



**EASTERN AFRICA STANDBY FORCE (EASF)
ELECTION OBSERVATION MISSION (EOM)
THE GENERAL ELECTIONS OF 9 AUGUST 2022
TO THE REPUBLIC OF KENYA**

**Final Statement
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Nairobi, Kenya

Introduction

The Eastern Africa Standby Force (EASF) is a regional organization whose mandate is to enhance peace and security in the Eastern Africa region. As part of its mandate, EASF promotes democratization process in the region by deploying Election Observer Missions to its Member States, monitors and reports activities on election-related violence in the region. It has deployed Election Observer Missions to Comoros (2019), Seychelles (2020), Uganda (2021), Ethiopia (2021) and Somalia (2022).

In this connection, EASF deployed an Election Observation Mission (EOM) to the Republic of Kenya as part of the organization's approved activity plan for 2022 and following the invitation from the Government of the Republic of Kenya.

The EASF-EOM leadership team comprised the former Burundian President H.E. Ntibantunganya Sylvestre as Advisor to the EASF-EOM and Amb. Claude Morel from Seychelles as Head of Mission. A total of twenty (20) observers from eight (8) EASF member states & EASF staff were deployed in nine Counties. The zones of deployment included: Eldoret, Kisumu, Nairobi, Isiolo, Nakuru, Garissa, Mombasa, Kajiado and Nyeri. The overall activities of the observation were coordinated by the Mission Coordination Center (MCC), based at the EASF Secretariat in Karen, Nairobi.

The assessment of the EASF-EOM was based on the International Convention on Civil and Political Rights (ICCPR 1966), the African Union Declaration on the Principles of Democratic Elections (2005), the African

Union Guidelines for Election Observations and Monitoring Missions (2002), the African Charter on Democracy, Election and Governance (ACDEG 2007), Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers as well as the existing legal framework governing elections in the Republic of Kenya.

The EOM leadership team met with various stakeholders including the civil society, media, domestic and international observer groups.

This statement is based on the data collected from the field, on the overall environment within which the vote was conducted on the 9th August, 2022 including the opening of polling stations, voting, closing and counting in the various polling stations.

Objectives of the EASF Election Observer Mission

The objective of this mission to Kenya was to observe and assess the conduct of Kenya's general elections held 9 August 2022.

The EASF-EOM intended to:

1. Carry out an objective and impartial assesment of the electoral process;
2. Provide a timely and independent report of the process;
3. Promote the conduct of credible elections;
4. Contribute to the consolidation of democracy, good governance, peace and stability in the country, and
5. Build understanding of the role of EASF on conlict prevention in the region.

Methodology of the EASF EOM Mission

- a) Interactions with relevant election officials and stakeholders involved in the electoral process
- b) Briefing sessions and pre-deployment induction for observers with a focus on use of tools for the collection and compilation of electoral data and how to carry out objective assessment of the voting process.
- c) Deployment of observation teams to polling stations and the National Tally Center (NTC) to observe the voting process and reconciliation of votes, respectively.

Findings and Observations

i. Political Context

The General Elections of 9 August 2022 in the Republic of Kenya were conducted with optimism from many stakeholders despite the fact that Kenya had a history of past election-related violence. During the pre-election period of the 2022 election, there was effort by the political leaders to promote a peaceful campaigning period and to encourage voters to be forbearing to divergence of views.

ii. Legal framework

Kenya moved into a new political and economic governance system with the passage of a new Constitution in 2010. The new Constitution introduced a bicameral legislative house, devolved county government, a

constitutionally tenured judiciary and electoral body. The Election Act is the guiding legal framework for the general elections.

The Constitution of Kenya requires a general election to be held on the second Tuesday in August every fifth year. The Constitution requires that a presidential election take place at the same time as the general election. Voters will also elect Members of the National Assembly, Governors, Members of County Assembly, and Members of the Senate.

In addition to the 2010 Constitution, the General Elections also adhere to the Elections Act 2011. The Act provides for the conduct of elections to the office of the President, the National Assembly, the Senate, County Governor and County Assembly. It further guides on the provision for the conduct of referenda, and establishes election dispute resolution mechanism.

iii. Election Administration

EASF EOM findings also indicate that the Independent Electoral and Boundary Commission (IEBC) of Kenya is vested with the legal mandate to direct and supervise all aspects relating to the conduct of elections including constituency delimitation, registration and regulation of political parties, registration of voters, civic and voter education, establishment of polling stations, and prosecution of electoral offences.

EASF EOM notes with concern the divergence of views and announcement made by four of the seven commissioners of the IEBC where they stated that they do not take ownership of the final results announced by their Chairman Wafula Chebukati and they opted to walk out due to the 'opaque nature' in which the process had been conducted.

iv. Media

The EASF EOM observed that Kenya has a diverse media sector, with over 66 licensed television stations, many radio stations and numerous on live news platforms.

