



Peaceful and well administered presidential run-off election advances the process of returning Liberia to a normal functioning state

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Monrovia, 10 November 2005

The European Union Election Observation Mission (EU EOM) has been present in Liberia since 9 September 2005, following an invitation from the National Elections Commission (NEC). The Mission is led by Chief Observer Mr. Max van den Berg from the Netherlands, Member of the European Parliament and Vice-Chairman of its Development Committee. In total, the EU EOM deployed over 50 observers in 12 of the 15 counties to assess the entire election process in accordance with international principles for genuine democratic elections.

This second statement of preliminary findings and conclusions is issued before the release of the final results, before all electoral complaints and appeals have been addressed by the administrative and judicial authorities.. This statement should be considered in conjunction with the statement of preliminary findings and conclusions issued on 13 October after the first round of voting. The first round statement can be accessed on the EU EOM website at www.eueom-lib.org and its findings and conclusions are not repeated herein. This statement addresses developments since the first round of voting. The EU EOM is currently observing the result tabulation and announcement process, and will follow all remaining aspects of the election process.

Preliminary Conclusions

- **The 8 November presidential run-off election has so far been peaceful and generally well administered, consolidating the achievements of the 11 October elections and advancing the process of returning Liberia to a normal functioning state. Voters were provided with a choice between two candidates in a genuinely competitive election process.**
- **Voters turned out in significant numbers, again in a calm and orderly manner. Polling procedures were generally well followed and the secrecy of the ballot was generally well maintained. Representatives of both contestants were present in virtually all polling places visited by EU observers, and civil society domestic observers were present in around 60% of polling places visited, contributing to the transparency of the process.**
- **The NEC, with the assistance of United Nations Mission in Liberia (UNMIL), has so far administered the run-off election in a professional and impartial manner. In a positive development, the NEC corrected a number of shortcomings brought to its attention following the first round.**
- **Fundamental freedoms of expression, assembly and association continued to be respected. Despite some isolated minor incidents, and a somewhat more tense, and, at**

times, more negative, campaign atmosphere, the campaign environment remained peaceful. The presence of UNMIL continued to provide a feeling of confidence and security to the election process.

- While the state broadcaster, Eternal Love Broadcasting Corporation (ELBC) demonstrated a reasonable balance of time allocation between the two contestants in its news coverage, it did not allocate equal airtime to both contestants in its special election programmes. Most other radio stations monitored showed varying degrees of imbalance, both in time and tone, in their coverage of the two contestants.
- While the tallying process for the first round of the elections was confused in most counties, only one example of intentional fraud was discovered following appropriate investigation by the NEC. Results of the first round were announced in a timely and transparent manner.
- While one of the run off election contestants was a woman, only five out of 30 Senators and eight out of 64 Members of the House of Representatives are women, continuing the under-representation of women to these legislative bodies.
- After the first round only one post-election complaint decision was announced within the stipulated timeframe, however, proceedings were generally conducted with due regard to the rule of law. If either contestant in the run-off election has complaints about the second round process, they should ensure that these are made through the procedures outlined in the electoral legislation.
- The new government must give priority to starting an active reconciliation process, in accordance with the CPA truth and reconciliation procedures. The climate of impunity must end and those who stand accused of crimes against humanity must face justice through the courts. Newly elected representatives must not be permitted to misuse immunity provisions to avoid justice for past crimes. The new government, Senate and House of Representatives must co-operate fully with the international community to ensure that former President Charles Taylor is brought to court.

The final assessment of these elections will depend, in part, on the completion of counting and tabulation, the announcement of results by the NEC, and the complaints and appeals process. The EU EOM will follow the remaining aspects of the election process and will publish a final report, containing detailed recommendations to improve the election process, within two months of the completion of the entire process.

The EU EOM would like to thank the election and state authorities, candidates, political parties, security forces, media and civil society, UNMIL and especially the people of Liberia for the invaluable co-operation received throughout the deployment of the mission.

Preliminary Findings

Background

The 2005 elections in Liberia took place in the framework of the Comprehensive Peace Agreement (CPA) signed in August 2003. Under the CPA, a National Transitional Government of Liberia (NTGL) took office in October 2003, under the chairmanship of Mr. Gyude Bryant, with a mandate to prepare for “internationally supervised” presidential and parliamentary elections to be held not later than October 2005, and to bring the country back to a normally functioning state.

Under a resolution adopted by the UN Security Council in September 2003, UNMIL was deployed to the country, with a stabilisation force of 15,000 peacekeepers.

The 2005 elections were held to elect a President and Vice President as well as members of the Senate and House of Representatives. As no candidate in the presidential election secured more than 50 per cent of the votes on 11 October, a run-off election was held on 8 November to decide who would be elected President.

