



**European Union Election Observation Mission
Democratic Republic of Timor-Leste**

Presidential Elections Second Round – 9 May 2007

PRELIMINARY STATEMENT

By peacefully choosing their new President, the Timorese people have taken a determined step towards democratic institutions. The electoral process has improved since the first round, but further changes are needed for the more challenging parliamentary elections ahead.

Dili, 11 May 2007

The European Union Election Observation Mission (EU EOM) has been present in the Democratic Republic of Timor-Leste since 15 March following an invitation from the government of Timor-Leste to observe both Presidential and Parliamentary elections. The EU EOM is independent in its political findings from EU Member States, the European Commission and the European Parliament. The Mission is led by Chief Observer, Mr. Javier Pomés Ruiz, Member of the European Parliament (Spain). In total, the EU EOM deployed 34 observers from 17 EU Member States. The observers were deployed across all 13 districts of Timor-Leste to assess the entire electoral process in accordance with international standards for democratic elections. The EOM adhered to the “Declaration of Principles for International Election Observation” commemorated at the United Nations in October 2005. On election day, the observers visited 170 polling stations out of the total of 705 in all 13 districts to observe voting and counting. The EU EOM is currently observing the results tabulation procedures and will remain in country to observe the complaints and appeals process and all aspects of the post-election process. The EU EOM will publish a final report, containing detailed recommendations, within two months of the conclusion of the entire process. Some of these recommendations are included below, in anticipation of the parliamentary elections.

Preliminary Conclusions

- **The 9 May runoff presidential election has so far been well administered and peaceful, with respect for the fundamental freedoms of expression, assembly and association. The Timorese people have taken a determined step towards democratic institutions. Considerable improvements were made in the process since the first round, following a successful lessons learned exercise. Changes are needed before the more complex and challenging parliamentary elections ahead.**
- **The election gave the Timorese people the opportunity to elect a new President, in replacement of Xanana Gusmão, who did not seek re-election. Although the Timorese President enjoys only limited powers under the country’s constitution, he is viewed as a symbol of national unity. One year after the peak of the 2006 crisis, this election was highly significant as a major step towards establishing strong democratic institutions.**
- **Timorese voters were presented with a clear choice between Francisco Guterres ‘Lú-Olo’ and José Ramos Horta. The former defended FRETILIN’s performance in government since independence, while the latter stood for the opposition, with the support of five of the six candidates eliminated in the first round, and of the new National Congress for the Reconstruction of Timor-Leste (CNRT) to be led by Xanana Gusmão after the end of his tenure on 20 May. However, a growing polarisation between the candidates was observed as little public effort was made by them to alleviate political grievances and national divisions.**

This preliminary statement is available in English, Portuguese and Tetum, the English version prevails

- In another display of their hope in democracy, the Timorese people have once again gone to the polls in large numbers and in a peaceful manner. The reduction in the number and severity of incidents during the campaign and on election day was a testament to the Timorese people's hope for the peaceful resolution of the country's institutional crisis. Remarkably the intensity of the accusations traded by both candidates was rarely reproduced by the population at the local level. The conduct of voting improved in comparison to the first round, and was swifter and smoother. Over 4,000 polling staff worked hard for long hours.
- A number of efforts to improve the electoral process have been made since the first round. Polling and counting staff received additional training, a voter education campaign was carried out, and changes were made to the district tabulation procedures so that errors are corrected, and more reliable results produced, at that stage.
- The relationship between the two electoral bodies, the National Election Commission (CNE) and the Technical Secretariat for Election Administration (STAE) continues to be in need of improvement. Greater dialogue is required, and also a clearer definition of their respective roles and powers. This would help to build mutual trust, and to prevent damaging criticisms of each other.
- The two-week second round campaign was comparatively limited in geographic reach and took place in a relatively calm security climate. Verbal violence from both candidates overshadowed rare mentions of national reconciliation and inclusiveness. Accusations of interference into the judicial case of renegade Major Alfredo Reinado, of electoral fraud, and of loyalty to foreign powers, did nothing to heal the wounds of the 2006 crisis. Fortunately, this disregard for the country's fragile post-conflict circumstances did not appear to deepen communal divisions among the population.
- Allegations of voter intimidation and of vote-buying were constant during the campaign. In Ermera and in Liquiçá districts, Lú-Olo and José Ramos Horta, respectively, did not dissociate themselves from local figures allegedly involved in intimidation. Elsewhere, the EU EOM did not find convincing evidence of threats, and reported throughout the country no proven instance of retaliation against voters. The EU EOM found no convincing evidence to support allegations of massive vote buying.
- In one documented case, however, the administration placed food supplies in the custody of a politically affiliated martial arts group with a history of violence, and in the final days of campaigning, FRETILIN advertised the government's delivery of previously budgeted financial aid to villages throughout the country. The timing of this was inappropriate and in contravention of international best practice.
- Campaigning was held under effective security arrangements provided by United Nations Police (UNPOL) and the National Police (PNTL), with International Stabilisation Force (ISF) back-up. However, the security back-up provided by ISF, occasionally positioning troops in full combat gear in the middle of crowds of supporters, was in breach of international good practice.

