



FIRST PRELIMINARY STATEMENT

Elections held on schedule, but lack of transparency and operational failures reduced trust in the process and challenged the right to vote

Abuja, Nigeria, 27 February 2023

This preliminary statement of the EU election observation mission (EU EOM) is delivered before the completion of the entire electoral process. Critical stages remain, including tabulation of results and adjudication of petitions. The EU EOM is now only in a position to comment on observation undertaken to date, and will later publish a final report, including full analysis and recommendations for electoral reform. The EU EOM will remain in Nigeria to observe the elections scheduled for 11 March and may make additional statements on election-related matters as and when it considers it appropriate.

Summary

On 25 February, Nigerians went to the polls in highly anticipated presidential and National Assembly elections that the Independent National Electoral Commission (INEC) kept on schedule despite a volatile and challenging environment. Fundamental freedoms of assembly and movement were largely respected, yet the full enjoyment of the latter was impeded by insufficient planning, insecurity and the prevailing Naira and fuel shortages. Abuse of incumbency by various political office holders distorted the playing field and there were widespread allegations of vote buying. Media provided an extensive coverage of the three leading campaigns, while disinformation interfered with voters' right to make an informed choice on election day. The EU EOM is continuing its observation of the ongoing collation and tabulation of results throughout the country.

INEC's operational capacity was hampered by the ongoing fuel and Naira shortage. Insecurity prevented it from accessing some Local Government Areas (LGAs), notably in the South. Attacks on INEC premises, including just days before polling, hindered preparations in affected areas, while instilling fear in voters. Overall, stakeholders had expressed confidence in INEC's independence, professionalism, and voter information efforts, but this decreased ahead of elections. INEC lacked efficient planning and transparency during critical stages of the electoral process, while on election day trust in INEC was seen to further reduce due to delayed polling processes and information gaps related to much anticipated access to results on its Results Viewing Portal (IReV).

In the lead-up to elections, the widely welcomed Electoral Act 2022 introduced measures aimed at building stakeholder trust, however leaving some important gaps in terms of accountability and INEC's power to enforce the law. Weak points include a lack of INEC empowerment to enforce sanctions for electoral offences and breaches of campaign finance rules. Positively, INEC benefited from more timely financing than for previous contests. Other new provisions also aimed to enhance transparency of results.

The introduction of the Bimodal Voter Accreditation System (BVAS) and the IReV for the 2023 elections was perceived as an important step to ensure the integrity and credibility of elections. However, delayed training of technical personnel, an inadequate mock testing exercise, and a lack of public information on the election technologies diminished expectations and left room for speculation and uncertainty.

During the early stages of collation, presidential result forms from polling units were not displayed on the IReV, while Senate and House of Representative results were slowly published. Presidential election result forms started to be uploaded after 10 pm on election day, raising concerns and reaching only 20 per cent by noon on 26 February. Later the same evening, INEC explained the delay with "technical hitches."

Among 93.4 million registered voters, 9.5 million additional voters were registered ahead of the 2023 polls, of whom two-thirds were youth following mobilisation efforts during the registration period. Yet, the collection of permanent voter cards (PVC), a requirement to vote, was negatively affected by poor institutional planning. Two days before elections, INEC stated that 93.3 per cent of PVCs were collected. Without an independent audit of the voter register, quality and inclusiveness could not be assured.

Following contentious candidate registration processes there were 18 contestants for the presidential office and over 4200 for 461 national assembly seats. They were selected in party primaries that reportedly lacked transparency and inclusiveness, marked by very chronically low levels of participation of women and youth. This compounded an overall stark lack of legal measures for inclusion and barriers to participation which do not align with international standards.

The conduct of contesting parties and candidates, as well as some gaps in the law, led to a spate of pre-election court cases, with some matters not finalised ahead of elections. During the pre-election period, EU EOM interlocutors criticised various court rulings for being too technical, some leading to belated primary re-runs, others to substitutions of perceived legitimate candidates, thereby eroding public trust, exposing intra-party conflicts, and contributing to a volatile campaign environment.

The campaign was highly competitive, and contestants conducted rallies nationwide, but the Naira cash and fuel scarcity reduced activities and attendance. Political parties denounced unequal campaign conditions due to interference of opponent governors. Reports of vote and PVC buying were also frequent. Internal party conflicts weakened the presidential campaigns of PDP and APC with personal accusation obscuring issue-based messages shortly before the elections. There was a lack of prosecution of electoral offences and a significant increase in violent incidents closer to elections, including attacks on candidates, reportedly, aimed to disturb the elections and suppress voter participation, particularly in the South-East.