First Round Results

With the final announcement of results of the 11 October elections on 26 October, all polling place results for the presidential, senatorial and House of Representative (HoR) elections were made available on the NEC webpage. The table below details the valid and invalid votes for each election, calculated by the EU EOM from result information posted on the NEC website.

	<u>votes total</u>	<u>invalid votes</u>	<u>valid votes</u>
President	1,012,673	38,883	973,790
Senate	1,694,827	31,243	1,663,584
HoR	987,830	52,592	935,238

The total votes cast in the HoR elections differ by 24,843 from the total votes cast in the presidential election. The difference is mainly accounted for by the “special” Internally Displaced Persons (IDPs) who were not allowed to vote for the HoR and the provision that polling staff and Liberian National Police (LNP) were not entitled to vote for the HoR if they were not registered in the electoral district where they were deployed. National and international authorities are urged to complete the repatriation of IDPs and Liberian refugees as speedily as possible in order for them to once again to become an integral part of Liberian society. The total of 1,694,827 votes in the Senate elections means that 67% of voters cast a ballot for two senatorial candidates, a sign that the voter education by NEC/UNMIL for the second senatorial vote was reasonably successful.

The number of invalid votes varies considerably between the three elections, with 3.84% of votes cast for President and 5.32% of votes cast for the HoR being considered invalid. However, there were bigger variations, some as disturbingly high as 9%, in the different counties and electoral districts. The number of 31,243 invalid votes for the Senate elections is misleading as the NEC considered that one invalid ballot paper could be counted as one vote instead of two. Therefore, 3.7% instead of 1.8% would be the accurate figure and in line with the number of invalid votes for the presidential election. EU EOM observations of counting and recounting concluded that the majority of invalid ballot papers were blank, indicating some shortcomings in the NEC voter education programme..

The required automatic recounts where there was a margin of 50 or less votes between winners and losers, in three electoral districts for the HoR elections revealed a variable counting performance by presiding officers on election day. In River Gee D2, results changed by a margin of 3% or 120 votes for candidates, in Grand Kru D1 the figures changed slightly, but only after a second recount was conducted to ensure the integrity of the process. However, in Gbarpolu, which was the closest race with four candidates within the margin of 50 votes, surprisingly none of the figures changed even though 17 polling places were recounted. Although the NEC issued regulations about automatic recounts on 10 October none of its staff seemed to be aware of this regulation and were not able to communicate the exact dates and places of the recounts.

The EU EOM communicated its concern and findings of obvious irregularities in the senatorial election in Gbarpolu to the election authorities on 23 October. The NEC reacted by recounting the

polling places in question and discovered that several polling place result forms were tampered with at the tally centre, advancing one candidate to the junior senatorial position from third place. As a consequence, no official results for Gbarpolu senatorial elections were announced and the NEC handed the case over to LNP for criminal investigation. While it is a concern that the NEC failed to notify party representatives about the recount, it otherwise addressed this fraudulent case in a professional manner. A decision on the next stage is still awaited from the NEC.

While the clear wish of a majority of Liberians is to open a new and peaceful chapter in the country's history, both in the Senate and House of Representatives a number of people alleged to have committed war crimes were elected. In accordance with the truth and reconciliation procedures established under the CPA, immediate priority should now be given by the new government to starting an active reconciliation process. A first task should be an open and honest discussion, which should include atrocities committed in the past. However, reconciliation will only work in Liberia if those that stand accused of committing crimes against humanity face justice through the courts. There can be no meaningful reconciliation without individuals accepting responsibility for their past crimes and wrong-doings.

If being elected to the new Senate or House of Representatives is misused as an excuse for avoiding justice through the courts this will create a climate of impunity that will prevent Liberia from entering a new and more peaceful future. Such a misuse of immunity goes against recognised principles of international standards. At the same time, the government and newly elected parliament must make sure that procedures are put in place for citizens, who wish to take persons to court for crimes committed against them in the past, to do so. Further, the new Senate, House of Representatives and government must cooperate fully with the international community to ensure that former President Charles Taylor is brought to court. Good governance by the new government and parliament on these issues are an essential part of a mutual contract with UNMIL, the EU and others for future peace and development in a new Liberia.

First Round – Counting, Tallying and Announcement of Results

In contrast to the generally well administered first round election day process, the handover of sensitive election materials and the tallying process was less well organised, with delays and confusion about the exact procedures occurring in most of the Magistrate tally centres. Many Presiding Officers did not properly understand how to reconcile the figures for the three elections, fill out result forms or the packing procedures. As a result, Magistrates, with significant assistance from UNMIL, were required to undertake necessary corrections to mathematical mis-calculations and administrative errors.

The process of double tallying, electronically and manually, was ineffective as no real separate tabulation took place. Moreover, many party and candidate representatives were poorly prepared, and did not properly understand either the tallying process or their role in observing this aspect of the election. In many cases, Magistrates did not clearly explain the tallying process, or announce the polling station that was being processed.