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- **As in the first round of the presidential elections, the impact of the media coverage was conditioned by its limited reach throughout the country. The media reflected the aggressive tone of the two candidates' campaigns.**
 - **Impressively large numbers of national observers were again present across the country, contributing to the legitimacy of the process. The largest coalition KOMEK was present in 90% of polling stations observed.**
 - **Women participated in all aspects of these elections, as in the first round, although not always in proportion to their numbers in the population. The candidates made very little mention of women's issues in their campaigns.**
 - **Both candidates emphasised divisive issues and neglected the need to speak in favour of national reconciliation. The EU EOM welcomes the moderation shown by the Timorese people during the campaign, and hopes that the political leaders will not resort to scathing and inflammatory language for the parliamentary elections.**

Preliminary Findings

Background

The 9 May presidential runoff was the occasion for the Timorese people to elect their President, in replacement of Kay Rala Xanana Gusmão, who did not seek re-election. Lú-Olo, who received 27.89 percent of the vote in the first round, and José Ramos Horta, with 21.81 percent, were the two candidates competing in this election. Although the Timorese President enjoys only limited powers under the country's constitution, he is viewed as a symbol of national unity. One year after the peak of the 2006 crisis, this election was highly significant as a major step towards establishing strong democratic institutions.

Timorese voters were presented with a clear choice between Francisco Guterres 'Lú-Olo' and José Ramos Horta. Lú-Olo, often accompanied by former Prime Minister and FRETILIN Secretary-General Alkatiri, defended FRETILIN's performance in government, while Horta stood for the Opposition, with the support of five of the six candidates eliminated in the first round, and of the newly formed National Congress for the Reconstruction of Timor-Leste (CNRT) dominated by President Gusmão. Although the position at stake has limited policy prerogatives, the campaigning increasingly featured policy announcements well beyond the constitutional powers of the presidency.

The quest for second-round support from backers of eliminated first-round candidates prefigured parliamentary alliances. In blatant disregard for Timor-Leste's continuing fragility as a fledgling nation-state, candidates increasingly emphasised divisive issues and neglected the need for national reconciliation. The second round political campaign began with criticism of Prime Minister Horta's purported intervention in judicial processes, after he claimed to call off the hunt for fugitive Major Alfredo Reinado, and that he would re-open criminal cases from the 2006 crisis. Accusations grew in intensity during the campaign and ranged from mutual allegations of foreign loyalties, past and present, to blanket accusations of voter intimidation and vote buying. It is hoped that the candidates' propensity for scathing and inflammatory language will not repeat itself before the parliamentary election.

Election Administration

The elections are administered by the Technical Secretariat for Election Administration (STAE), which falls under the Ministry of State Administration. The independent National Election Commission (CNE) is tasked with supervising the process, and the United Nations Integrated Mission in Timor-Leste (UNMIT) provides advice and logistical support to both electoral bodies. Efforts were made in a number of areas to improve the electoral process following the first round of 9th April.

Polling Staff Training – one day’s additional training was provided to all polling station staff in sub-districts, focusing on areas that were problematic during the first round: counting, filling in the polling station results form, and the determination of a valid vote. EU EOM observers reported that this training was generally fairly well done, and improvements in performance were observed on election day.

However, few polling staff were replaced, despite specific recommendations from the CNE and UNMIT about problematic staff.

Voter Education – STAE made efforts to carry out voter education about the second round, through local NGOs, schools, churches and community organisations. Some events targeted places with a high number of invalid votes or a low turnout in the first round. However, EU EOM observers reported that voter education activities were generally poorly attended, due to the shortage of time available for organising events, communication and transport difficulties in more rural areas, and a lack of coordination with local authorities and traditional chiefs, who are needed to mobilise people.

District tabulation – this was particularly problematic in the first round, due to both the design of the system (arithmetical errors were not corrected but merely transcribed), as well as some procedural difficulties. The system has been changed to give more powers to each district tabulation centre. Their work now includes a revision of each polling station’s results form, with the correction of errors and the filling in of gaps. A detailed training with practical exercises was given on the weekend before the election for CNE district tabulation staff. The new system should lead to more reliable district tabulation results.

Accreditation of candidate agents – this was problematic in the first round, with no feasible way for polling staff to enforce the rule of one agent per candidate per polling station, and far too many accredited agents present in each station. It was also carried out very late, some cards being distributed on the eve of the elections. The first round candidate agent accreditations are no longer valid. They have been replaced by better-designed accreditations that show the candidate’s name, with a maximum of two accredited agents per candidate per station (although only one was permitted to enter at a time). These accreditations were also produced rather late, with Ramos Horta not receiving all of his until 7th May, after which they needed to be distributed to the districts. The system improved in theory, but knowledge of the changes at the district level was reported by EU EOM observers to be poor, and in practice it is often difficult to enforce the rule and deny admission to those with first round accreditations. EU EOM observers saw agents with invalid first round accreditations in approximately 22% of polling stations visited.