Media offered an extensive campaign coverage, despite economic hardships, institutional pressures, and electoral violence. Prime-time newscasts focused on the Naira swap, and APC and PDP animosities, granting both parties equitable exposure, although mostly negative in tone. Politicians used polarising rhetoric on air and conspiracy theories, originating online, were frequently discussed in the most popular talk shows. Analytical reporting on party policies was scant. Lead contestants could not be compared directly, as APC and PDP rebuffed presidential debates, undermining voters' right to an informed choice.

Social media was actively used by political actors as a campaign tool. However, the platforms were misused to spread harmful content, including disinformation on key electoral processes; the measures the platforms took to protect electoral integrity were insufficient. Misleading information also came from political actors and contributed to a blurred information environment for voters.

Online and offline media joined forces with civil society and fact checkers to safeguard the integrity of the pre-election information environment. Real-time fact checking of gubernatorial and other contestants' debates strived to hold candidates accountable, while various formats of voter information, raised voter awareness and helped to counter electoral insecurity, complementing INEC efforts.

Civil society organisations observed and scrutinised different aspects of the election, issued several pre-election reports, at times probing INEC's operational preparedness, offering voters a non-partisan assessment of election preparations. Over 144,800 citizen observers monitored election day proceedings.

The European Union Election Observation Mission (EU EOM) has been present in Nigeria since 11 January 2023 following an invitation from the Independent National Electoral Commission (INEC). The Mission is led by Chief Observer, Barry Andrews, Member of the European Parliament (MEP) (Ireland). In total, the EU EOM deployed 110 observers from 25 EU Member States, Canada, Norway and Switzerland across the country to assess the whole electoral process against international obligations and commitments for democratic elections as well as the laws of Nigeria. A delegation of the European Parliament, headed by Evin Incir, MEP (Sweden), also joined the mission and fully endorses this Statement. On election day, observers visited over 240 polling units in 24 of the 36 states and the Federal Capital Territory (FCT) of Nigeria to observe voting and counting. This preliminary statement is delivered prior to the completion of the election process. The final assessment of the elections will depend also on the conduct of the remaining stages of the election process, in particular the tabulation of results, and the handling of possible post-election day complaints and appeals. The EU EOM remains in country to observe post-election developments and will publish a final report containing detailed recommendations within two months of the conclusion of the electoral process. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation, endorsed at the United Nations in October 2005.

Preliminary Findings

BACKGROUND

This is the seventh general election since the restoration of democracy in 1999 and the second transition of power after a completed second term. The outgoing President Muhammadu Buhari committed to credible elections and a smooth handover of administration establishing a transitional council ahead of the polls. Buhari's term ends on 29 May.

On 25 February, Nigeria voted its president, vice-president and the two chambers of the National Assembly. The National Assembly elections, comprising 109 Senate and 360 House of Representatives seats, were held on a first-past-the-post basis. The presidential national constituency election used a modified first-past-the-post system, decided based on whoever wins the overall highest number of votes and obtains a minimum 25 per cent of votes in at least two-thirds of all states plus the Federal Capital Territory (FCT). If no candidate passes this threshold, then a second round follows within 21 days, between the candidate with highest overall first round vote and the candidate with a majority of votes in the highest number of states.

Unlike the two-way races in previous elections, there were three leading presidential candidates, in a field of 18, in close competition. These were Bola Tinubu of the incumbent All Progressives Party (APC), former Vice-President Atiku Abubakar of the opposition Peoples Democratic Party (PDP), and Peter Obi of the Labour Party. A fourth contender, particularly strong in Kano State, was Rabi'u Kwankwaso of the New Nigeria Peoples Party.

The lead-up to the elections was marked by intra-party conflicts, negatively impacting the electoral environment with narratives, particularly by prominent APC members, about plots to manipulate the vote or sabotage the elections. Several PDP party members and candidates were expelled shortly before polling day for alleged anti-party activities. There was widespread non-compliance by candidates and parties with their own party rules, contributing to the influence of money in politics and social disillusionment.

The elections took place in a complex security situation with insurgencies in the North-East zone, banditry and terrorism in the North-West, ongoing farmer-herder conflicts in the Middle Belt, secession agitations in the South-East, and increased cases of political abductions and killings across the southern parts of the country. In addition, the economic crisis exacerbated by a Naira cash and fuel scarcity made for an extremely challenging election environment. The Naira swap policy implemented amid the campaign with the stated purpose, among others, to tackle the illicit influx of money into the campaign, precipitated acute economic hardship leading to protests, social unrest and increased political tensions and added to insecurity

and uncertainty. The Supreme Court became entangled in a high-profile state-led challenge to the federal government Naira re-design policy, raising heated debate about the court's jurisdiction and independence.

LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The recently revised electoral legal framework lays an adequate foundation for conducting democratic elections. Nigeria has subscribed to the main international and regional standards for democratic elections. However, most such instruments have not been fully embedded in domestic law. Important legal gaps persist regarding commitments on equality of the vote and the conduct of political parties and candidates. Reforms are also direly needed to guarantee full inclusion, transparency, and legal stability.

Nigeria's 1999 Constitution (as amended) positively enshrines basic rights on political participation including freedoms of expression, association, assembly, and the right to a legal remedy. It also anchors the electoral system, INEC oversight, candidate eligibility, registration, dispute resolution and the timing of polls. However, some key timelines, such as scheduling for various elections and results challenges, are unduly tight and overlapping, thus leaving INEC logistical arrangements vulnerable to court processes.

Positively, the new Electoral Act 2022 includes trust-building measures, notably by extending timeframes for election planning and introducing public access to key election day results data. However, the law and regulations were not always easily accessible, nor through INEC's website. Procedures for adopting INEC regulations are not clearly set out in the law. Key regulations issued late, leaving space for uncertain implementation such as in the 2022 political party primary conventions and campaign finances. Uncertainties also flow from re-scheduling of polls following a candidate's death and problematic rules for re-scheduling elections if polling is postponed due to insecurity, overvoting, or technology failures.

Electoral disputes are handled mainly by courts, with ad hoc election tribunals established for results challenges. The courts are broadly accessible for addressing pre- and post-election disputes, including rights of appeal. Courts decisions are frequently reported in the media but access to decisions is challenging as judgments are not always publicly available. Most electoral offences are also handled by the lower courts, but enforcement is weak partly due to gaps in law. An INEC backed draft law to address electoral offences has yet to be adopted by the National Assembly.

The 25 February general elections involved 470 constituencies, most suffering an enduring inequality of the vote due to outdated constituency delimitations, as the last census data is from 2006. INEC's constitutional mandate to review delimitations at intervals of not less than 10 years requires approval of the National Assembly, adding political and practical constraints. Stakeholders doubted a census planned for 2023 will happen, further delaying the overdue constituency delimitation.

ELECTORAL ADMINISTRATION

Prior to elections, stakeholders expressed confidence in INEC's independence, professionalism, and voter information efforts, but this deteriorated as election day approached notably in Kano and Lagos. On election night, trust in the institution was seen to diminish due to information gaps and INEC's failure to promptly respond to stakeholder disquiet over logistical and security lapses and later the failure of public access to presidential results on the IReV. INEC's communication approach was characterised mostly by delivery of general information through stakeholder consultations and press conferences frequently lacking detail. Public information about key electoral procedures and precise data was not readily available, including the safeguards for the integrity and reliability of the BVAS, the process of collecting PVCs, voter registration updates, and the rationale of court orders changing candidate lists. Publication of such information would have notably enhanced the transparency and certainty of the process.

INEC faced a hostile environment for election organisation on several fronts. Notably, its staff and offices were subjected to violent attacks in several parts of the country, at times impeding its operations. Since the 28 February 2022 notice of elections, 16 attacks on INEC facilities and staff have been recorded, mostly in the South-East including in the last weeks before the elections.

A timely budget disbursement was foreseen in the 2022 electoral law reforms, enabling deployment of new technologies for voter registration, verification of voters, and transmission of results. Also, INEC substantially increased the number of polling units countrywide. Nonetheless, important challenges emerged including shortages of fuel and Naira affecting the smooth transport of materials and deployment of some 1,000,000 ad-hoc staff. Yet, INEC repeatedly assured that it had the necessary resources. Financial limitations were apparent prior to election day as EU EOM observers reported a shortage of training materials, limited capacity to grant accreditations, and inadequate monitoring of the campaign. On election day, these resulted in delayed dispatch of materials, lack of staff, late openings, and unsuitable premises.

Inadequate planning impacted several schedules, notably the voter registration exercise and the production and distribution of PVCs. While there were several options for some 6.7 million voters to locate their polling units, but there was a lack of timely information. There was also delayed and deficient training of poll workers resulting in poor staff performance on election day, lack of timely information to voters on their reallocated polling units causing confusion election day, and the inadequate operation of new technological solutions for voting and results. Also, little effort was devoted to responding to recurrent problems, such as vote buying, which goes hand-in-hand with illegal campaign financing.