The NEC released the preliminary and final results of the first round in a professional and transparent manner at well attended daily press conferences. These included lively question and answer sessions, which were an important instrument for clarification. Results were published on the NEC website and made available at the data centre in a timely and transparent manner. All parties, candidates and observers had the possibility to counter check the results with their own findings and result forms.

The results of the election continue the under representation of women in the political life of Liberia with only five out of 30 Senators and eight out of 64 of the new members of the House of Representatives being women.

First Round - Complaints and Appeals

A total of 41 post-election complaints were scheduled for 29 Administrative Hearings over nine days before the NEC Senior Legal Counsel. As a result of the crowded schedule of hearings, the NEC announced only one decision within the 72 hour deadline from the hearing of the complaint.

In general, proceedings were conducted with due regard to the rule of law. Most cases were dismissed on formal grounds, such as non-appearance at the hearing, late submission of the complaint or because they included allegations of criminal offences and therefore fell outside the jurisdiction of the NEC. A number of complaints were dismissed, as they were not submitted on the prescribed complaint form, but in an ordinary letter. In these cases the NEC could have shown greater flexibility and generosity.

In four cases, the complainants offered detailed information on discrepancies between the official results submitted to the respective Magistrate Tally Centre and private compilations of figures from the count results sheets allegedly posted publicly at respective polling places immediately after counting had been completed. The announced results, however, coincided with the official documents provided through the County Magistrates and were signed by party representatives on both the polling place level and on the county level. The Hearing Officer placed too much reliance on the presence of representatives and whether they did or did not sign the forms during the counting and tallying as evidence, without considering the conditions in either the polling places during the counting or the tallying at the tally centre. A recount is often the only means for the complainant to possibly reach the required level of evidence, if there is not an evident case of fraud.

Second Round – Election Administration

The NEC administered the presidential run-off election in a professional and impartial manner. However, it did not hold regular meetings, relying instead on decisions to be made by the Chairperson, and considerable support was required from UNMIL to ensure that the process remained on track. In a positive development, the NEC corrected a number of technical shortcomings brought to its attention by the EU EOM after the first round.

Following representations made by the EU EOM and other observer organisations, a NEC provision reducing the number of polling staff at each polling place from six to four for the run-off election was amended by the addition of another polling staff member, removing the need for the presiding officer to also be the queue controller.

The NEC organised an Inter Party Coordination Committee meeting before the run-off election. Regrettably, George Weah, who publicly questioned the results of the 11 October elections, did not send a representative to the meeting, thereby reducing the inclusiveness of the consultative process.

Despite the NEC forcefully reminding parties and candidates that failure to submit the Annual Financial Reports of Parties and Alliances as well as the two Campaign Financial Reports would compel the NEC to institute the appropriate measures stipulated for non-compliance, only 136 out of 762 candidates submitted reports by the extended deadline 25 October. One of the two candidates in the presidential run off election, Ellen Johnson-Sirleaf was among those who failed

to submit a first return by 25 October, claiming that the regulations and procedures were too advanced for Liberia. She later filed a first return.

By 4 November in Grand Bassa County polling staff had not received their 11 October elections 5 US\$ food stipend from the Magistrate and his election supervisors. The polling staff threatened a boycott of the run off election and accused the staff of the NEC of corruption. Lack of swift and decisive action on the part of the NEC to address this issue led to the creation of unnecessary distrust between Election Support Officers (ESOs), election supervisors and polling staff.

Second Round – Campaign

The election campaign continued to be conducted in a peaceful manner, despite some minor incidents in Monrovia and Gharnga, and a somewhat more tense, and, at times more negative, campaign atmosphere. No reports of restrictions on freedoms of expression, assembly and association were received and citizens were able to participate freely in the process.

In contrast to the campaign prior to the first round, few large rallies were held in the run up to voting, with the two candidates instead preferring to concentrate on targeting voters through door-to-door campaigning. Fewer campaign materials, such as posters and banners were in evidence. As a result of co-ordination between the two campaigns, the holding of rallies and campaign activities in close proximity was avoided, thereby assisting the peaceful nature of the campaign.

On 2 November, during a live broadcast on UNMIL radio, George Weah questioned the accuracy of the results of the 11 October elections. In addition to his remarks being unsubstantiated, no complaints were lodged with the NEC either by himself or his party in this regard.

Government vehicles were observed being used as part of the campaign for George Weah in Monrovia. In Buchanan, the Minister of Gender used a women voter's mobilisation meeting to encourage women to vote for Ellen Johnson-Sirleaf, while in Gbanga, the same Minister and other officials attended the UP rally that was addressed by Ellen Johnson-Sirleaf.