In addition, following calls from the CNE and observer groups, STAE declared invalid the accreditation passes that do not exist in the law or regulation but that were used in the first round. These included “free access” passes for government ministers and their staff, and “party observer” passes (additional to the “candidate agent” passes). Following pressure from government ministers and some political parties, there was an attempt made by some STAE personnel to produce a new unauthorised “candidate observer” pass, but this attempt was detected and stopped.

Distribution and Retrieval Plan, Additional Materials –more vehicles were provided by the international community and the government to support the second round distribution and retrieval plan. The 20% margin of extra ballots (an increase over the first round 15%) and its careful allocation to polling centres resulted in far fewer centres running out of papers (only 8 out of 504). Radios were provided to all polling centre managers to improve communications.

Deterioration in the relationship between the two electoral authorities

There has been a deterioration in the relationship between the two electoral authorities at central level since the first round, and only some improvement in their coordination and information-sharing at local level. Poor communication has resulted in some unfortunate misunderstandings and a degree of mutual mistrust. This was demonstrated in a number of cases of public disagreement, in some of which the EU EOM believes there was no substantive issue at stake. One of the few substantive disputes was about the margin of extra ballot papers to be produced, where STAE did not follow CNE's decision (15%), but took its own decision, with UNMIT's advice (20%). In fact, the law does not specify which body should decide this, and until their respective roles are clarified in the law, such disagreements are almost inevitable.

Other public disagreements involved misunderstandings and issues being blown out of proportion. There was an incident at STAE headquarters when the CNE president was not allowed to enter to witness the printing of ballot papers and complained about this to the media (eventually it emerged that this was due to his name not having been added to the list of authorised persons, although other commissioners were allowed to enter). Conversely, there was another incident when STAE became concerned about the CNE and UNMIT transporting ballot boxes within Dili on 4th May. It was explained that this was done as part of the district tabulation training to which STAE was invited, but nonetheless STAE denounced this to the media. This led to CNE printing a full page explanation on 8th May, criticising STAE for producing "disinformation" and damaging the transparency of the process. It was the turn of CNE to turn a minor issue into a media story on 8th May, when they denounced STAE for removing some sensitive materials from the handover ceremony in Manatuto in order to load them in a helicopter. These incidents are damaging to public confidence in the electoral institutions (and also to UNMIT, who were accused in the latter two cases) and in the process as a whole. Greater communication, dialogue and mutual trust are needed between the two electoral bodies, so that these issues can be resolved in private, rather than aired in the media.

UNMIT's Role

District level communications between national STAE staff and international UNMIT staff supporting STAE have generally improved, this being one of the lessons learned that emerged from the first round.

The UNMIT staff and their vehicles continue to be essential to the logistical operations, and in places they also play a key role in staff training and voter education. This is partly due to the lack of human and material resources that STAE has. It is an inherent difficulty for capacity-building that no electoral authority staff in the districts will be employed once the elections are over, so valuable experience and skills will be lost. Even in STAE headquarters, only around 20 staff (including support staff) will be employed after the elections.

In important areas, such as CNE's communication of results following the first round, it appeared that UNMIT advisers had only limited influence to help the CNE improve this process. The communication of first round results was poor and confusing, with inaccuracies and inadequate explanation. The CNE has additional UNMIT support in communications for the second round, and improvements have been seen.

CNE Action Against Reported Violations

The CNE wrote to both the candidates regarding their campaign activities and their use of insulting language, and wrote to Lu-Olo expressing their concern about the discovery of home-made weapons and money in his campaign caravan in Ermera. A letter was sent to Ramos Horta regarding the need to coordinate with CNE his campaign activities and calendar. The CNE wrote to the government during the first round about the use of state resources (in particular vehicles) and campaigning by public officials and ministers, but did not receive any reply. It is not surprising that the CNE cannot achieve more in this regard, since they lack any coercive powers. The CNE publicised some of these issues to the media, in an attempt to exercise moral pressure on those who violate the campaign regulations.

The CNE did not manage to produce and circulate public information materials about the complaints procedure before the second round, despite an evident need. In the first round few complainants provided the necessary witness statement or detailed description of the facts. This also had repercussions in the unsuccessful appeal that was made against the preliminary results, where many of the allegations had not been the subject of an earlier complaint, thus losing the opportunity for documentation and investigation of the facts.

Unfortunately the CNE has not always publicised its decisions (as required by law), and it was slow to disseminate the detailed breakdown of the first round results. The EU EOM understands that this is due to its shortage of resources, but nonetheless full transparency is a key part of its function and this is a shortcoming that needs to be addressed.