INEC collaborated on voter education with civil society, state agencies, media outlets and influencers to spread its messages, for example, regarding the functioning of the BVAS and IReV, electoral offences, and voting procedures. Despite such efforts, there was widespread public confusion and misinformation as to the differences between manual collation of results and real-time transmission of the results forms for public scrutiny.

VOTER REGISTRATION

There was a total of 93,469,008 eligible registered voters, an increase of 9.5 million compared to 2019, among whom 76.6 percent are youth aged 18 to 34, and 50.82 per cent are female. Voter registration ran from June 2021 and ended July 2022, although the law foresees a continuous process up to 90 days before elections. As Nigerian citizens must attain 18 years at the time of registration, any eligible person turning 18 from the cut-off date was effectively disenfranchised.

INEC improvements to voter registration included online applications, though physical attendance was required twice subsequently for capturing biometric data and PVC collection. Subsequently, more than 2.8 million double/multiple, underage, and fake registrations were removed. While this was a positive development, it also exposed controversial disparities in the figures from the states in the north and in the south. Overall, despite INEC efforts, the clean-up process reportedly lacked transparency.

The voter register included a considerable number of deceased voters and emigrated people, as well as migrated but not transferred voters, due to the absence of systematic recording of birth, death, and migration. It is widely acknowledged that there are underage persons registered. There has never been an audit of the voters register. While not mandated by law, such an exercise could enable assessing the accuracy of the register, including the biometric data and inclusiveness. Political parties received the electronic copy for the voter register on the 11 January.

By law, only voters who present a PVC can vote. Collection started on 6 January and ended on 5 February after INEC twice extended the deadline. Of the 93 million registered voters, some 87 million collected their voter card, 93.3 per cent of the total. INEC did not disclose how many of the 9.5 million newly

registered collected their card. Data was also not broken down to polling unit level. EU EOM observers noted that, at times, PVC collection was negatively affected by poor logistics, incorrect designated collection offices, and excessively long queues at understaffed collection points. There were also reports of proxy collection and PVC buying.

ELECTION TECHNOLOGY

Public enthusiasm for the 2023 election was strengthened by the introduction by INEC, for the first time in a general election, of new technology for voter verification and electronic transmission of results forms. BVAS was used for biometric facial and fingerprint voter verification and for scanning and uploading the forms. INEC used the IReV portal for publication of results to enhance transparency and trust and to minimise malpractices.

Hardware and software specifications of BVAS, test results, audits, basic procurement details, protocols and guidelines for specific operations and functionality were not made public. Functionality and specifics of the transmission of the results forms were also unclear, without details publicly available, apart from information found in late published manuals, lessening transparency, trust, and certainty.

INEC missed the opportunity to substantively test operational issues connected with its technology before election day. On 4 February, it conducted an inadequate mock exercise in 436 polling stations testing the functionality of the BVAS. EU EOM observers and other stakeholders noted that the timing of the mock, the small size of the sample, low voter participation, and missing guidelines diminished the practical value of the exercise, while exposing some technical problems with biometric recognition and transmission of results. Further, the mock was run only by INEC professional staff and not by election day poll workers.

There was delayed recruitment and training of key technical support staff as well as of polling staff handling BVAS. On election day, a BVAS offline option to upload results forms, in case of weak internet connection, was largely unused, which contributed to issues with the transmission of the results forms. EU EOM observers noted that the number of accredited voters was not always sent from BVAS regularly after the closing. Further, scans of presidential elections results forms were often impossible to upload, unlike House of Representatives and Senate at least partly.

Delays and frictions in the IReV portal prevented smooth access to view the scans. Assurances from INEC that system was adequately prepared and tested were undermined by the systems' performance, thus contributing to diminishing public trust and confidence in results processing.

REGISTRATION OF CANDIDATES AND POLITICAL PARTIES

The right to stand is unduly restricted, with candidacy based solely on mandatory political party membership contrary to international and regional commitments. There were over 4200 contestants for the presidential office and 461 national assembly seats. Candidates emerged through the 2022 party primary elections, required by law to be monitored by INEC. Primaries were marred by an uncertain regulatory environment and allegations of vote buying among delegates, leading to high-visibility monitoring by a specialised investigation and prosecution service, the Economic and Financial Crimes Commission (EFCC), at some conventions, but with scant information on any follow up prosecutions. There was also widespread non-compliance by candidates and parties with their own party rules. A high number of court battles ensued over who to register as the official candidate with INEC.

