidates has been constantly rising in every electoral contest since 1977,25 thus rendering the organization of the elections even more challenging for the election administration.26

VIII. CAMPAIGN ENVIRONMENT

A. Campaign

The campaign commenced on 27 April after the end of the candidate nomination process. It lasted eight weeks, ending a day before the commencement of the polling on 24 June. Candidates and political parties enjoyed the rights of freedom of assembly, expression and movement during the campaign period without any major restrictions on their activities. The campaign was competitive, albeit low-key, and generally peaceful, despite some isolated incidents of violence.27 However, all EU EEM interlocutors mentioned that the campaign was less intensive than in the past elections, due to the limited financial resources of political parties and candidates. In addition, a widespread apathy of voters was noted, related mainly to unfulfilled promises given to the electorate prior to the previous elections. The positive contribution of the LPV system in reducing violence between candidates and their supporters, as candidates seek the second and third preference votes from their rivals, is not to be neglected.28

Election-related violence was a significant concern throughout the process. A few serious cases were noted, which could however be assessed as isolated incidents. Some incumbent MPs alleged though that they could not campaign in some parts of their electorates. There were several provinces where the police deployed a large number of personnel and established roadblocks to prevent conflicts among local tribes. The security situation was volatile predominantly in the Highlands region and some

24 Out of which, the Grassroots United Front Party (GRUF) nominated 91 candidates, the People’s National Congress Party (PNC) 87 candidates, the PNG Party nominated 79, the National Alliance Party (NA) 73 candidates and the Triumph Heritage Empowerment (THE) Party 70 candidates. The remaining parties endorsed fewer candidates.

25 The requirements for political parties to be registered according to the OLIPPA are similarly limited, being mainly to have 500 registered members and to pay a fee of K10,000.00.

26 During the 1977 elections 879 candidates (both independent and party-nominated) were competing for the 109 electorates, while in 1982 there were 1,125 candidates, in 1987 there were 1,513, in 1992 there were 1,655 contestants, in 1997 were 2,371, in 2002 there were 2,878, in 2007 there were 2,759 and finally during the 2012 elections there were 3,435 candidates (out of which 2,197 independent) for 111 electorates.

27 Several provinces and districts were identified by state authorities and police as potential hotspots including: Hagen, Jiwaka, Chimbu, Mendi, Kagua, Tari Pori and Central. Serious cases of the election related violence occurred in some parts of the Momase region, West New Britain and in Highland provinces.

28 In a highly ethnically-fragmented society such as PNG, where each electoral constituency is inhabited by several tribes and clans with separate languages, in order for candidates to obtain the absolute majority for their election, they need to get support across the tribal lines. As a result, they also try to form alliances with other candidates from different clans or language groups.
provinces of the Momase region. Notably, in Mt. Hagen (Western Highlands province), twelve parliamentary candidates blocked the local airport on 7 June for one day, asking the PNGEC to revoke the appointment of the returning and the assistant returning officers in their constituency.

The campaign was dominated by PNC candidates and key representatives of other parties of the ruling coalition. The PNC outnumbered the opposition in paid media advertisement. The main methods of campaigning were small rallies and neighbourhood meetings. The campaign was not primarily issue-based and candidates rather used negative campaigning against their opponents, while the opposition mainly focused on the corruption scandals of the PNC-led government. The other main campaign issues were the lack of basic infrastructure, water and sanitation, unemployment, education and healthcare.

In the absence of strong identity and programmes of political parties and individual candidates, it appeared difficult for the electorate to make an informed choice. Voters could also not know which party or group of candidates the candidate of their choice would support if elected, as many MPs during the last parliamentary term changed their party affiliation. The ultimate goal of the majority of candidates once elected is to satisfy the demands of their own electorate rather than pursue certain principal policies beneficial for the whole country. Therefore, voting behaviour is mostly based on clan affiliation and personal relationships, and people vote primarily for the strong leader among running candidates in their constituency instead of a political party endorsing a specific candidate. In addition, many candidates were running only in order to support a particular candidate or to divide the electorate of his/her main rivals.

The illegal practises of distributing small material goods, food and money were reported by the media. As in the past, voters had expectations of financial or material reward in exchange for their votes and candidate vote-buying behaviour was widespread across the country. The non-binding Code of Conduct for Political Parties and Candidates, initiated by the PNGEC and signed by half of the parties participating in the race, requires candidates to refrain from unfairly influencing voters through gifts, gratuities, threats or promises and lists as prohibited behaviour giving of money or offers of jobs in return of votes and the use of government resources. However, the Code did not succeed in having a positive impact on the process, as only 24 parties out of 45 signed it, while several key opposition parties refrained from signing. The Mission noticed that often parties who signed the Code did not even have a copy of it and there was no party policy to reach out to their candidates in the provinces and inform them about the Code of Conduct.

At the end of the campaign period the Prime Minister and the leader of the opposition in the outgoing parliament, Don Poyle, individually called for peaceful elections and asked voters to vote for good leaders. They were joined by a statement of seven churches that asked voters to respect the secrecy of the ballot and to cast their vote peacefully, free of any violence, including gender-based.

29 The Office of the Registrar of Political Parties and Candidates released a review of the campaign, claiming that the identity of political parties and their impact was particularly weak and more awareness-raising has to be done in the future.
B. Campaign Finance

The Organic Law on the Integrity of Political Parties and Candidates (OLIPPAC) provides for a limited direct public funding for registered political parties of K10,000 (the equivalent of around 2,715 EUR) per year for each sitting MP. Electoral campaigns, however, are funded primarily through individual contributions. Parties and independent candidates can receive cash donations from citizens and foreign individuals not exceeding a ceiling of K500,000 (around 135,000 EUR) “in any one calendar year” for parties and in one election for candidates. Disclosure requirements are foreseen for both the contributor and the parties/candidates within 30 days of such act, with a fine not exceeding the amount of the contribution in case of failure to disclose the details of the donation. The OLIPPAC does not include any provisions for in-kind donations. The low limits on cash donations by individuals to parties and the absence of any regulation whatsoever for company donations, apart from donations deriving from international organisations, restrict the transparency and accountability of campaign financing and strengthen the ability of different groups to gain political influence through offering financial advantages.

The law requires political parties to report on revenue sources used for general and electoral expenses within three months after the date of the return of the writs and every twelve months in between elections. However, the small fine foreseen for not respecting this requirement and the absence of a thorough mechanism for an effective control of the veracity of the financial returns undermines the effectiveness of this obligation. Contrary to international standards, the absence of any requirement for the financial returns of parties and candidates to be made public and for the Integrity of Political Parties and Candidates Commission to publish its conclusions on their financial returns neither improves transparency nor provides effective access to information to the electorate.

IX. MEDIA ENVIRONMENT

A. Media Landscape

The use of media in PNG is largely dependent on the possibility of access rather than choice; outside Port Moresby, access is limited due to poor infrastructure and weak signal (for radio, TV and internet) as well as costs (for newspapers and internet). At 53 per cent, radio enjoys the highest reach of media types, followed by television (41 per cent) and internet (18 per cent). It is notable that according to a 2016 media survey on

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30 No public funding was provided in 2017, according to the Registry of Political Parties and Candidates.
31 The three-month time limit for the submission of financial statements on campaign expenditure is not fully in line with international good practices; according to Paragraph 200 of the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation, “Reports on campaign financing should be turned into the proper authorities within a period of no more than 30 days after the elections”.
32 According to the Registrar of Political Parties and Candidates, following the 2012 elections they imposed fines to almost half of the parties for failure to submit their financial returns.
33 UN Convention Against Corruption (UNCAC) Art. 13(1) and 5(1).
34 Citizen Access to Information in Papua New Guinea 2014, study conducted by M&C Saatchi World Services Research & Insight and commissioned by the Australian Broadcasting Corporation International Development.
35 Ibid.
the behaviour of media consumption, 29 per cent of the population questioned had never listened to radio or watched television, neither read a newspaper or used internet; out of them, rural residents of 45+ years old living in the Highlands region formed the highest percentage. The reach of Internet media as a source of information is well behind, with social networking sites as well as the NBC/YouTube/Facebook being the leading online media, reaching 13 per cent and 11.6 per cent of persons surveyed respectively. Nevertheless, Internet penetration rate amounts to 7.9 per cent throughout the country, according to the Freedom House Freedom of the Press Index 2017.

The majority of broadcast media have a countrywide coverage, although radio signal in rural areas is often sporadic and sometimes non-existent (for instance in New Ireland and Eastern Highlands). The National Broadcasting Corporation (NBC) is the main public broadcaster, while EMTV and FM 100 are the dominant private television and radio stations; around fifteen other commercial radios and television outlets operate throughout the country, as well as nine catholic radio stations. Notably, church radios are considered to be the most trustworthy source of information among all mass media, by citizens in both urban and rural areas, of all levels of education.

The only two daily English newspapers, The National and Post-Courier, have a broad distribution network; however, they are considered by all EU EEM interlocutors as being heavily compromised in favour of the ruling party and with limited editorial independence.

In the Freedom of the Press Index 2017, the media in PNG are considered as partly free with a review score of 29/100 (100 least free). According to the Freedom House, although the news media in PNG has been among the most independent in the region, press freedom in the country started deteriorating following the political crisis in 2011.