Given that the CNE was only formed less than four months ago, it has achieved a remarkable amount.

Electoral Campaign

The second round electoral campaign differed from the first round: FRETILIN reduced the heavy campaign machinery it had displayed during the first round and organised small-scale rallies and 'door-to-door campaigning'. José Ramos Horta conducted an ambitious tour of most districts aimed at ensuring that local voters knew about his second round support from five of the six candidates eliminated in the first round. Last-minute changes of campaign planning by both candidates sometimes breached the requirement of prior notification of campaign events to the CNE and United Nations Police (UNPOL) authorities. Low level campaigning was also reported in some areas during the silence period of 7 and 8 May. In a positive development, the inappropriate language used by both candidates did not affect campaigning events and clashes were both less serious and less frequent than in the first round.

Both candidates raised doubts about the fairness of each other's campaigning practices. Allegations of voter intimidation and of vote-buying were repeated by both sides and grew in vigour throughout the period. The vagueness of the activities designated as 'door-to-door campaigning' fuelled particular suspicions. Occasionally carried out by politicised youth organisations linked with martial arts groups, and sometimes benefiting from the support of local authorities, they were seen as tantamount to local level intimidation. In Dili, in particular, FRETILIN made no secret of its use of Fuan Domin ('Bleeding Heart'), a group with known links with martial arts group PSHT to carry out 'door-to-door' campaigning. However, apart from isolated instances of pressure on communities, the EU EOM found no evidence of actual threats against voters and did not observe or receive reports of actual physical retaliations linked with the first-round results.

In the two districts of Ermera and Liquiçá, Lú-Olo and Horta, respectively, did not dissociate themselves from local figures allegedly involved in voter intimidation and in tensions with the opposing side. The EU EOM is concerned with the impunity granted to António dos Santos, alias '55' ('Lima Lima'), whose hard-line pro-FRETILIN group has been linked with repeated cases of violent intimidation in Ermera district. In Liquiçá, Vicente da Conceição, alias 'Rai Lós', despite being recommended for prosecution in

the report of the United Nations Independent Special Commission of Inquiry for Timor Leste of October 2006, was the district co-ordinator for José Ramos Horta's campaign. Similarly in Viqueque, it is regrettable that the district police commander Gaspar da Costa remained active in the district during his voluntary leave, given the strong suspicions of intimidation against the opposition made against him in the first round.

Allegations of vote-buying by both sides emerged from most districts and grew in volume in the last days of the campaign. Food aid earmarked for Bobonaro was discovered at the private home of a martial arts group leader, sparking suspicions of politically motivated distribution by the government. In a separate incident, 5000 US dollars and homemade weapons were found in a truck accompanying a FRETILIN convoy transporting government ministers and Lú-Olo supporters. Conflicting responses from persons present in the convoy raised suspicions of illegal financing of individual village chiefs and polling staff members in Ermera. Prior to that event, José Ramos Horta had summoned an extraordinary meeting with the EU EOM and members of the diplomatic corps, in which he made accusations of vote-buying and of more general fraud by the government. He however presented no credible evidence to support these serious allegations. The CNE has declared inadmissible the complaint made by Ramos Horta about voter card buying, because it did not contain any witness evidence.

Both candidates accused supporters of bribing voters, but never produced convincing evidence to support their claims. Apart from the cases of Bobonaro and Ermera, the EU EOM recognises that financial incentives were in some cases offered by local leaders to individual voters. However rumours of massive vote buying were backed by no conclusive evidence. Three days before polling, however, Lú-Olo announced in a press conference the delivery of previously-budgeted financial aid to villages throughout the country. The EU EOM judged the timing inappropriate and in contravention of international best practice.

In this climate of negative campaigning, CNE's response remained low key. Its only reported public rebuke of a politician was on 1st May, when it singled out Mari Alkatiri's language towards President Gusmão and Ramos Horta as a violation of the candidates' code of conduct. The EU EOM was not convinced by CNE's explanation for this differential treatment. As during the first round, CNE only incidentally made public some of its communication with candidates, hindering the general monitoring of violations of the code of conduct. The EU EOM however welcomed CNE's letter calling on candidates to refrain from personal insults.

The Catholic clergy's support for Horta remained remarkably discreet, despite allowing the candidate to take part in the Youth Cross presentation events in Lospalos and Maubisse and on some occasions to stage rallies on Church premises. The only recorded case of clear partiality from a religious authority happened in Manatuto, when a priest stated that 'FRETILIN is planning to turn the church into a dance-club' and urged parishioners to therefore 'vote with their conscience'.

The security backup provided by ISF, occasionally positioning troops in full combat gear in the middle of crowds of supporters, was in breach of international good practice. From the debate on calling off the hunt for renegade Major Alfredo Reinado to last minute accusations of disruptions of Lú-Olo meetings, Australian ISF were placed in a central role in the second round campaign.