Besides the mainstream print and electronic media, campaigning was carried out through social media platforms such as Twitter, Facebook and WhatsApp. EASF EOM notes with satisfaction the active role of journalists and the media houses in disseminating voters' education and covering the election process. However, the mission noted unbalanced reporting especially in the tallying of the presidential results.

v. Civil Society

The EASF Mission noted active involvement of the civil society including youth groups, religious groups, domestic observer groups in all the counties of deployment. They maintained a collaborative effort with other election observers in the shared objective to ensure a fair, free and credible election. They provided a wide range of programs with a view to educate voters on the electoral process and also to sensitize voters on their

civic duties. Some of the civil society organizations (CSOs) were also involved in monitoring of election related violence.

vi. Election Day Observation

The EASF EOM deployed 20 observers in teams of two in nine counties to observe Election-Day activities. The ten (10) teams observed the opening, polling and closing and counting processes. In addition, they observed the general environment within which polling was taking place. They observer teams visited a total of 122 polling stations.

vii. Opening of Polling Stations

In the polling stations observed, the Mission recorded 94% of the stations opened on time. The 6% late opening was mostly attributed to delay in organizing, delivering and arranging electoral materials at polling stations. The KIEMS kit jammed in some of the polling stations delaying the opening of polling, and in most of the stations it also caused significant delay in processing voters. EASF-EOM noted with satisfaction the proper opening procedures in most stations visited as prescribed by the Election Act.

Election Materials

The Mission observed that election materials were available in sufficient quantities in all polling stations visited. Ballot boxes were observed to be generally well sealed and places in public view. However, we noted some logistical challenges relating to misplace of ballot papers, such as ballot papers for County Assembly Ward belonging to Fafi Constituency were erroneously sent to Chuka Igamba Ng'ombe in Tharaka Nithi County for

Mua in Machakos County to Kuresoi Constituency Nakuru County while for Tiaty County Woman Member of National Assembly in Baringo County were sent to Lamu County.

viii. Voter Turnout

EASF EOM observed that the election turnout was generally low in most polling stations visited. The latest indication at national level was slightly above 60%, far lower than the 80% in the previous election in 2017.

ix. Gender Participation

EASF EOM observed a satisfactory gender representation and participation in most of polling stations visited by the EASF observers. The EASF EOM noted that women were the majority amongst the electoral personnel and representatives of political parties at the Polling stations. EASF EOM has recorded 62% women election officials in the 122 polling stations visited. There was also a large number of young people working as polling officials

x. Election Personnel

The EASF EOM observed that in all of the polling stations visited, the required number of polling station personnel was met. In most of the polling stations visited the Presiding Officers were competent and were administering the process as per the IEBC established guidelines.

EASF-EOM regrettably recorded the death of one of the polling staff in Embakasi and calls on the Police to initiate the necessary due process in this unfortunate incident.

xi. Voting

The EASF EOM observed that the vote was generally conducted in a calm atmosphere in most parts of the country. The polling stations were properly managed by the officials to guarantee the secrecy of the vote. However, in 8% of the polling stations visited, the layout was not done in a manner to guarantee secrecy of the ballot.

In most of the polling stations observed, priority was given to persons with disability, the aged, expectant and nursing mothers.

EASF-EOM noted isolated incidents of voter's intimidation by the party agents and domestics observers.

xii. Party Agents (representation of candidates in polling stations)

The EASF Mission observed an overwhelming presence of candidate representatives in all the polling stations visited.

xiii. Security

The EASF EOM observed visible presence of security forces at the polling stations, maintaining law and order. EASF Election Observer Mission notes

with satisfaction the presence of the security officers in all polling stations visited.

xiv. Postponement of Election

Election for two governors and four parliamentary seats was postponed because of errors printed on the ballots. EASF-EOM notes with concern the suspension of polls in the Kakamega and Mombasa governor race as well as the Kacheliba and Pokot South parliamentary due to erroneous printing of ballot papers.

xv. Closing and Counting

It was observed that voters who were on the queue at closing time were allowed to vote. The closing and counting procedures at most polling stations were adhered to.

The Election Day operations were generally administered in a manner that allowed the free expression of the will of the voters.

xvi. Electoral Incidents

The EASF-EOM notes with concern some of the isolated incidents of violence and voter's intimidation. The EASF EOM calls on political leaders to respect the rule of law and not to promote any form of violence or unlawful actions.

Conclusion

At the end of observation, the EASF EOM concludes that the General Elections of the 9th August 2022 in the Republic of Kenya was conducted in a generally calm and peaceful manner.

The EASF also appreciates the commitment of the parties for using the legal system to resolve the disputes on the presidential election result

Recommendations

In line with the above, the EASF EOM wishes to make the following recommendations:

To the Government:

- Continue and intensify efforts of open dialogue aimed at promoting an atmosphere of confidence building between all the stakeholders including all actors in the Republic of Kenya;
- Give priority to the creation of a conducive environment for dialogue between all political actors especially on issues of ethnic violence;
- Encourage public participation in the democratic process;
- Ensure that investigation is duly conducted in the case of the death of the polling officer from Embakasi and the other officer who is reported to be injured;
- Ensure full autonomy and independence of IEBC without interference from government and other stakeholders.

To the IEBC

- Consider adopting voting booths that are conventionally used in the region and continent, to protect the secrecy of the ballot;
- Increase civic awareness and voter education;
- Ensure the technology employed to conduct the election is up to the standard and trustworthy.

To Political actors:

- Contribute to the permanent framework for political dialogue;
- Place the interest of national cohesion above all partisan considerations.
- To comply with the supreme court's verdict over the disputes of presidential election result

To Civil Society:

Work to increase involvement in the electoral process notably:

- In conducting continuous civic and voter education to create awareness;
- To continue participating in a non-partisan and impartial election observation.