Difficulty of access to information, insufficient training and low reporting standards, financial constraints, lack of understanding of the role of the media by the higher media executives and absence of an official supervisory authority comprise the systemic weaknesses characterizing media in the country, which, nevertheless generally enjoy

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36 PNG Media Survey 2016, conducted by Tebbutt Research and commissioned by the Media for Development Initiative and the NBC, of a sample of 2,113 persons (age 14 and older) in both urban and rural areas in all 4 regions, conducted in October-November 2016 through computer-assisted telephone interviews.
37 Ibid.
38 The Australian government is supporting the media sector through the Media for Development Initiative (MDI) that is providing capacity building activities and trainings to the NBC in order to strengthen its systems and operations.
40 The National prints 70,000 copies per day while the Post-Courier prints 46,000 copies.
41 The owner of The National, the Malaysian logging company Rimbunan Hijau, runs the largest logging operation in PNG, is also involved in other business activities in the country and has strong ties with the government. The Post-Courier is owned by 52 per cent by an Australian subsidiary of the U.S.-based News Corporation and the remaining 48 per cent by the PNG public sector, mainly the Public Servants Fund, the PNG Defense Force and the National Superannuation Fund (Nasfund).
freedom to exercise their activities without systemic intimidation by the authorities, according to the EU EEM interlocutors.\textsuperscript{43}

\textbf{B. Legal Framework}

Freedom of expression is guaranteed under Section 46 of the Constitution, including the freedom to receive and communicate ideas and information, whether to the public in general or to a person, and the freedom of the press and other mass communication media. The same provision stipulates that the exercise of this right may be subject to regulation or restriction by law. Contrary to international standards, there is no law guaranteeing the right to seek and receive information and the right of access to information.\textsuperscript{44}

The Organic law does not include any provisions on the role of the media during the campaign, neither on the right of equal access by electoral contestants to the state-owned media, nor to the principles of (free or paid) political advertising, that would aim to ensure a balanced and pluralistic coverage of all candidates. Equally, the other legislation relevant to the media, mainly the Broadcasting Corporation Act of 1973 and the Cybercrime Code Act of 2016, are silent in regards to regulating the media coverage of the electoral campaign. Under Sections 8 (2)(3), 21 and 26 of the Defamation Act of 1962, media professionals can be sued for defamation in civil cases but a criminal liability is not evoked. However, the Cybercrime Code Act,\textsuperscript{45} adopted without consultation with media professionals,\textsuperscript{46} criminalises defamation and defamatory publications and foresees severe sanctions.\textsuperscript{47}

\textbf{C. Media Regulatory Bodies}

The media sector is characterized by the absence of a public broadcasting regulatory authority that would be legally empowered to regulate the conduct of the media and to monitor the respect of the professional ethics. The Media Council of Papua New Guinea (MCPNG), a private self-regulating body created in 1994 as a response to a government attempt to control the media,\textsuperscript{48} has undertaken part of this role, by formulating in 1995

\textsuperscript{43} It should be noted, however, that senior media executives of both \textit{The National} and the \textit{Post-Courier} shared with the EEM that they were indirectly asked by the executive to adopt a more positive approach when reporting on issues related to the government.

\textsuperscript{44} In 2004 the three Rapporteurs on Freedom of Opinion and Expression and Freedom of the Media (UN, OAS and OSCE) adopted a Joint Declaration stipulating that access to information held by public authorities is a fundamental human right that “should be given effect at national level through comprehensive legislation”.

\textsuperscript{45} The adoption of the Cybercrime Code Act of 2016 necessitated the amendment of the Evidence Act, in order to enable the admissibility of electronic evidence deriving from mobile phones into courts, which was previously not possible.

\textsuperscript{46} The Media Council appointed in July 2017 two legal experts to study the Cybercrime Code Act and provide an opinion on whether it violates the freedom of expression as guaranteed by Section 46 of the PNG Constitution.

\textsuperscript{47} Although the Cybercrime Code Act stirred negative reactions by the media professionals before its adoption in August 2016, it did not result in stiffening the online political debate during the campaign period; according to media professionals, the PNG population is more informed and interactive through social media than during the 2012 elections.

\textsuperscript{48} The Media Council was inactive during 2011-2016 due to a corruption scandal involving the mismanagement of funds allocated by the Australian government; its new director elected in 2016 is making serious efforts to revive it and win the trust of the media community.
the MCPNG Code of Ethics, to which all mainstream media organizations agreed to abide when they established the Media Council. The Code of Ethics includes, *inter alia*, provisions on conflict of interest during political campaigns through cash allowances to journalists; however, the Media Council does not have any mandate to impose sanctions in cases of violations of the Code. In addition, the Media Council faces serious operational difficulties having no source of funding apart from the annual membership fees, which the member organisations do not pay on a regular basis, and with the absence of self-accountability mechanism by the media professionals.

D. Media coverage of the elections

The state-funded NBC has been presenting a couple of programmes focusing on the elections and inviting political parties; private-owned TVWAN and FM100 also included talk-shows with paid participation in their programme, while both daily newspapers published articles on rallies as well as on party platforms and profiles of independent candidates. EMTV run a daily election programme during the last two weeks of the campaign, discussing mostly different issues without however the participation of candidates.

In the absence of legal provisions on free airtime on both public TV and radio broadcasts, and equally benefiting from the lack of budgetary limits for general campaign expenditure, candidates were free to purchase as much advertising airtime/space as their financial means permit, both on public and private media outlets; this obviously led to a lack of a level-playing field among electoral contestants. The NBC informed nevertheless the EEM that despite inviting candidates to participate free of charge in their election programs, only candidates from 14 out of the 45 registered political parties accepted, either being unfamiliar with speaking on the media or unable to comprehend the important role media could play for their campaign. The media houses met by the EEM mentioned, on the contrary, a proliferation of the use of social media by the electoral contestants.

The EU EEM interlocutors reported to the Mission some isolated cases of violence against journalists committed by party supporters during coverage of campaign events. Notably, all media met by the Mission, apart from NBC, commented on the limited information that the Electoral Commission was sharing with them during the election period.

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49 The MCPNG Code of Ethics was reviewed and updated in October 2016 by the Australian Press Council; this is the first time that the Code of Ethics underwent such review since its formulation in 1995.

50 One programme started in early 2017 aiming on public education on elections and became weekly as of April. Another weekly programme, the “Vote wisely”, had also been focusing on awareness-raising and invited women candidates on 8 March.

51 The Registrar of Political Parties and Candidates paid NBC in order to invite all political parties for interviews to present their policies.

52 The FM100 requested a fee between K1000 (around 282 EUR) to K5000 (around 1400 EUR) for its daily two-hour talk show that started at the beginning of the election campaign.

53 In detail, a senior journalist of the *Post-Courier* mentioned to the EEM that there were 3 cases of violence against their journalists during the campaign, in Highlands and West New Britain. Similarly, an NBC reporter was intimidated and physically assaulted in Manus province and another one in West New Britain.
X. POLLING

The polling process was scheduled over a two-week period, from 24 June to 8 July. According to the polling schedule, seven Highlands provinces as well as the NCD would hold elections within a single day. In the other provinces polling was scheduled for a specific number of days over a two-week period, and conducted by mobile teams responsible for a number of different polling locations.

The Electoral Commission did not manage to organise the elections within the gazetted polling schedule and the polling process was finalised only by 15 July; polling was extended in six out of the 22 provinces (East Sepik, Gulf, Western, Madang, Enga and Western Highlands). Particularly in Port Moresby, polling commenced on 27 June as scheduled in only one out of the three electoral districts and it was eventually postponed to 30 June.

Several factors led to the postponement and prolongation of polling in the aforementioned electorates:

a) the lack of accuracy of the electoral roll, as a high number of voters was not included. This led to tensions and under pressure, the presiding officers decided in some cases to either postpone or suspend the polling;

b) according to media reports, in many cases polling was delayed due to logistical problems such as late distribution of election materials and delays in the transportation of polling staff. Poor weather conditions in some areas of the country also had a negative impact on the timely distribution of materials;

c) problems related to the security of the polling booths were also noted, as in some areas police personnel was not deployed on time or was not present at all at polling sites;

d) in some provinces, particularly in Chimbu, the Election Steering Committee decided to postpone polling for one day in order to stamp all ballot papers, following rumours of circulation of a large number of fake ballots.

According to the law, voting should start at 8 am and finish by 6 pm, however, due to the reasons mentioned above, in several polling stations (booths) voting was reduced by three or more hours and as it was not extended, this led to the disenfranchisement of a high number of voters.55

The PNGEC was not able to adopt, disseminate or implement key decisions regarding the use of the final electoral roll and time of polling in case of significant delays, while the large powers vested with the regional and provincial election managers do not promote a consistent approach.56 The absence of regular press conferences by the

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54 The Election Steering Committee consists of representatives of the election administration, state administration and the police.
55 To date, there is no detailed information on the number of polling booths across the country where voting time was significantly reduced. Most serious example is the conduct of polling in the urban part of Western Highlands province (Goroka town) where voting started only at 3pm.
56 In some provinces, such as Bougainville, Chimbu and Jiwaka, the election managers, representatives of
Electoral Commissioner during polling also negatively impacted the transparency of the process.

The main problem during voting identified by international and citizen observer groups was the high number of people disenfranchised, as their names were not included on the electoral roll. Reportedly voters were turned away in virtually all polling sites visited by international and citizen observers. There are no precise data on the scope of the problem, as the presiding officers were not instructed to collect names or numbers of missing voters. Many EU EEM interlocutors estimated that up to 20 per cent of voters were omitted from the final electoral roll.

The law allows only registered voters to cast the ballot, however this was not implemented consistently across the country. Mostly in the coastal areas, voters who were not on the register were not allowed to vote. However, there were many cases where voters were added to the voter list on election day and allowed to vote or they voted on behalf of other voters. Several instances of voters who found in the polling stations that somebody else voted on their behalf were also noted. There is a special voting procedure for voters who can prove that their name on the list was crossed by mistake or somebody else voted on their behalf; however these procedures were not followed and these voters were either allowed to vote under somebody else’s name or they were turned away.

There are 2.36 million voters registered in the seven Highlands provinces. This represents over 46 per cent of the total number of registered voters. According to the Commonwealth Secretariat, the Australian National University and the EU diplomatic observers, as well as the EU EEM interlocutors, the polling process differed significantly between the Highlands and the coastal areas including the New Guinea islands.

The main criticism by candidates was related to the low number of ballots provided to the polling stations, as the distribution of ballots was based on the final electoral roll. The competing groups of supporters and candidate scrutineers demanded a higher number of ballots to be distributed. The ballots assigned for particular polling stations were, in some cases, reportedly distributed according to agreed formula among competing supporters (clans, families) of different candidates at the polling places and subsequently cast. Furthermore, in the Highlands provinces the secrecy of the vote was not sufficiently protected. Observers reported about open voting, block voting (representatives of youth marking ballots for communities), proxy voting, family voting and multiple voting. There were also reports of intimidation of voters and a high number of women were reportedly not able to cast their ballot.