Media Environment

As in the first round of the presidential elections, the impact of the media coverage was conditioned by its limited reach throughout the country. A project to provide nationwide coverage for the public television channel is being implemented, but its impact will be affected by the high rate of poverty in the country. Before the election process started, specific training for the national media and the community radios on

electoral issues was provided by the United Nations Development Program, CNE, STAE, and other organisations such as the Timor-Leste Media Development Centre. Special programs on voter education were produced for TV and radios.

The media coverage of the campaign was affected by the inexperience of some of the journalists, and by the problem of language. Tétum is in a process of development and laws are produced in Portuguese. Inaccurate news due to translation mistakes was common. Other problems faced by the Timorese media are the shortage of technical equipment, and communication and transport difficulties in a country with poor roads and limited telephone coverage: news about some of the candidates' activities was often produced with a delay of more than two days.

The Timorese media followed the candidates and the coverage reflected the candidates' aggressive tone. This tone was criticised by media editorials, which said that good leaders do not insult and accuse each other, but should instead explain their programs to the people.

The public Radio and Television of Timor-Leste (RTTL) provided a specific section in its news services for the campaign, and the radio channel produced a special program on this subject. According to RTTL, the candidates did not provide special programs to be used under the equitable air time provisions. On 27 April, RTTL organised a debate between the two candidates that was broadcast live by both the TV and radio channels. During the second round campaign CNE did not receive complaints from the candidates about the media coverage and no incidents involving journalists were reported.

Civil Society

As in the first round, civil society dispatched large numbers of observers throughout the districts. There were 1,847 accredited national observers for the 9 May ballot. By far the largest group, KOMEG (Coalition to Monitor the General Elections) again showed an impressive organisation and the capacity to cover almost all 705 polling stations with its total of 1,065 registered observers. KOMEG is made up of 17 NGOs led by a Catholic Church organisation. KOMEG had at least one representative in 90% of stations visited during voting, and in all those visited during counting (100%). National observer organisations would benefit from continued technical assistance and capacity-building before the parliamentary elections.

Participation of Women

Women participated in all aspects of these elections, although, as in the first round, their participation does not match their numbers in the population. EU EOM observers estimated that women made up approximately 25% of the audiences at the 28 campaign rallies that they observed. At polling staff level, EU EOM observed 38% women, with women being the chairperson in 16% of cases.

UNMIT has appointed an electoral gender adviser, who has made efforts to raise the profile of gender issues, carrying out training and producing a gender audit of the first round presidential elections. Voter turnout will be disaggregated by gender for the first time in these second round elections, due to the inclusion of a male/female box to tick on each polling station's list of voters. This is a simple measure that produces useful information as to how much of a gender gap there is.

Voting

The election day was peaceful, voters were patient, and procedures were carried out smoothly. Turnout is estimated to be almost as high as it was in the first round (when it was 81.69%). Overall, voting procedures were evaluated by EU EOM observers as having improved since the first round. They were

rated as satisfactory, good, or very good in 97% of stations observed. In all stations observed, the opening was on time or within half an hour. Procedures were generally carried out more swiftly and smoothly than in the first round, as both staff and voters were more familiar with what to do. The vast majority of polling staff had also worked in the first round (staff had previous experience in 91% of stations observed). There were still some problems with voters' fingers generally not being checked for ink before they voted, and with young voters' age not always being checked. However, the ink was properly applied in 95% of cases observed, and the voters' cards punched in 100% of cases observed, leaving limited scope for double voting.

Ballot paper shortages were far fewer than in the first round, reported in only 2% of stations observed, and in a total of only eight polling centres nationwide, according to STAE. STAE managed to solve the problem in all cases.

There were candidate agents present in 96% of stations observed, with Lu-Olo's agents present in 96%, and Ramos Horta's in 84%. In contravention of the rules on candidate agent accreditations, agents with first round accreditations were observed in 22% of stations, although this was not reported as creating difficulties, and it may be due to STAE's late delivery of the second round accreditations.

Counting

Counting was rated by EU EOM observers as satisfactory, good or very good in 87.5% of cases, and was generally evaluated as having improved since the first round. National observers were present in 100% of stations observed, Lu-Olo's agents in 87% and Ramos Horta's in 94%.

PNTL, often backed up by UNPOL, was present outside all observed stations. In 94% of stations observed the number of voters noted on the list matched the number of cast ballots, and the number of ballots issued matched the number of ballots cast, cancelled and spoiled. This was quite an improvement on the first round, although it still left a small percentage of stations with reconciliation problems. In 25% of observed cases, problems in the determination of invalid votes were reported, an improvement from the first round, but still a significant number. An important transparency measure, posting the results outside the polling station, was not complied with in 12.5% of cases observed.