Second Round – Media Coverage

During the second round campaign period (27 October to 6 November), media outlets provided information on the run-off election campaign in an environment of freedom of expression. Throughout this time, UNMIL radio continued to play an important and constructive role, particularly in regard to voter education. As no new guidelines were officially established on media coverage of the run-off campaign, the "Procedures for Public Interest Media Access" and the "Election Coverage Code of Conduct" established in August 2005 by the Ministry of Information, Culture and Tourism (MICAT), the NEC and the Press Union of Liberia (PUL) remained in force.

The EU EOM continued to monitor a total of 12 media outlets, including six radio stations (ELBC, Star Radio, DC 101, King's FM, Power FM and Radio Veritas), five newspapers (The Daily Observer, The Inquirer, The Analyst, Heritage and The News) and one television station (Clar TV). Of these, only the Heritage newspaper, DC 101 and Radio Veritas demonstrated balance in the amount of time and space allocated to the two contestants and neutrality in the tone of their reporting. The remaining media outlets monitored showed varying degrees of imbalance either in the amount of time and space allocated to the two candidates and/or in the tone of their reporting.

The state broadcaster, Eternal Love Broadcasting Corporation (ELBC) demonstrated a reasonable balance of time allocation between the CDC and UP in its news bulletins and always reported in a

neutral tone. Nevertheless it failed to allocate equal airtime to both contestants in its special election programmes. Of the total airtime devoted to the electoral process (news and special programmes combined), ELBC gave 66% of coverage to UP and 34% to CDC.

The reduced campaigning activity of the two candidates in the second round prompted some radio stations and newspapers to create news about the candidates rather than report on their campaign activities and political programmes. The tone of such coverage contributed to an increase of political tension during the campaign. Press reports with ethnic connotations, referring to Nimba County being excluded by an eventual CDC government or linking George Weah to the MODEL ex-rebel group raised the temperature of the political contest.

During the three week period before election day, the PUL officially warned three radio stations and six newspapers for misconduct and violation of the “Election Coverage Code of Conduct”. On several occasions, the NEC and UNMIL had to encourage the media to perform in a more neutral and objective way and contribute towards making the electoral process peaceful. In addition, in response to an increase in “unprofessional and negative” reports on the electoral process, the Minister of Information strongly urged media managers to perform in a more serious and objective manner.

Among the radio stations warned by the PUL was King’s FM which, on several occasions, broadcast special programmes during which representatives of the CDC accused the NEC of planning to manipulate the electoral results and cheat their candidate of victory. They warned that such actions by the NEC would be rejected by the Liberian people. These accusations, which were never substantiated or elaborated, had the clear intention of questioning the integrity of the NEC and to spread doubts about the transparency of the process.

Second Round – Civil Society

Following the 11 October elections, civil society domestic observer groups published their assessment of the first round process and made a number of recommendations to the NEC to improve process in advance of the run-off.

The three main domestic observer coalitions, the National Committee for Elections Monitoring, (NACEM), “EC-Bilateral Elections Programme in Liberia” and the Campaign Monitoring Coalition (CMC) observed the run off election. The groups undertook internal evaluations of their performance in the first round and took steps to improve their performance where they felt this to be necessary. Funding difficulties resulted in a reduction in the number of domestic observers deployed by NACEM.

Second Round – Election Day, Vote Count and Tallying

Election day took place in a calm and orderly manner throughout the country. Only isolated incidents of disruption outside polling places were received. Representatives of both contestants were present in virtually all polling places visited (in many cases two per candidate, instead of the stipulated one were present inside the polling place) and domestic observers were present in around 60% of polling places visited, contributing to the transparency of the process.

In a positive development in comparison to the first round almost all polling places visited opened on time. This appeared to be due in part to improved delivery of campaign materials and polling place staff and special categories of voters casting their ballots at the end, rather than the start, of the process.

Voting procedures were generally well followed and the secrecy of the ballot was generally well maintained. However, in a third of polling places visited, the total number of ballot papers received was not checked prior to the opening of the polling place. In common with the first round, while inking of voters was conducted properly, in around half of the polling places observed, voters were not always checked for ink in advance of voting. Implementation of the new requirement that a voter should only be assisted by a relative or friend was mixed.

Polling places closed on time around the country at virtually all polling places observed. Counting was conducted much more quickly than during the first round, due to the fact that only one rather than three ballot papers had to be counted. While procedures were generally well followed, again reconciliation instructions were not always fully adhered to. In one third of the polling places observed during the counting the Presiding Officer did not announce the total number of votes found in the ballot box. However, in an improvement in comparison to the first round, representatives of the contestants signed and received copies of the result form and the results were immediately publicly posted at almost all polling stations observed.

The hand-over of election material at tally centres was generally well organised, in a more efficient manner than during the first round, although in Margibi county, the magistrate decided to close the tally centre before all materials had been received.