Political parties and candidates’ scrutineers had a strong presence in all polling booths visited. Although they did not always have a clear view of the process due to the set-up of the polling booth, their presence represented a significant contribution to the enhancement of the transparency of the process. However, in some cases the scrutineers also interfered in decisions of the presiding officers. For instance, in case there were groups of dissatisfied voters and a large number of scrutineers, the police and presiding officers had to consult their decision with the scrutineers on whether to allow these state administration and police used the preliminary electoral roll instead of or together with the final roll.
people to vote or not. A high number of scrutineers were not wearing accreditation badges and often more than one scrutineer per candidate was present at the polling station. In average, there were approximately 30 candidate scrutineers per polling station.

Although official turnout figures were not released until the departure of the EU EEM, according to information provided by the national and international observers and the media, PNG voters generally participated in high numbers across the country. The polling took place in a peaceful environment and despite some isolated reports of violent incidents fears about widespread violence mostly in the Highlands provinces, did not materialise.

XI. COUNTING

A. Counting procedures

After counting each ballot box in the counting centre, the first preference votes were entered in large forms visible to all persons present, so that scrutineers were informed about the number of votes given to each candidate and the total number of valid and invalid ballots. Also, progressive results were sent to the PNGEC HQ to be checked for mistakes. Once all ballot boxes were processed and first preference votes for all candidates were counted, the candidate who obtained 50 per cent plus one vote was declared elected. If no candidate received the absolute majority, the distribution of the second preferences took place. The candidate with the lowest number of votes was excluded and each ballot from the candidate’s stack was distributed to the remaining candidates who received the next preference shown on the ballot. The exclusion process continued until one candidate received an absolute majority.

The counting process was centralised in the district headquarters counting centres with heavy police presence guarding the area. The returning officers (RO) and assistant returning officers (ARO) were responsible for managing the process in each counting centre. In addition to electoral officers who were sorting the ballot papers, there was one extra official responsible for counting the votes given to individual candidates. Furthermore, all candidates had the right to appoint one scrutineer at the centre. On average, there were some 70-90 people present in the counting centres during the counting plus police and media personnel.

Counting was generally transparent. Before a ballot box was opened, the RO/ARO announced the ballot box details, the polling station team number and seal numbers, allowing the scrutineers to confirm the numbers. Each ballot box was counted separately. As observed by the EU EEM, the ballot reconciliation figures were also

57 Seven persons were admitted to hospital in Eastern Highlands province due to fighting on polling day, while two students at Lae university were detained for burning unmarked ballot papers to express their dissatisfaction with low number of ballot papers received. In some other polling sites both scrutineers and presiding officers agreed to burn the leftover ballots to avoid any mishandling. An undisclosed number of persons were also injured in an election-related fight among supporters of three candidates in Chimbu area in Highlands province.

58 If all preferences on the ballot are given to already excluded candidates, the ballot paper is exhausted and the absolute majority (of votes/ballots) is recalculated.

59 Media personnel were observed in all counting centres visited by the EU EEM.
announced so that scrutineers were informed about the number of ballots cast in each polling station.

However, other important information such as the serial numbers of ballot papers used and the number of voters who voted in the polling station were not pronounced. These data were available in the polling station journal and they were also entered by IT officers into tablets and transmitted to the PNGEC HQ. The EC informed the EU EEM that these data should be available at the in-house media centre as well, but this was never fully operational since its inauguration.

B. Overview of the process

There were several ballot boxes disputed for different reasons in each of the counting centres visited. Main problems were: damaged or tampered ballot boxes, extra ballots found in the ballot box and not matching ballot box seals numbers. According to the law, a returning officer may refuse to include in the results a ballot box, if the ballot papers in it were not lawfully cast. The EC did not issue any instructions on how to proceed in the case where there are more ballots cast than the number of voters on the polling station voter list.

The EU EEM noted a general lack of trust in the work of election officials and the police. Hundreds of scrutineers across the country were involved in guarding the ballot boxes while these were stored in containers at police stations. Few cases of police officials allegedly interfering with ballot boxes or ballot papers were reported by media from different provinces (Eastern Highlands, NCD, Jiwaka, Hela). Especially in the Highland provinces, counting for all district seats and provincial seat was organised in one large counting centre. In Goroka (Eastern Highlands) some 140 police and military personnel were involved in securing the counting centre while a few hundred of voters and scrutineers were waiting for the results in front of the centre.

The counting process was very lengthy. As prescribed by the Organic law, counting should start immediately after the end of voting in each electorate. However, due to either rescheduling or prolongation of polling, as well as late delivery of ballot boxes from remote places, counting was also significantly delayed in most provinces. Other problems related to the counting process include:

a) delays caused by the insufficient preparation for the counting, missing materials or unavailable badges for counting officials and scrutineers;

b) unpaid allowances of the counting and sorting election officials, mostly due to logistical problems or bureaucratic requirements;

c) many cases of obstruction of the counting by party and candidate scrutineers, often fuelled by the general frustration of candidates over the entire election process;

d) general lack of knowledge by the scrutineers about the process and the limits of their involvement;

Neither the law nor the EC counting manual for election officials require the announcement of these data, although this would contribute to the integrity and transparency of the process.
e) lack of procedures in case of a disputed ballot box, while the presiding officers responsible for individual polling stations were often not present at the counting centres to explain any shortcomings.

In a positive development, the PNGEC appointed, before the beginning of the counting, a total number of 90 lawyers who were deployed at the counting centres across the country and tasked to provide legal advice on the specific questions raised during the counting.

C. Resignation of the Election Advisory Committee

A significant event during the beginning of counting was the resignation of the Election Advisory Committee on 9 July, the day after the polling was officially supposed to end. As reasons for their resignation the members of the Committee indicated that the Electoral Commission had not allowed them access to data and information necessary for them to fulfil their duties. While several voices were already raised during the polling, requesting the PNGEC to declare the elections as failed, mainly due to the widespread deficiencies of the electoral roll, Section 97 (2) of the Organic law foresees such declaration only under two conditions: if no candidate has been nominated or if no candidate has been returned as elected. The Head of State may, however, acting on the advice of the Electoral Commissioner, withdraw the writ for an election in the period between the issue of writs and the declaration of results if the circumstances prevailing in a particular electorate are such that the proper conduct of election there is not practicable. The prerequisite for withdrawing a writ, however, is that the Electoral Commission acts only on the recommendation of the Election Advisory Committee. As a result, and according to the legal interpretation of the EU EEM and the members of the Election Advisory Committee, its resignation de facto negated the possibility of the PNGEC to request the withdrawal of one or more writs before they are returned, i.e. to declare the election failed in one or more electorates.

XII. ANNOUNCEMENT OF RESULTS

A. Overview

Overall, the process of announcement of results lacked transparency. The PNGEC did not publish in a consistent manner official data on voter turnout per district including gender breakdown, number of invalid votes per district and number of ballot boxes excluded from the count by the returning officers’ decision. There were also no available data on the total number of voters on the final voter list per polling station.

Initially the PNGEC published information per electoral constituency regarding the voter turnout, the total number of invalid ballots and the number of ballot boxes excluded from the count by a decision of the returning officer. However, this practice was changed shortly after the announcement of the first constituency results including two electoral constituencies with voter turnout above 100 per cent. These were Ialibu

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61 The law further states that in case of withdrawal of a writ, a supplementary election is to be held as soon as the circumstances are conducive to the conduct of elections in that electorate. Neither the electoral law nor the Constitution prescribe any time limit for the organisation of the supplementary election.
Pangia district, where more than 104 per cent ballots were cast and Imbonggu district in Southern Highlands where a turnout of 116 per cent was recorded.

Another problematic issue was the high number of disputed ballot boxes in the counting centres, predominantly in the Highlands districts. The final decision to open ballot boxes and count ballots rests with the constituency returning officer. There were many complaints by candidates that ROs’ decisions in regard of disputed ballot boxes were biased in favour of certain candidates predominantly from the ruling party/coalition.

B. Invalid ballots

The number of invalid (informal) ballots in the NCD and other urban areas was significantly higher than the number of invalid ballots in remote provinces, such as the Highlands and Momase regions. In general, the percentage of invalid ballots is usually higher in areas with higher illiteracy rates, which are mostly rural areas, but this was not the case in these elections. An analysis of the progressive results shows that almost all electoral districts in the Highlands had around or less than one per cent of invalid ballots in comparison with urban areas of Port Moresby and Lae, where the number of invalid ballots was around 3 per cent.

C. Declaration of Results and Return of Writs

The date fixed for the return of writs (24 July) was not met by the PNGEC due to the delays and shortcomings in the polling and counting process. There were also numerous obstructions caused by candidates’ scrutineers. The Governor-General approved the PNGEC request for an extension of the date for the return of writs to 28 July. However, that day the Commissioner returned only 80 writs out of 111 to the Governor-General, who subsequently invited the ruling PNC party, which secured the highest number of seats (25 out of 80), to form a new government. This development increased political insecurity and the fear that a significant number of MPs would not be returned and therefore would not participate at the first meeting of the parliament where the Speaker and Prime Minister would be elected.

The opposition criticised the decision of the Governor-General and of the PNGEC as being politically biased in favour of the ruling party, and requested to further postpone the deadline for the return of writs. On 28 July, the Ombudsman Commission applied to the Supreme Court on the matter. The Supreme Court’s decision granted an extension

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62 In Wapenamanda district the returning officer did not agree to count all ballot boxes despite an advice to do so by the regional election manager. Following the declaration of results the supporters of the losing candidate destroyed houses of the election officials in the district.
63 The returning officer for the Southern Highlands province demanded to declare the incumbent PNC member before counting all ballot boxes. Some 188 ballot boxes were not counted out of 460 in the counting centre.
64 Each writ for an election must be returned within the date fixed for its return. It is a duty of the returning officer of each electoral district as soon as a candidate has been elected to publicly declare the name of the candidate. The Electoral Commissioner needs to verify the result statements made by the returning officer and endorse the name of each candidate elected for each electoral constituency. Within the fixed deadline the Commissioner returns the writs to the Governor-General.
65 The Speaker of the parliament is elected by an absolute majority (56 MPs) while the Prime Minister by a simple majority of MPs present at the first sitting of the newly formed parliament.
for the return of writs. As of 2 August, 106 writs were returned; the extension allowed 26 more writs to be returned, however, there were still five constituencies to be counted and returned. The Commissioner announced that the PNGEC would continue to return writs and allow all remaining constituencies to finalise counting and declare the results.