District tabulation procedures have changed significantly since the first round, as part of the effort to improve the accuracy of the process. Comprehensive training on the new procedures was provided to CNE staff. EU EOM observers evaluated the process as improved, more efficient and faster. All districts completed tabulation by 10th May, earlier than the first round. Despite the additional training provided to polling staff, there were still some mathematical errors and difficulties in filling in the polling station results sheet, although under the new procedures many of these are corrected at district tabulation.

National tabulation is due to begin at the CNE's headquarters on 11th May. The CNE has expressed concern that their task is made harder this time because they are also occupied with the verification of candidates for the parliamentary elections, which puts a strain upon their resources (the deadline for candidate registration with CNE is 11th May, and up to 1260 candidates are expected; the CNE has until 21st May to verify each candidate's eligibility). The CNE also needs to resolve complaints at its Dili headquarters before issuing the preliminary results.

According to the Electoral Calendar, the CNE should announce preliminary results by 14th May. There is then an appeal period, and the Court of Appeal should declare the final results by 19th May. EU EOM observers will continue to observe the process until after final results are declared.

RECOMMENDATIONS

The EU EOM recognises that this is the first national electoral process conducted by Timorese authorities, that the CNE is a very new institution, and that the process is in a constant state of improvement. The following recommendations are therefore provided to improve future electoral processes, particularly in view of the upcoming parliamentary elections. They are offered for consideration and action by the Timorese authorities, political parties, civil society and the international community. These recommendations, along with others, will be included in the EU EOM's final report on the Presidential and Parliamentary elections.

Strengthen Independence and Impartiality of the Election Bodies

The CNE's independence needs to be strengthened by providing it with financial autonomy, as the law requires. It should have its budget approved directly by parliament, rather than by the Minister of State Administration. The appointment of secretariat staff for the CNE needs to be carried out very carefully and in strict compliance with criteria of impartiality and merit, given its importance as an independent institution.

CNE should adopt a Code of Conduct for Commissioners and Staff, to strengthen its impartiality. In particular, CNE commissioners should specifically refrain from making public statements in support of or against candidates. Prior to the first round, the CNE spokesperson made unfortunate comments about his own personal preferences for a candidate.

STAE should pass a Code of Conduct for Staff, to encourage impartiality by all staff members.

Clarify the Relationship and the Division of Tasks between STAE and CNE

The Electoral Laws and Regulations need to specify clearly the powers of each electoral body in relation to regulation-making. The current law is insufficiently precise, and this has led to disputes between the two bodies, and delays in the issuing of regulations and procedures (for example, the publication of the Polling and Counting Regulation only four days before the first round, and of the Complaints Procedure only after the first round).

A standard model used in many countries would be for the CNE to be responsible for taking all policy decisions, and for STAE to be the implementing body. Clarifying this issue would reduce conflict and speed up processes. In any case, deadlines before the election day need to be provided by which key decisions should be taken, and beyond which regulations cannot be approved.

At district level, weekly co-ordination meetings between the two electoral bodies, together with UNMIT and UNPOL/PNTL, could be helpful in the lead-up to the parliamentary elections.

Avoid Late Amendments to the Legal Framework

The Presidential election law was amended only days before the first round, and included a controversial provision that the President sent to the Court of Appeal before signing the law. A number of technical amendments are needed to the Parliamentary election law. These should be introduced as soon as possible and without controversial political provisions. In particular, a proposed amendment to remove candidate photographs from the ballot paper would be unhelpful for illiterate voters.

Provide powers to the CNE to ensure compliance with and enforcement of the Electoral Laws

The EU EOM considers that the CNE has made significant progress in a short period of time, establishing its independence and its nationwide structure, and making an important contribution to the electoral process. However, the Election Laws need to be amended to provide enforcement powers to the CNE. For example:

- to issue fines;
- to suspend from campaigning or from broadcasting for a certain period those candidates, parties or coalitions who violate the electoral laws and regulations;
- to disqualify candidates who commit serious violations of the laws;
- to revoke the accreditation of an observer or party agent who violates the laws;
- to recommend or order the disciplining of electoral staff who commit irregularities.

Another option would be for the CNE to publicise more widely the letters that it writes to a violator (*cartas de repreensão*), so that the public and the media become aware, and this helps to apply moral pressure.

Candidates and Parties Need to Comply with the Law

Compliance with the laws, regulations and codes of conduct is the responsibility of those who are involved, especially the candidates and parties. They have particular responsibilities during the electoral process, not to insult or criticise one another or carry out negative campaigning, not to incite violence, and to campaign in a peaceful way respecting pluralism and the rights of others. The second round presidential election was characterised by irresponsible verbal insults and attacks between the candidates. This needs to improve before the parliamentary elections, as it could threaten the country's stability.

Candidates are also required to notify their campaign activities to the CNE with 72 hours notice, so that appropriate security measures can be taken, and overlap with another candidate can be avoided. This is an important provision, as clashes between rival supporters were the most frequent cause of violence in the first round campaign. This provision was not properly complied with in the second round either.