Only one woman candidate contested the presidential race. Youth also were largely underrepresented as candidates, while persons with disability were almost entirely absent.

CAMPAIGN ENVIRONMENT

The five-month long election campaign took place in a competitive and highly charged political environment. The three key presidential candidates conducted rallies in almost all 36 states and the Federal Capital Territory. Overall, the contestants were able to campaign with freedoms of movement and expression broadly respected. However, political parties complained of unequal access to public venues, billboards and other forms of outdoor advertising, due to state governments of opposing parties restricting access. EU EOM observers recorded denials of access to opposition candidates to state-owned stadiums and school premises, selectively imposed excessive venue fees, as well as systematic destruction of campaign materials across the country. EU EOM observers also noted a particularly constrained campaign environment in Rivers State with the governor imposing campaign rules that were more restrictive than INEC regulations. The Electoral Act prohibits the use of state apparatus to the advantage or disadvantage of any political party or candidate.

The Naira cash and fuel scarcity negatively impacted the campaign environment. Related protests and social unrest, mostly in South-West and South-South, intensified shortly before the elections adding to insecurity. At least nine people were killed and many injured in clashes between police and protesters. The APC suspended campaign activities in Lagos, Oyo, and Ondo, citing the cash and fuel crisis. Yet, EU observers reported continued campaigning in all states, albeit with a significant decrease in the number of rallies and attendance. All leading parties were able to conduct their final large-scale rallies.

Intra-party conflicts within PDP and APC and realignment processes across all parties resulted in defections and statements of dissolved party structures, especially in the Labour Party (LP), making headlines shortly before the elections. Both APC and PDP campaigns, including online, used abusive language at rallies, with mutual personal accusations perceived in the Nigerian context as a form of hate speech, while widespread political conspiracy theories eclipsed issue-based campaigning. The Labour presidential campaign relied more on its strong support among social media users, particularly youth, and dominated the campaign online.

Interlocutors and observers indicated involvement of religious institutions in the campaign and reference to ethnicity at rallies. In violation of the law, campaigns took place in places of worship, as exposed by media and on social networks. Some Christian and Muslim clerics canvassed for candidates based on their faith, which is an offence.

A National Peace Accord was signed by the presidential candidates under the auspices of the National Peace Committee (NPC) on 29 September 2022. However, the NPC and EU EOM observers reported lack of adherence to the pledge, and mainly because of widespread impunity. There were reports of campaign violence related to inter party clashes and attacks, including at large-scale presidential rallies. Assassination attempts and attacks on campaign offices and candidates contributed to a particularly volatile campaign environment in Imo, Rivers, Enugu, Ebonyi, Osun and Cross River states. On 23 February, coordinated violent attacks against all three leading parties reportedly took place in Enugu East senatorial district resulting in seven people killed, including the LP senatorial candidate. Subsequently, INEC postponed elections in the district to 11 March. EU EOM observers witnessed attacks on rallies by organised gangs, reportedly hired by parties, and confirmed that vigilantes were deployed as security in the campaign. The deployment of vigilante groups, reportedly also used to intimidate political opponents, was successfully opposed in court by some opposition parties. Based on observers and media reports, at least 68 people were killed in election-related violence since the official start of the campaign on 28 September. On 22 February, a further peace agreement was signed and aimed at the post-election environment.

The rules on campaign spending are reasonable in scope, but institutional weaknesses, underpinned by inadequate resources and gaps in the law, led to mixed levels of financial accountability by political actors and third parties. EU EOM observers noted that INEC endeavoured to monitor campaign spending with

modest human resources. INEC also teamed up with other state bodies to tackle illicit money in the campaign. Days ahead of elections the EFCC reportedly seized some 32 million Naira in funds seemingly intended for vote buying. On election day, teams of officers of the EFCC also visited polling units in efforts to deter corruption and made arrests in at least three states.

EU EOM observers noted widespread allegations and accusations of corrupt practices, including vote buying and buying of PVCs. The currency shortage also fed allegations of attempts to financially suffocate political campaigns and of illegal hoarding of currency, the latter confirmed in media reports of the arrest of banking officials. Meanwhile, official spending by political parties in traditional media and online was scant. In the broadcast media, it was attributed to a positive new requirement for outlets to record and report all revenues from political advertising as well as mandatory pre-approval of all campaign ads by the advertising regulator. Some 84 per cent of all political ads on TV and radio were for APC and PDP, who also were the main spenders on social media. According to Meta Ad Library, during the campaign only about NGN 13,500,000 (EUR 27,000) was spent on political ads by contestants or third parties.