Following the first declaration of results the main political alliances organised themselves in camps in different towns across the country. The ruling party invited its newly elected members and potential coalition partners to Alotau (Milne Bay province). The PNC leader Peter O’Neill declared readiness to form the new government prior to the first session of the new parliament. As of 2 August, the PNC won 27 seats and had secured support of some 33 elected parliamentarians from URP (7 seats), PPP (5 seats) and other smaller parties and independents.

Another camp was formed in Kokopo (East New Britain) by the other two most successful parties, the National Alliance (14 seats) and the Pangu party (9 seats). The “Alliance” had some 46 members and was led by the NA leader Patrik Pruaitch. The Alliance awaited the declarations of the remaining seats and called on independent candidates to help in forming a coalition without the ruling PNC party.

The first parliament session took place on 2 August. Five seats were vacant therefore the simple majority to elect the prime minister was decreased from 56 to 54 MPs. The former Prime Minister and PNC leader Peter O’Neill was re-elected with the support of 60 MPs against 46 opposition MPs.

XIII. POST-ELECTION DEVELOPMENTS

Election-related violence

In contrast to generally peaceful campaign and polling, there were many serious incidents of violence related to the counting and the announcement of results. The political environment was volatile in many parts of the country; a high number of aggrieved candidates did not accept their defeat arguing that mainly the inaccuracy of the electoral roll and delays in polling disqualify the entire election process. In addition, there were many complaints of candidates on biased behaviour of the electoral officials and the police personnel involved in the polling and counting processes. The lack of transparency by returning officers in addressing a number of disputed polling stations/ballot boxes in counting centres, contributed to the uncertainty and prolongation of the process. The Electoral Commissioner regularly asked the electoral officials to speed up the process of counting and urged candidates to address all unresolved issues via the election petition process.

During this period, several instances of serious election violence including the killings of polling officials, police personnel and supporters of candidates took place, mostly reported from the Highlands region.66 The most serious incident occurred in Mt Hagen in Western Highlands province, where the aggrieved candidates organised a six-day long sit-in protest and widespread violence was ongoing for one week in the town.

66 Several people were killed due to election-related violence in Western Highlands, Chimbu province, Southern and Eastern Highlands.
Papua New Guinea has a developing civil society, still very weak to play an important role during the election process by lacking sufficient capacity and coordination as well as oversight capabilities. The UNHR – Office of the High Commissioner for Human Rights in the country conducted in March 2017 a four-day training for 25 civil society organizations (CSOs) in the Highlands, on monitoring human rights violations during the electoral period. Being a first time that such an initiative took place, and considering the inexperience of domestic CSOs on following the human rights situation, the report of their monitoring was not available by the time the EU EEM terminated its activities in the country.

The legal framework does not explicitly provide for the presence of non-partisan citizens’ organisations or international election observers, contrary to international commitments. However, the Electoral Commission set up a specific unit managed by UNDP and tasked to facilitate the accreditation and work of citizen-based and international observers and provide information on the electoral process.

Citizen observation, organised by Transparency International PNG with 400 observers deployed between 24/6 and 8/7 in 14 provinces, was largely focused on polling; regrettably, there was a lack of any observation activities of other parts of the election process, such as voter registration, candidate nomination or the campaign; due to limited funding, there were also no plans for national observers to follow the scrutiny and tabulation of results as well as the petition process.

International observers were deployed by the Australian National University (a hybrid mission comprising some 200 national and 20 international observers), the Commonwealth Secretariat (with a total of 19 observers), the Pacific Islands Forum (between 10-15 observers), the Melanesian Spearhead Group (10 observers) and the Korean Election Commission (3 persons). In addition, approximately 50-60 diplomatic observers visited polling stations during the two-week voting period.

The Organic law includes a comprehensive list of electoral offences, punishable by a range of fines and/or prison sentences. These comprise provisions in relation to election

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67 Section 129 of the Organic law provides for a list of persons who can be present in a polling station; aiming to protect voters from undue influence and although it appears exhaustive, this provision foresees that by permission of the presiding officer, other persons may enter or remain in the polling station, thus introducing a measure of flexibility in the law. The presence of observers during scrutiny appears more ambiguous, as Section 150 of the Organic law refers only to scrutineers appointed by candidates as being entitled to attendance in the counting centres.

68 CCPR, GC 25, p. 20: “There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes” and UNCAC, Art.13.

69 The UNDP organised three seminars for international observers and diplomatic missions, with the participation of the Electoral Commission, in order to present all aspects of the electoral process.

70 Transparency International PNG conducted some voter education and awareness activities and is planning to organise a post-elections lessons-learned seminar in October 2017. It was also a member of the Election Advisory Committee, which started its activities on 8 June 2017.
campaign, as well as multiple voting, impersonation for the purpose of voting, destroying ballot papers or other election materials, not allowing employees leave of absence to vote, defamation of candidates and voting in an electorate while qualified to enrol in another. The Criminal Code additionally prohibits, *inter alia*, the offences of undue influence, bribery, corrupt and illegal practices, violation of the secrecy of the vote and ballot box stuffing.

Some arraignments took place during polling and counting in different provinces, for electoral offences such as bribing, impersonation, disturbance to polling, multiple voting and intimidation of voters. Among the persons arrested were also two police officers allegedly trying to smuggle unauthorized ballot boxes to be included for counting, one police officer threatening with a weapon voters to vote for a certain candidate, and a senior election official arrested for impersonating a police officer at a counting centre in the capital. Notably, the first election-related case during the 2017 process to be heard by the court related to double voting and was heard by the Committal Court in Port Moresby on 11 July.

XVI. ELECTORAL JUSTICE

A. Election petitions before the announcement of results

The Organic law does not provide to electoral contestants or voters a legal avenue through which they can file petitions challenging the decisions of the election administration prior to the return of writs, apart from appeals relating to the electoral roll and to the polling schedule. In addition, the Organic law (National Elections) Regulations 2007 stipulate the right of scrutineers or electoral officers to raise an objection during the count on any aspect of the scrutiny while also foresee that a scrutineer or candidate may object the admission of a ballot box to scrutiny to the RO within three days of the end of polling. All other possibilities for legal remedy are deferred after the return of the writs; this does not ensure that an appropriate, timely and effective legal remedy is available to address claims of violations throughout all parts of the electoral process, in compliance with the country’s international commitments.

Following the conduct of polling, more than 30 petitions were lodged by several candidates, either directly to the PNGEC headquarters or in provincial offices such as in the NCD regional, Moresby North East, Moresby North West, Jiwaka, Wabag, Ialibu-Pangia, Hela, Enga, New Ireland, Lae, Eastern Highlands, Milne Bay and Manus; they were challenging the counting process or the appointment of ROs and polling officials,

71 This latest offence, punishable by a fine or imprisonment of maximum 6 months, has been committed publicly by several politicians and even by the Electoral Commissioner.


73 More specifically in NCD, East New Britain, Manus, Madang, Morobe and Oro provinces.

74 Sections 72 and 116 of the Organic Law.

75 The objection is to be considered by the Returning or Assistant Returning Officer, whose decision is final.

76 ICCPR, Article 2(3)(a) “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” Also ICCPR Human Rights Committee, General Comment 31, paragraph 15 refers to States “ensuring that individuals have accessible and effective remedies. Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.”
demanding the exclusion of ballot boxes from being counted or alleging various irregularities. Some of the demands in relation to procedural issues, such as conducting counting in a more transparent venue, were addressed by the election administration, while others, such as the replacement of ROs could not be satisfied. The submission of the petitions before the return of writs demonstrated not only the frustration of aggrieved candidates over various alleged malpractices but also a lack of understanding of the rules governing the election petitions.

Some petitions were also filed with the National Courts, although the Organic law does not provide for this process before the return of the writs. Among these, twelve NCD regional candidates filed on 19 July an urgent application seeking an interim order to stop the counting, while another candidate in Southern Highlands asked the court for an interim relief to restrain the provincial RO to perform further duties. Two Hagen Open electorate candidates filed a petition requesting a judicial review of the appointment of the RO and ARO, alleging family ties with the sitting MP. Following the rejection of the case, their subsequent application for a judicial review was dismissed by a Supreme Court bench in Waigani, on the grounds of lack of the requisite locus standi.

Another petition was filed on 11 July at the Supreme Court by a candidate in the Ialibu-Pangia electorate in Southern Highlands; the petitioner requested the court to rule on the legality of voting on a Sunday (2 July), and also an interim order, which was refused, to stop the counting in the electorate pending the decision of the court. The hearing was adjourned a couple of times for procedural reasons and a decision was not reached at the time of writing this report.

The only petitions challenging the electoral roll were filed on 4 July at the National Court at Goroka by three voters under the Human Rights Enforcement procedure, provided by the Constitution for the protection and/or enforcement of fundamental rights and freedoms. The petitioners alleged that their right to vote was infringed as polling was suspended at their polling station due to disturbance and although it was re-

77 For instance, a group of 24 candidates from Goroka Open electorate filed a request on 3 July alleging that the polling schedule was not made public by the RO, polling officials were openly marking ballot papers, polling places opened after the closing time, ballot box return checklist was not completed and students and staff of the Goroka University did not vote due to absence of a polling site there.

78 For instance, 24 candidates of Port Moresby North East electorate filed a petition to the Electoral Commissioner requesting to suspend the Returning and Assistant Returning Officers during the counting due to their alleged incompetency. Another petition was filed by 10 candidates contesting the Enga Open and provincial seats and led by the Opposition leader Don Polye. They requested the PNGEC to change the RO, ARO and presiding officers, as they seemed in favour of some candidates, and to use the supplementary common roll for the 2012 elections.