Making the Complaints Process More Accessible

The CNE should provide more public information about how to make complaints, especially since this is a new procedure and they are a new body. The requirement that a complaint has to be signed by the witness, and made within 24 hours is very strict for the Timorese context. Witness statements should be considered to be evidence, rather than constituting the complaint itself. The complaints procedure should provide a time limit by which the CNE should resolve complaints.

The CNE should make available more information about the complaints received and how they are resolved. Currently only general statistics are available, without the details of particular complaints.

Greater Transparency in Relation to Electoral Offences

The Public Prosecutor should provide public information on the number of criminal complaints received and the manner in which they are processed and resolved. Currently very little information is available.

The Electoral Authorities Need to Improve their Communication with Candidates, Political Parties and Observers

Both electoral bodies need to improve their communications with candidates, political parties and observers. Regular briefing meetings should be held explaining each stage of the electoral process, and more information could be circulated by email. This would help to improve their transparency, and public confidence and understanding of the process. It would also save time for the election bodies who could deliver information in a more streamlined way. A common model is to set up a political party service office and an observer office in each election body.

The EU EOM believes that the CNE has a commitment to transparency in theory, but that this is not fully implemented in practice, partly because it requires personnel and resources that the CNE is short of. The CNE's decisions are required by law to be publicised, and this needs to happen in every case.

Transparency in Counting and Publishing Election Results

The Election Laws should be amended and the CNE should pass a regulation to ensure that the publication of results is prompt, complete and accurate. In particular:

- i. Copies of each Polling Station Results Form (*Acta de Operasaun*) should be made available to candidate or party agents at the polling station. Currently no copies are available.
- ii. Greater efforts should be made to ensure that the Polling Station Results are displayed at each polling centre immediately after the count. Currently this requirement is not complied with in all cases (78.5% of PS observed by the EU EOM in the first round did this, 87.5% of PS observed in the second round).
- iii. Partial results should be published as soon as they become available from each district tabulation centre. There should be a clear explanation that they only represent a certain percentage of all polling stations, and that they could change following the national tabulation process. After the first round, inaccurate partial results were publicised by the CNE, without adequate explanation.
- iv. The law should prohibit the announcement or publication of unofficial results by anyone until the election body has published the preliminary results. Currently civil society groups and political parties are announcing unofficial results which can create confusion.
- v. When publishing partial, preliminary or final results the CNE should publish all available data, including results for all candidates, the total number of votes cast, and the number of invalid ballots. Following the first round, the CNE released partial results that only gave the candidates' votes.
- vi. When publishing preliminary or final results, the results should be broken down by district and polling station. Following the first round, only the national totals were published. It was very difficult and took days to obtain the detailed breakdown of preliminary or final results.
- vii. Candidates and parties should be given the detailed breakdown of preliminary results as soon as they are announced, because they only have 24 hours to present an appeal against them. Following the first round, candidates were not given the detailed breakdown until the day after the announcement, too late for their appeal.
- viii. Detailed preliminary and final results should be published in the newspapers, announced to the media, and posted on the CNE's website. An electronic copy on CDs could be made available to candidates and parties and to observers. A clear explanation should be given of the tabulation process, and why results may change during district and national tabulation. After the first round, only a limited number of paper and electronic copies of the full results were made available, and few people had access to this information. There was a very incomplete understanding amongst the public of how tabulation worked, leading to a lack of confidence in the results.

Improve the Fairness of Election Campaigning

Use of Public Resources

The Parliamentary Election Law needs to be amended to make it an electoral offence to use state resources in campaigning. There also needs to be adequate provision to prevent civil servants from participating in electoral campaigns. Both of these matters are prohibited by the Campaign Regulation but no sanction is provided for their breach.

Campaigning by Public Officials

The Campaign Regulation prohibits political appointees from participating in campaigning during their official functions, since it is important to keep separate their two roles. During the presidential elections many local administrators and government ministers were seen campaigning, although evidence was not provided that they were acting outside their official functions. Either the law needs to be amended to allow such people to campaign, or their compliance with the law needs to be made clear.

Announcements about public spending or the launch of public projects should not be made by candidates during electoral campaign periods. It was inappropriate for the government to announce the disbursement of significant funds to village chiefs just three days before the election.

Campaign Finance

Clear guidelines should be provided by the CNE on the details that it needs from candidates in relation to monitoring their accounts, one of CNE's tasks according to the law. General requirements are specified in the Campaign Regulation, but specific details are not given. These are needed if these provisions are to be enforced equitably and properly.

Consideration could be given to including maximum amounts in the law on the amount of donations that a candidate or a party may receive, or the amount that they may spend on their campaign. Such limits are commonly provided in other countries, in order to prevent richer parties or candidates out-spending all others.

Media

Legal framework

Freedom of the Press is guaranteed by the Constitution, but Timor-Leste still lacks its own Press Law. A media authority should be established to regulate media activities. New media legislation should establish rights and duties for the media, as well as provisions to discourage and prevent intimidation or attacks against journalists.