79 Pursuant to Sections 73 and 77 of the Organic Law, the writs for elections issued by the Head of State are addressed to the respective Returning Officers for the electorates where elections are to be held. According to the EC Commissioner, it would be illegal to change a Returning Officer before s/he completes the task to return the writ.

80 It should be noted that the counsel for the petitioners conceded that these were mere allegations and did not present any evidence to the judge to substantiate them.

81 In detail, the Supreme Court ruled on 29 June that neither the appellants directly nor their rights or interests had been affected by the appointments of the RO and ARO; therefore, they did not have the requisite locus standi. However, the Court noted that they still have the right to file a post-election petition pursuant to the relevant provisions of the Organic law.

82 Pursuant to Section 130 (1) (b) of the Organic law, “the poll shall open at each polling place at 8 a.m. on each day (other than Sunday or a public holiday) during the period for taking the poll at that polling place”.

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scheduled, it never materialised because of organisational problems. The petitioners requested a court order for the PNGEC to organise re-polling. In its decision of 7 July, the Court denied the application and order sought; it supported that no jurisdiction is established for the court to rule on cases filed before the return of writs.

B. Post-election petitions

The validity of an election or return can be challenged by a petition submitted to the National Court – Court of Disputed Returns, the jurisdiction of which, when adjudicating election-related petitions, is exercised by a single Judge. An election petition may be presented by a candidate at the election in dispute or by a person who was qualified to vote. Petitions should be submitted within 40 days after the declaration of the result of each election to the National Court at Waigani (Port Moresby) or in any Provincial headquarters. A further requirement is the payment of a security deposit of K5,000.00 (the equivalent of EUR 1.378,00) and a filing fee of K1,000.00.

Grounds for a petition

As the Organic Law stipulates, an election petition must present facts sufficient to indicate or constitute a ground upon which the invalidation of an election or return is requested. The petition may allege bribery or attempted bribery, undue influence, illegal practice and errors or omissions that affected the result of the election; the question of what constitutes facts as well as adequacy of, is an issue of interpretation by the Court. Although the standard of proof required of petitioners is quite high, Section 217 of the Organic Law provides the Court a predominant guide in its substantive deliberations, stipulating that the Court “shall be guided by the substantial merits and good conscience of each case without regard to the legal forms or technicalities.”

The law specifies that an election or return cannot be declared void on the ground of an illegal practice committed by a person other than the candidate and without the candidate’s knowledge or authority, or on the ground of an illegal practice other than actual or attempted bribery or undue influence, unless is proved that the election result was likely to be affected and that the election should be declared void, or the candidate should be declared not to be duly elected; notwithstanding the difficulty in pleading these two grounds and the required evidence to substantiate them, a wide margin of interpretation is left at the discretion of the Court.

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83 The EU EEM terminated its operations long before the expiration of the time limits for the submission of post-election petitions.
84 This time limit is calculated in calendar days, i.e weekends are included, however not gazetted public holidays.
85 Following the 2012 elections, 105 petitions were filed contesting the results of the majority of electorates; apart from two that were upheld by the courts, the rest were either dismissed, struck out or withdrawn.
86 The EU EEM terminated its operations long before the expiration of the time limits for the submission of post-election petitions.
87 The Court has held that undue influence “involves an element of force, threat or fraud to influence an elector from exercising his free will in relation to voting at elections”, Okeva v Atiyafa [2013] PGN C 31; N4993.
88 The terms "bribery" and "undue influence" in Section 215(1) of the Organic law refer to the offences created by Section 103 (bribery) and Section 102 (undue influence) of the Criminal Code Act.
While Section 216 of the Organic Law specifies the authority of the Court, during the examination of a petition and when establishing that an offence has been committed, to report the findings to the Electoral Commission, the Public Prosecutor and the Police, in practise this power has not been frequently utilised. Hence, even if the return of a candidate is voided by the Court due to bribery, as long as criminal proceedings are not initiated, s/he can still participate in the by-election, profiting by the absence of any provisions by the law on disqualification to stand under these circumstances.

A provision of particular importance for the 2017 elections, due to the widespread shortcomings of the electoral roll, is Section 218 of the Organic Law which prohibits the invalidation of an election due to an error or omission of an officer that did not affect the result of the election; the law also stipulates that when an elector was prevented from voting due to an error or omission, the Court shall not admit evidence of the way in which s/he intended to vote, in order to determine whether this had an impact on the result of the election. An error or omission constitutes an administrative irregularity for which no criminal sanction is prescribed. 89 In addition, Section 214 prohibits the Court from inquiring into the correctness of the roll and requires the Court to assume the roll to be correct; therefore a petition grounded on the state of the roll cannot serve as a basis to dispute the validity of an election or the return of a candidate.90 Finally, another ground for a post-election petition is the disqualification of a candidate upon return of the writ, based on Section 103 (3) of the Constitution.

Newly adopted Election Petition Rules - a significant amelioration to the process

The reign of technicalities impeded the capacity of the courts to dispense justice during the previous electoral processes. Aiming to accelerate the process, the National Court 2017 Election Petition Rules (EP Rules) were published on 26 June, repealing the 2002 Election Petition Rules (as amended in 2007).91 An added feature of the new EP Rules is the restriction of the parties of the petition, in order of sequence, to the unsuccessful candidate as the petitioner, the successful candidate as the first respondent and the Electoral Commission as the second respondent, while no other respondent may be included unless there is a leave of the court. The limited number of respondents is not only less costly for the petitioner but also facilitates the dispensation of justice.92

Another major improvement introduced is related to the mode of service. In particular, while the 2002 EP Rules required a personal service to the respondent, the 2017 EP Rules allow for publication of the petition in at least one daily newspaper, in order to address the problems of delays and deliberate abuse of the procedure by the respondents.

91 In accordance with Section 184 of the Constitution and Section 212 (2) of the Organic law, the Judges of the National Court may adopt rules of court relating to the practice and procedures. The Election Petition Rules were first introduced in 2002 under the aim to expedite the process; all the legal practitioners met with the EU EEM admitted that the EP Rules, since their initial adoption, significantly narrowed down the time required to adjudicate petitions.
92 In the past, one of the intractable causes of delay in the determination of election petitions was the large number of persons joined as respondents; until all were served either personally or through substituted service, the election petition could not be ripe for hearing.
that was frequent during the previous adjudication processes.\textsuperscript{93}

\textit{Lengthy procedural time limits}

The 2017 EP Rules establish detailed procedural time limits for the adjudication of the petitions, largely identical with the ones of the 2002 EP Rules, which were adopted in order to provide for a quick dispensation of justice. This is implied by the absence of requirements for the respondent to file a defence, or for the parties to file interrogatories and other forms of pleadings, as would be the case in ordinary civil suits.

In particular, a time limit of 14 days is foreseen for the petition to be served on the respondents, and of 10 days after the date of service for the petitioner to file an affidavit. The respondent should file a notice to appear within 14 days after service of the petition, while disposals 21 days after service of the petition to file an objection to competency. Furthermore, a directions hearing is to take place within 28 days after the day of filing of the petition, whereas a pre-trial conference is to be conducted within 28 days after the directions hearing; a status conference is to take place at least 5 days before the date of trial. If the Practice Directions (Election Petitions) N°2 of 2012 are taken into consideration,\textsuperscript{94} the hearing of a petition should commence within 28 days from the date of the pre-trial conference, while the trial Judge should deliver judgment or ruling within 28 days after the conclusion of the hearing or trial.

Essentially the EP Rules could provide for a speedy adjudication of an election petition, as a total period of about four months would be sufficient for the National Court to reach a decision; however, in most cases the time limits are manipulated by the respondents in order to delay the conclusion of the case. Notably, out of 105 election petitions filed following the 2012 elections, only 13 of them were completed within 4 months of the date of their submission, by either being dismissed on formal grounds or upheld after a trial. Although they are lengthy according to international best practices, legal practitioners met with the EU EEM consider them necessary given the large number of affidavits to collect, documents to be examined during the process, witnesses to testify and forensic evidence to be used.\textsuperscript{95}

\textit{Application for judicial review}

While the Organic law stipulates that a decision of the National Court is final and not subject to appeal, Section 155 (2)(b) of the Constitution prescribes that the Supreme Court has an inherent power to review all judicial acts of the National Court; this possibility has been invoked by the majority of disgruntled candidates, resulting in protracted litigation. A prerequisite for the case to be examined is an application for leave, to be filed by the appellant contesting the judgment of the National Court.\textsuperscript{96} If the

\textsuperscript{93} In case the petition could not be served personally to the respondent, the petitioner had to apply to the Court for a time extension, and if still was not able to serve the petition, had to request for a substitute service, and if was not possible, the petition was rejected.

\textsuperscript{94} The Practice Directions are not legally binding, contrary to the Election Petition (EP) Rules.

\textsuperscript{95} The Judge has the authority to shorten the timeframes and order for an expedited hearing for petitions that need immediate attention.

\textsuperscript{96} During the leave process the applicant has to demonstrate that the application for judicial review concerns a serious error of law or a serious issue of facts that has not been previously examined by the National Court.
case is not struck out during the leave process, it is remitted to the National Court for re-
trial.

The management of the cases by the Supreme Court has a direct impact on the timely dispo-
sition of the petitions in the National Court; if the Supreme Court upholds the application for review and the petition is referred back to the National Court, the examination of preliminary applications by the Supreme Court on procedural matters, based on applications by the adverse parties against the decisions of the National Court, and while the substantive issues have not been examined yet, may take up to 2-3 years, which sometimes does not allow sufficient time for the issues on the merits to be concluded before the next elections, if the petition is referred back to the National Court for re-trial.97

XVII. PARTICIPATION OF WOMEN

Papua New Guinea is a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) but not to its Optional Protocol of 1999, which establishes international legal obligations to take all appropriate measures to eliminate discrimination against women, including in regards to political participation. In its Preamble, the PNG Constitution provides for equal participation by women in all political, economic, social and religious activities, while Section 55 stipulates the equality of citizens irrespective of sex. In addition, Section 129(h) stipulates that an Organic Law on political parties shall make provisions authorizing the payment in certain circumstanes of a percentage of electoral expenses incurred by a female candidate. Pursuant to this, the Organic Law on the Integrity of Political Parties and Candidates (OLIPPAC) encourages political parties to nominate female candidates for elections to the Parliament by providing a financial incentive in the form of 75 per cent of K10,000 reimbursement (approximately 2,818.00 EUR) to the party whose female candidate receives 10 per cent of the votes cast in the electorate for that election. However, political parties did not take advantage of this provision in order to increase the number of women they nominated for the 2017 elections, neither did they have any special policies targeting women; while social, cultural and economic barriers impede their participation in political and public life and prevent women candidates from competing on equal terms.

Since independence in 1975 and after nine national elections (2017 elections included), only seven women have been elected to the parliament. The 2007-2012 parliament included only one woman out of 109 members, while the 2012-2017 parliament included three women. Therefore, the proportion of women elected so far is always well below the 30 per cent Beijing Declaration and Platform for Action target, while no woman was elected following the 2017 elections, despite more women candidates being nominated than before.98

At the initiative of the only woman MP during the 2007-2012 tenure of the parliament, Dame Carol Kidu, efforts for affirmative action started through the proposal of a Bill to amend the Constitution, in order to allow the adoption of an Organic law providing

97 Five petitions from the 2012 elections fall into this category.
98 Out of the 3,337 candidates registered for the 2017 elections, only 167 were women (or five per cent, an increase of one per cent from the 2012 elections when 135 women run).
reserved seats for women - one in each province, thus 22 reserved seats in total. Although the Bill was passed in November 2011, the enabling Organic law did not pass the second reading in February 2012 as it required qualified majority. As all EU EEM interlocutors stated, the three women MPs of the 2012-2017 parliament did not support any discussion on reserved seats or other measures for women, and during their tenure there was no real debate on women’s issues apart from the gender-based violence prevention strategy that was endorsed by the government.

A few interventions targeting the participation of women were organised during the 2017 electoral process. The UNDP hold a training session in March 2017 for 50 women candidates, out of which 43 were finally nominated by political parties. The training focused on parliamentary processes, leadership skills, campaign platforms, and a practice session with the then parliament. In addition, the Pacific Women Support Unit is running since January 2017 and for a five-year cycle the Women in Leadership Support Programme, that also provided training to 127 women candidates in seven locations across the country on the LPV system, campaign strategies, district services funding, money politics and security. Despite the importance of training, these interventions had a small impact on the immense problems that women candidates face, ranging from lack of financial means to run on an equal basis with their male contestants, violence and intimidation as well as absence of a “women’s vote”, as a large number of women in the country does not exercise control of their own vote.

The Electoral Commission did not develop a comprehensive gender policy to ensure a gender perspective in its operations; out of 22 Election Managers appointed, only two were women, while among the 22 Assistant Election Managers 18 were women. A gender breakdown was not available for the 89 Returning Officers and 343 Assistant Returning Officers appointed. On a positive note, the polling officials maintained gender disaggregated data for women voters, which were however not available at the time of writing this report.

**XVIII. PARTICIPATION OF PEOPLE WITH DISABILITIES**

Papua New Guinea ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in September 2013 (but not its Optional Protocol), thus committing to the inclusion and accommodation of individual differences. State parties of the CRPD are obliged to “guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis.” There is not yet a specific law promoting the rights of disabled persons; however the Department for Community Development and Religion has developed the National Policy on Disability 2015-2025, which includes, *inter alia*, the formulation of a Disability Act.

Although there is no official data on people with disabilities in the country, the

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99 Out of the 127 women participated in the training, 44 run for the 2017 elections. The rest expressed the intention to contest the 2018 local government elections and the 2022 general elections.

100 To achieve its goals, the National Policy on Disability has three core strategies: i) development of a national disability advocacy strategy and mainstreaming disability, ii) improve access to quality services and support social inclusion programmes for PWD, and iii) development of an institutional, legal and financial framework for PWD.

101 The 2009/2010 Household Income and Expenditure Survey (HIES) of the National Statistical Office
National Board of Disabled People\textsuperscript{102} estimates that around 15 per cent of the population has some form of disability, as per the WHO general estimations for any population.

The Constitution does not specifically mention disability among the grounds for discrimination in its reference, in Section 55, to equality of all citizens. It provides, nevertheless, in Sections 38 and 303, that it may make provisions for a specific law, which regulates or restricts the exercise of a right or freedom, to the extent that this is necessary for the protection of persons with disability. In accordance with the CRPD, the Organic law foresees in Section 140 that physically incapacitated voters may be assisted by a person of their choice to mark their ballots.\textsuperscript{103} The law however lacks any other requirements for reasonable accommodation of people with disabilities, such as the use of Braille, large embossed print or sign language interpretation. Furthermore, the OLIPPAC does not include any requirement for political parties to develop specific policies for the inclusion of people with disabilities neither does it include any provisions for funding candidates with a disability.

The Electoral Commission was reportedly not fully receptive to disability consultations neither attentive to their needs, despite the participation of the Commissioner in the beginning of 2017 to a training session in Fiji for electoral commissioners and disability organisations. Consequently, no specific measures were put in place to facilitate their participation, apart from one polling booth that was established for people with disabilities and their families at Moresby North West Electorate.

The National Board of Disabled People did not have any data on the number of candidates with disabilities who ran for the 2017 elections.

\textbf{XIX. RECOMMENDATIONS}

\textbf{Legal Framework}

- In order to implement the right to an effective remedy and to enhance the level of confidence in the process, appropriate mechanisms to file appeals against decisions of the election administration adopted before the polling and the announcement of results, such as the appointment of Returning Officers and the rejection of candidates’ request for nomination, should be established.

- The penalty for a candidate convicted of bribery, attempted bribery or undue influence, whose election or return has been voided by the National Court in accordance with Section 215 of the Organic Law, should be extended to include ineligibility to contest not only the re-run elections but any elections for a well-defined period and the

\textsuperscript{102} The National Board of Disabled People was created in 2002; its members include 20 Disabled People Organisations (DPOs) and four National DPOs (for people with hearing impairments, paralysis, visual impairments and women with disabilities).

\textsuperscript{103} Article 29(a.iii) of the CRPD requires State Parties to allow persons with disabilities “assistance in voting by a person of their own choice.”
ineligibility to hold any public office.

**Election Administration**

- A lesson-learned exercise in order to review and strengthen the effectiveness of the management by the PNGEC to be conducted. Consideration could be given to increase the number of electoral commissioners vested with geographical and horizontal responsibilities, for instance to five commissioners. The PNGEC regional offices could benefit from more personal and financial support throughout the election cycle.

- The PNGEC to strengthen its communication with external stakeholders. A liaison committee could be a useful tool of communication between the PNGEC and key election stakeholders such as representatives of political parties, candidates and civil society can be regularly updated by the PNGEC at the meetings of the committee on all aspects of the process.

- The Electoral Commissioner to initiate the establishment of the Electoral Advisory Committee early in advance of the polling, for instance on the commencement of the campaign period, in order to benefit from its recommendations on electoral matters and give a more inclusive character to the decision-making process.

**Voter Registration**

- The PNGEC to prioritise a thorough review of the electoral roll. The management of the voter registration process and data collection including the display of the preliminary roll and the system of appeals on enrolments or transfers needs to be strengthened. With a view to ensure public and political confidence in all stages of the process, voter identification could be reinforced by issuing voter cards with simple biometric data. The electoral roll with breakdown to polling station/ward level should be accessible to all electoral contestants.

**Boundary Delimitation**

- A revision of electoral boundaries within regular intervals contributes to the equality of the vote. A review of the boundaries of the Open electorates to be conducted well in advance of the next electoral event, in accordance with Constitutional provisions and recommendations of the Electoral Boundaries Commission. Aiming at improving the understanding of the voters on the re-distribution of boundaries and to enhance public confidence and transparency in the process, relevant information to be disseminated by the broadcast media and to be published in at least two daily newspapers.

**Candidate Nomination**

- Aiming to reduce the number of frivolous candidacies or proxy candidates, independent candidates to be allowed to contest elections under one or both of the following conditions: a) constituency-based nomination by verifiable signatures of voters in each electorate; b) payment of a financial deposit which would be subject to refund if the independent candidate scores a minimum percentage of the total valid votes cast in that election in the electorate.
Campaign Finance

- With the aim to ensure equality of opportunities and provide the conditions for a level playing field for the electoral contestants, consideration should be given to amend the OLIPPAC so as to provide for: a) appropriate campaign expenditure ceilings for political parties and candidates; b) dissuasive and proportionate sanctions for exceeding the campaign donation ceilings; c) requirements for the Integrity of Political Parties and Candidates Commission to make public the financial returns of the parties and of its audit report, in order to increase the transparency and accountability of electoral campaign.

The Media

- The defamation provisions (Section 21) in the Cybercrime Code Act 2016 to be reviewed, as they foresee excessive sanctions, both pecuniary and deprivation of liberty.

- Regulations should be developed to allocate free airtime during the campaign period to electoral contestants by state-owned audio-visual broadcasters on equal or proportional terms, granted on the basis of transparent and objective criteria. The procedures have to be decided and announced to all electoral contestants in due time, prior to the start of the campaign period. The state and private media to also announce the prices for paid advertisement in due time, before the start of the official campaign.

- A minimum regulatory environment for the broadcast media is necessary when conditions facilitating independent journalistic coverage are not broadly met. The creation of an independent Media Regulatory Authority could be considered, with clearly defined functions and with statutory powers to ensure editorial standards are maintained. While ensuring that freedom of speech is respected, it should be mandated to develop media regulations, to establish an efficient media monitoring system allowing for supervision of broadcasters' compliance with their legal obligations, to ensure that public service broadcaster fulfil their duties and to sanction violations. The Authority could also receive information on paid advertisements and share it with the Registry of Political Parties and Candidates that oversees campaign finance, in order for the latter to foster its control on the compliance of political parties’ expenditures with the legal provisions.