Campaign coverage

Election authorities should consider monitoring the coverage of the election campaign to ensure compliance with the right provided in the Campaign Regulation for candidates and political parties to have equal air time. A clear framework that specifies how to make complaints against unfair media coverage, and the possible sanctions that can be applied, should be adopted.

Professional training

The Timorese electoral authorities, in association with media organisations and with the co-operation of donors, should continue to provide professional training for local journalists on electoral issues (legal framework, civic education, coverage of results, and equitable media coverage) before the parliamentary elections.

Standardisation of language

As Tétum – one of the official languages of Timor-Leste together with Portuguese – is still in process of development, the media has a relevant role in its promotion. Media organisations should try to adopt some of the specific glossaries already prepared by the National Institute of Linguistics. For election issues, the Institute should establish a standardisation of Tétum words to avoid the *ad hoc* usage of terms from different sources, which creates confusion in the public.

Reinforcing the technical quality and the reach of the media

The Timorese authorities and donors should strengthen their programs for reinforcing the quality and the reach of the media through support to community radio stations, the modernisation of printing facilities, the distribution of newspapers in all districts, and by providing the necessary means to establish community centres where people can watch national television.

Improve the Voter Register

International standards require that the voter register be available for public display and challenge. This has not been the case for the presidential elections, and it is urgently needed before the parliamentary elections. The Regulation needs to be amended to allow for this, providing the timeframes and the procedure for making challenges, and for removing ineligible names.

If possible, an update period for voter registration should open before the parliamentary elections.

The system of registration used before the presidential election was very inclusive, but contained insufficient controls against abuse. Future updates should require checks to be made against the central database *before* a voter registration card is issued.

In the longer term, a civil registration process is needed, which would provide more reliable base documents (like the birth certificate), against which checks could be made.

Voter Education

An urgent campaign of voter education and civic education needs to be carried out by STAE well before the parliamentary elections, in particular to try and reduce the proportion of invalid and blank votes (over 5% in the first round final results; 3.27% in polling stations observed by the EU EOM in the second round). A short voter education campaign was carried out before the second round, but more time and preparation are needed.

Candidate and Party Agents

Training

Party agents should be adequately trained on their role and responsibilities, by the political parties, together with the aid of civil society organisations. This would enable them to be more effective in their vigilance of the process, increasing their confidence in the process and their acceptance of the results. They would also have a better understanding of the limits of their role: that they should not become involved in the voting and counting process, even to help.

It would be helpful to invite candidate or party representatives to trainings carried out by the electoral authorities, so that they can observe them, as well as increasing their own knowledge of the process. This should be done for specialist trainings, such as the ones on district or national tabulation, which are complex and new processes here.

Accreditations

Deadlines should be specified in the law or regulation for the last date for parties to apply, and the last date for STAE to issue. This was left to the last minute in both first and second rounds, making it difficult for accreditations to be distributed throughout the districts. The accreditation system improved by the second round, but enforcement of the rule of one agent per candidate per station was still not good. This needs to be improved before the parliamentary elections, when up to 14 parties or coalitions will be participating.

Selection of Polling Staff

A new system of polling staff selection should be considered, prioritising previous electoral experience and literacy and numeracy skills. It is common in many countries for school teachers to form the bulk of polling staff. This is apparently not possible here because of restrictions on public officials being polling staff. This rule could be relaxed in the case of teachers. The system should not operate as at present, where local village chiefs, the bulk of whom supported the ruling party, were involved in identifying and recommending polling staff.

Voting Procedures

The following steps should be taken to improve procedures on election day:

- i. The voter's finger should be checked for ink before they vote;
- ii. Young voter's cards should be checked to see if they are 17;
- iii. Clear procedures should be produced on how to assist illiterate or disabled voters;

Voting by Prisoners and the Hospitalised

The law allows voting by prisoners (provided their sentence does not remove their political rights) and the hospitalised. Procedures need to be put in place for this to take effect.

Capacity Building

It has been difficult for UNMIT to include much capacity building work, in part because of a shortage of national staff to work with as counterparts, and in part because very few national staff will remain employed after the elections (a total of around 20 at the STAE headquarters, and the 15 CNE Commissioners). This makes it difficult to plan longer-term capacity building, such as BRIDGE training. Consideration could be given to retaining some national staff (perhaps on a part-time basis) at district level, in order not to lose all skilled and experienced personnel.

The EU EOM wishes to express its appreciation to the *Minister of Foreign Affairs* and other Timor-Leste authorities, political parties and civil society, and to the United Nations Integrated Mission in Timor-Leste for their cooperation and assistance during the course of the observation. The EU EOM is also grateful to the Office of the European Commission to Timor-Leste and to the *International Organisation of Migration* for their operational support throughout.

An electronic version of this Preliminary Statement is available on the Mission website
www.eueomtimorleste.org

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