- Technical and financial support to be provided to the Media Council in order to be strengthened as a self-regulatory body. The Media Council to be responsible for the periodic organisation of capacity-building seminars for investigative reporters on basic issues of journalism and leadership training seminars for senior media executives in order for them to be able to support and to lead their reporters on the principles of ethical journalism. Further support could be provided to the University of PNG and to Madang University on their journalism undergraduate degrees with twinning programmes with universities of the region.

Polling, Counting and Tabulation

- The strict enforcement of the secrecy of the ballot needs to be ensured by all key
stakeholders including election officers, the police, candidates and their scrutineers and voters.

- The training of the election officials to be improved and strengthened. The PNGEC needs to ensure not only that all key procedures are uniformly carried out by polling station officials, but also that important decisions that it adopts are timely disseminated at polling station level. Furthermore, the presence of sufficient security personnel needs to be guaranteed in all polling areas so as to offer the necessary protection to polling officials against pressure and intimidation.

- The overall transparency of the announcement of the election results to be improved. At a time of declaration of results at the constituency level the PNGEC should publish official data on voter turnout per district including gender break down, number of invalid votes per district and number of ballot boxes excluded from the count by returning officers. In line with best practices for democratic elections, the Commission should consider publishing the results of the first preferences per polling station.

**Electoral Justice**

- In order to ensure a balance between timely adjudication of election disputes and respect for the right to an effective remedy, a time frame could be set by the Organic Law for adjudicating election petitions and judicial reviews to provide that:
  (a) The National Court – Court of Disputed Returns to deliver its judgments within an appropriate time limit, for instance within one hundred and twenty days from the date of filing of the election petition;
  (b) A request for a judicial review by the Supreme Court of a decision of the National Court to be heard and disposed of, for instance, within one hundred and eighty days after the submission of the application for review. If the request is upheld and the petition is sent for re-trial at the National Court, the case should be adjudicated within a time limit of about one hundred and twenty days from the date of the Supreme Court decision.

**Civil Society and Citizen Observation**

- The Organic law to be amended in order to explicitly include the right of domestic and international observers to observe all stages of the electoral process.

- The capacity of civil society organisations to be strengthened, with adequate donor support, so as to be able to undertake more comprehensive and long-term observation activities apart from voting, in particular voter registration, campaign, counting and announcement of results.

**Participation of Women**

- An Organic Law providing for reserved seats for women in the parliament, in accordance with provisions in the Constitution that call for equal participation of women in political activities, to be adopted, or the previous Organic law that did not pass the second reading to be re-discussed in the Parliament.
• A quota to parties for candidate nomination would place the burden of candidate recruitment not on the individual women, but on those who control the recruitment process, first and foremost the political parties. The OLIPPAC to be amended in order to include a compulsory quota for women for political parties presenting candidates for the elections to parliament, for instance a 20 per cent of women to their total number of candidates nominated. Consideration also to be given to require parties to have a minimum representation of women in leadership positions.

**Participation of People with Disabilities**

• A National Disability Act to be adopted with specific provisions for political participation. Financial incentives could be provided to political parties for nominating candidates for disabilities, while the election administration could consider developing procedures to promote the participation of disabled people as voters and election officials.
### XX. Table of Recommendations

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<thead>
<tr>
<th>No</th>
<th>Context</th>
<th>Recommendation</th>
<th>Change in legal framework required(^{104}) + primary implementation responsibility</th>
<th>Key international principle, International obligations and commitments</th>
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<tr>
<td>1.</td>
<td>The Organic law does not provide to electoral contestants or voters a legal avenue through which they can file petitions challenging the decisions of the election administration prior to the return of writs, apart from appeals relating to the voter roll and to the polling schedule, as well as the right of scrutineers or electoral officers to raise an objection during the count and the right of scrutineers or candidates to object the admission of a ballot box to scrutiny. All other possibilities for legal remedy are deferred after the return of the writs.</td>
<td>In order to implement the right to an effective legal remedy and to enhance the level of confidence in the process, appropriate mechanisms to file appeals against decisions of the election administration adopted before the polling and the announcement of results should be established.</td>
<td>PL Parliament</td>
<td>Right to a timely and effective remedy ICCPR, Article 2(3)(a) “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” ICCPR Human Rights Committee, General Comment 31, paragraph 15 refers to States “ensur[ing] that individuals have accessible and effective remedies. Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.”</td>
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<td>2.</td>
<td>Even if the National Court nullifies the return of a candidate on the ground of bribery or attempted bribery, as long as criminal proceedings are not initiated, s/he can still participate in the by-election, profiting by the absence of any provisions by the law on disqualification to stand in this case, and they can still use the same corrupt practises and win the by-election.</td>
<td>The penalty for a candidate convicted of bribery, attempted bribery and whose election or return has been voided by the National Court, should be extended to include ineligibility to contest not only the re-run elections but any elections and the ineligibility to hold any public office for an appropriate length of time.</td>
<td>PL Parliament</td>
<td>Right to an effective remedy ICCPR, Article 2(3)(a) “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” ICCPR Human Rights Committee, General Comment 31, paragraph 15 refers to States “ensur[ing] that individuals have accessible and effective remedies. Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.”</td>
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\(^{104}\) C = constitution, PL = primary legislation, D = desirable to be secured in law
## ELECTION ADMINISTRATION

3. Currently the PNGEC is headed by an Electoral Commissioner, appointed by the Governor General on the advice of an Election Appointments Committee. Provincial election managers and assistant election managers are permanent employees, while the election managers during the polling and counting periods serve as provincial returning officers (PRO). The returning officers and assistant returning officers are appointed on a temporary basis.

A lesson-learned exercise to be conducted in order to review and strengthen the effectiveness of the management by the PNGEC. Consideration should be given to increase the number of electoral commissioners for instance to five, aiming to improve the independence and impartiality of the PNGEC, who would be vested with geographical and horizontal responsibilities. The PNGEC regional offices could benefit from more personal and financial support throughout the election cycle.

D PNGEC

Independent electoral authority
"An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant." - ICCPR GC 25, paragraph 20.

4. Representatives of political parties as well as of civil society continuously commented on the lack of transparency of the PNGEC, as limited information was disseminated to electoral contestants and the electorate on the election process and the key PNGEC’s decisions.

In order to increase the transparency of the PNGEC in the implementation of the elections, a periodic and inclusive public communication mechanism could be introduced. A liaison committee with regular information meetings with external election stakeholders could be a particularly useful tool of communication, together with organised dissemination of relevant documentation pertaining to the electoral framework.

PNGEC

Transparency
“States parties should proactively put in the public domain Government information of public interest.” - ICCPR General Comment 34 paragraph 19

“Each State Party shall … endeavor to adopt, maintain and strengthen systems that promote transparency” - CAC article 7.4.

“Taking into account the need to combat corruption, each State Party shall … take such measures as may be necessary to enhance transparency in its public administration” - CAC article 10

5. The Election Advisory Committee was established on 9 June, two weeks only before the beginning of polling. Therefore, the Election Commission had already adopted the majority of its decisions, although it could have benefit from the recommendations of the Election Advisory Committee if it had been constituted earlier in the process.

The Electoral Commissioner to initiate the establishment of the Electoral Advisory Committee early in advance of the polling, for instance on the commencement of the campaign period, in order to benefit from its recommendations on electoral matters and give a more inclusive character to the decision-making process.

PNGEC

Independent electoral authority
"An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.” - ICCPR GC 25, paragraph 20.

## VOTER REGISTRATION

6. The 2017 voter roll included a number of duplicates, deceased and underage people, while the display of the provisional roll and its

A thorough review of the voter register to be prioritised and conducted well in advance of the next electoral event. The management of the voter

PNGEC

Universal Suffrage
ICCPR article 25 "elections which shall be by universal and equal suffrage".
| **verifier** was not proficiently conducted or not conducted at all in several electoral districts, so voters could not verify the accuracy of its data. As a result, a high number of voters were omitted from the final roll. | registration and data collection including the display of the preliminary roll and the system of appeals on enrolments or transfers needs to be strengthened. With a view to ensure public and political confidence in all stages of the process, voter identification could be reinforced by issuing voter cards with simple biometric data. The voter roll with break down to polling station/ward level should be accessible to all electoral contestants. | ICCPR General Comment 25 paragraph 11 “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed... Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.” |

### BOUNDARY DELIMITATION

#### 7.

- The current delineation of Open electorates is based on the review of the first Electoral Boundaries Commission in 1976, and a review of the Boundaries Commission in 2011 on the creation of two new provinces. Considering the substantial population growth and demographic changes in the country over the last 40 years, the current delineation does not ensure the principle of equality of the vote.
- A review of the boundaries of the Open electorates to be conducted well in advance of the next electoral event, in accordance with Constitutional provisions and recommendations of the Electoral Boundaries Commission. Aiming at improving the understanding of the voters on the re-distribution of boundaries and to enhance public confidence and transparency in the process, relevant information to be disseminated by the broadcast media and to be published in at least two daily newspapers.
- Equal suffrage
- ICCPR article 25 "elections which shall be by universal and equal suffrage"
- ICCPR GC 25 paragraph 21 “…The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.”

### CANDIDATE NOMINATION

#### 8.

- In the absence of rigorous requirements for nomination, the number of independent candidates has been constantly rising in every electoral contest, thus rendering the organization of the elections even more challenging for the election administration while an important number of them concerns frivolous candidacies or proxy candidates.
- Independent candidates to be allowed to contest elections under one or both of the following conditions: a) constituency-based nomination by verifiable signatures of voters in each electorate; b) payment of a financial deposit which would be subject to refund if the independent candidate scores a minimum percentage of the total valid votes cast in that election in the electorate.
- Right to stand
- ICCPR article 25 "Every citizen shall have the right and the opportunity... without unreasonable restriction... to be elected"

### CAMPAIGN FINANCE
| 9. | Parties and independent candidates can receive cash donations from citizens and foreign individuals not exceeding a ceiling of K500,000.00 “in any one calendar year” for parties and in one election for candidates, but there is no ceiling foreseen for campaign expenses in total. The OLIPPAC foresees low limits on cash donations by individuals to parties, and no regulation whatsoever for company donations, apart from donations deriving from international organisations. The law requires political parties to report on revenue sources used for general and electoral expenses, but there is no requirement to make public their financial returns to the electorate. | Consideration should be given to amend the OLIPPAC so as to provide for: a) appropriate campaign expenditure ceilings for political parties and candidates; b) dissuasive and proportionate sanctions for exceeding the campaign donation ceilings; c) requirements for the Integrity of Political Parties and Candidates Commission to make public the financial returns of the parties and of its audit report, in order to increase the transparency and accountability of electoral campaign. | PL Parliament, Integrity of Political Parties and Candidates Commission | Equality of opportunities |

| 10. | Under the Defamation Act of 1962 media professionals can be sued for defamation in civil cases but a criminal liability is not evoked. However, the Cybercrime Act of 2016 criminalises defamation and defamatory publications and foresees severe sanctions. | The defamation provisions in the Cybercrime Code Act 2016 to be reviewed, as they foresee excessive sanctions, both pecuniary and deprivation of liberty. | PL Parliament | Freedom of expression and opinion |

**THE MEDIA**

**Equality of opportunities**

ICCPR General Comment 25 paragraph 19

“Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.”

CAC article 7.3

“Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.”

**Freedom of expression and opinion**

ICCPR, Art. 19

“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

UNHRC, General Comment 34, para. 25 and 47

“A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution. {…}Defamation laws must be crafted with care to ensure that they do not serve, in practice, to stifle freedom of expression{…}Care should be taken by States parties to avoid excessively punitive measures and penalties. {…}States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of
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<td>11.</td>
<td>The law does not include any provisions on the role of the media during the campaign, neither on the right to equal access of electoral contestants to the state-owned media, nor to the principles of political advertising. Furthermore, the lack of transparency in the terms and conditions for paid campaign material in the media led to inequality in access of contestants to political advertising and limited possibility to scrutinize campaign expenditures.</td>
<td>Regulations should be developed to allocate free airtime during the campaign period to electoral contestants by state-owned audio-visual broadcasters on equal or proportional terms, granted on the basis of transparent and objective criteria. The state and private media to also announce the prices for paid advertisement in due time, before the start of the official campaign.</td>
<td>Equality of campaign opportunities, transparency ICCPR General Comment 34, paragraph 25 “In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential.”</td>
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<td>12.</td>
<td>The media sector is characterized by the absence of a public broadcasting regulatory authority that would be legally empowered to regulate the conduct of the media and to monitor the respect of the professional ethics. A minimum regulatory environment for the broadcast media is necessary when conditions facilitating independent journalistic coverage are not broadly met.</td>
<td>The creation of an independent Media Regulatory Authority could be considered, with clearly defined functions and with statutory powers to ensure editorial standards are maintained. While ensuring that freedom of speech is respected, it should be mandated to develop media regulations, to establish an efficient media monitoring system allowing for supervision of broadcasters’ compliance with their legal obligations, to ensure that public service broadcaster fulfil their duties and to sanction violations. The Authority could also receive information on paid advertisements and share it with the Registry of Political Parties and Candidates that oversees campaign finance, in order for the latter to foster its control on the compliance of political parties’ expenditures with the legal provisions.</td>
<td>UNHRC, General Comment 34, para. 39 Interprettive sources indicate that necessary steps taken to ensure rights in the context of the media environment may include the establishment of an independent body to regulate broadcasts. Equality of campaign opportunities, transparency ICCPR General Comment 34, paragraph 25 “In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential.” ICCPR General Comment 34, paragraph 19 “Voters should be able to form opinions independently”</td>
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<td>13.</td>
<td>The Media Council does not have a mandate to impose sanctions in cases of violations of the MCPNG Code of Ethics. In addition, the Media Council faces serious operational difficulties having no source of funding apart from the annual membership fees and additionally with the absence of self-accountability mechanisms by the media professionals.</td>
<td>Technical and financial support to be provided to the Media Council in order to be strengthened as a self-regulatory body. The Media Council to be responsible for the periodic organisation of capacity-building seminars for investigative reporters and leadership training seminars for senior media executives. Further support could be provided to the University of PNG and to Madang University on their journalism undergraduate degrees with twinning</td>
<td>Equality of campaign opportunities, transparency ICCPR General Comment 34, paragraph 25 “In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential.”</td>
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### POLLING, COUNTING AND TABULATION

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<td>14.</td>
<td>The secrecy of the ballot was not fully respected, either due to the layout or overcrowding of the polling booth, or due to intimidation of voters or open voting and block voting, a practise encountered particularly in the Highlands region.</td>
<td>The strict enforcement of the secrecy of the ballot needs to be ensured by all key stakeholders including election officers, the police, candidates and their scrutineers as well as voters.</td>
<td>PNGEC</td>
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<td>15.</td>
<td>Voting procedures were not applied in a consistent way throughout the country; for instance in many cases voters were added to the voter list on election day and allowed to vote, or they voted on behalf of other voters, or voters whose name on the list was crossed by mistake or because someone else voted on their behalf were either turned away, contrary to the special voting procedure foreseen for this case, or they were allowed to also vote under somebody else’s name.</td>
<td>The training of the election officials to be improved and strengthened. The PNGEC needs to ensure not only that all key procedures are uniformly carried out by polling station officials, but also that important decisions that it adopts are timely disseminated at polling station level. Furthermore, the presence of sufficient security personnel needs to be guaranteed in all polling areas so as to offer the necessary protection to polling officials against pressure and intimidation.</td>
<td>PNGEC</td>
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<td>16.</td>
<td>Although the ballot reconciliation figures were also announced during the counting, other important figures, such as the serial numbers of ballot papers used and the number of voters who voted in the polling station were not announced. Neither did the EC issue any instructions on how to proceed in the case where there are more ballots cast than the number of voters on the polling station voter list. There were also no officially available data on total number of voters on the final voter list per polling station.</td>
<td>The overall transparency of the announcement of the election results to be improved. At a time of declaration of results at the constituency level the PNGEC should publish official data on voter turnout per district including gender breakdown, number of invalid votes per district and number of ballot boxes excluded from the count by returning officers. In line with best practices for democratic elections, the Commission should consider publishing the results of the first preferences per polling station.</td>
<td>PNGEC</td>
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17. The Practice Direction (Election Petitions) No 2 of 2012 that stipulates that the hearing of a petition should commence within 28 days from the date of the pre-trial conference, while the trial Judge should deliver judgment or ruling within 28 days after the conclusion of the hearing or trial, is not legally binding. And despite the fact that the legally binding EP Rules 2017 provide for time limits for the adjudication process, in most cases these are manipulated by the respondents in order to delay the conclusion of the case.

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<tr>
<th>CIVIL SOCIETY AND CITIZEN OBSERVATION</th>
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<td><strong>18.</strong> Citizen observation focused mainly on election days, in particular on polling, and very limited in counting and tabulation.</td>
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</table>

**ICCPR article 2(3)(a) “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.”**

19. The Organic law does not explicitly provide for the presence of non-partisan citizens’ organisations or international election observers. Section 129 of the Organic law provides for a list of persons who can be present in a polling station and stipulates that

The Organic law to be amended in order to explicitly include the right of citizens and international observers to observe all stages of the electoral process.

| PL Parliament |

**PL Parliament**

**Independent scrutiny**

**ICCPR GC 25, paragraph 20 “There should be independent scrutiny of the voting and counting process...”**

**UNCAC, Art.13 “Each State Party shall take appropriate measures [...] to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption”**
by permission of the presiding officer, other persons may enter or remain in the polling station, thus introducing a measure of flexibility. The presence of observers during scrutiny appears more ambiguous, as Section 150 of the Organic law refers only to scrutineers appointed by candidates as being entitled to attendance in the counting centres.

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<tr>
<th>PARTICIPATION OF WOMEN</th>
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20. The proportion of women elected in PNG since independence is always below the 30 per cent Beijing Declaration and Platform for Action target, while no woman was elected following the 2017 elections, despite more women candidates being nominated than before.

An Organic Law providing for reserved seats for women in the parliament to be adopted.

PL Parliament

Women’s participation in political life

Beijing Declaration and Platform for Action
CEDAW Art. 4 “Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved”

21. Although the OLIPPAC encourages political parties to nominate female candidates for elections to the Parliament by providing a financial incentive, political parties did not take advantage of this provision in order to increase the number of women they nominated neither did they have any special policies targeting women.

The OLIPPAC to be amended in order to include compulsory quotas for women for political parties nominating candidates in elections to the parliament, for instance a 20 per cent of women to their total number of candidates nominated. Consideration also to be given to require parties to have a minimum representation of women in leadership positions.

PL Parliament

Women’s participation in political life

Beijing Declaration and Platform for Action
CEDAW GR 23, paragraph 34 “Political parties have an obligation to demonstrate their commitment to the principle of gender equality in their constitutions, in the application of those rules on their executive boards so that these bodies may benefit from the full and equal participation... by both sexes.”

CEDAW GR 23, Paragraph 22 “Political parties must endeavour to balance the number of male and female candidates”

CEDAW GR 23, Paragraph 28 ”Political parties have a responsibility to ensure that women are... nominated in areas where they have a likelihood of electoral success.”

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<th>PARTICIPATION OF PEOPLE WITH DISABILITIES</th>
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22. There is not a specific law promoting the rights of disabled persons, following the ratification of the UN CRPD.

A National Disability Act to be adopted with specific provisions for political participation. Financial incentives could be provided to political parties for

D Universal suffrage and equality of opportunity

UN CRPD, article 29 “States Parties shall guarantee to persons with disabilities political rights and the
In addition, the Organic law lacks any requirements for reasonable accommodation of people with disabilities, such as the use of Braille, large embossed print or sign language interpretation, while the OLIPPAC does not include any requirement for political parties to develop specific policies for the inclusion of people with disabilities neither does it include provisions for financial incentives for candidates with disabilities. 

| nominating candidates for disabilities, while the election administration could consider developing procedures to promote the participation of disabled people as voters and election officials. | opportunity to enjoy them on an equal basis with others, and shall undertake to:... a)(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;... b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including... (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties. “ |