MEDIA

Media offered an extensive coverage of the campaign, despite economic hardship, institutional pressures, and electoral violence. However, with stories about the Naira swap, and APC and PDP mutual and intraparty mudslinging dominating the newscasts, little space was left for scrutiny of contestants' policies. Alarming and divisive conspiracy theories, circulating online, shaped political discussions on TV and radio, and distorted the information environment to the detriment of voters. Positively, many outlets engaged in fact-checking, promoted voter information, and probed INEC's election preparations.

Media freedom continued to be constrained by systemic drawbacks. Those include federal government and governor interference and pressure on news outlets, symbiotic relationships between politicians and some media houses, as well as unpunished harassment of and threats to journalists. Over the last eight months, at least 17 journalists who made critical comments on politically sensitive topics offline or online, were detained or questioned by police for inciting disturbance, for defamation or for similar, vaguely defined offenses, which do not conform to Nigeria's regional and international commitments.

With a few exceptions, broadcast media, as monitored by the EU EOM, equitably divided news coverage between the APC and PDP. Meaningful visibility was given also to LP and NNPP. The overall tone was negative for the two lead parties, as up to 70 per cent of political news stories were built on direct quotes of APC and PDP officials who derided each other. Talk shows on TV and radio focused on hardships or political animosities, with contestants shunning questions on their policies. While lively, such coverage did not stimulate an issue-based debate and, coupled with confusing and malign content that migrated across all media platforms, reduced voters' informed participation in the elections. Voters could not compare lead presidential candidates directly, as APC and PDP rebuffed public debate offered by media.

President Buhari was given a positive coverage within the news across all media monitored, primarily praising his legacy through newly inaugurated infrastructure projects, but rarely alluding to his endorsement of Tinubu. The share of news about the president was 35 per cent on state-run NTA, around 20 per cent on all monitored radio stations and about 12 per cent on private TVs.

While no actions were taken against APC and PDP candidates who used inflammatory language during rallies, National Broadcasting Commission (NBC) disproportionately penalised two national TV stations who quoted those party officials in their broadcasts. NBC's sanction did not allow for a due process, unduly impeded media freedom and fostered self-censorship at editorial level. EU EOM observers reported journalists abstain from critical reporting, fearing retribution from the governor in at least 20 states.

SOCIAL MEDIA AND DIGITAL RIGHTS

There was a rapid migration of information between all social media platforms, as well as the dominant messaging app WhatsApp, all of which political camps actively used to spread their messages. However, the vibrant online environment has not translated into a greater voter awareness; the EU EOM found that only one in ten posts by key contestants were related to their electoral programme. In addition, influential members of lead parties regularly spread unverified or even false information targeting the opponents, while critical reporting was at times also referred to as 'fake news' by some political actors. This worsened an already opaque information environment, marred by a plethora of misleading content.

Harmful content, reportedly produced by political camps as well as various individuals to gain financial or other benefits, targeted actors across the political spectrum, sometimes including INEC or the mainstream media. False narratives constructed based on ethnic or religious sentiments were effectively conveyed using simple images/videos. Overall, dangerous ethnic-based language, perceived as a form of hate speech in the Nigerian context, appeared in comments sections on various platforms. Few female candidates actively campaigned on social media, in part due to fear of widespread, gender-based online harassment.

Social media platforms put in place some measures to prevent abuse, including flagging frequently forwarded content (WhatsApp) or giving selected state authorities and some fact-checking organisations access to report content for faster verification (TikTok and Meta). However, the level of capacity devoted to verification of malicious content appeared insufficient, while notably Twitter's engagement on information integrity has been negligible. The Nigerian FactCheckers coalition, 12 separate civil society and media organisations, tackled the large amount of false on-line content and contributed to raising awareness of the dangers of disinformation.

In recent years, the Nigerian authorities put forward several legislative initiatives with the potential to curb internet freedom, but these have not been enacted and the online environment is still largely unregulated, although some state agencies have stronger powers with implications for the online environment. On the other hand, freedom of expression in the media and on the internet is restricted by vague legal provisions, such as "cyberstalking" in the 2015 Cybercrime Act, with penalties of up to three years in prison, and disclosure of "*classified matters*" included in the Official Secrets Act. This promotes self-censorship or pushes authors of articles critical of those in power to publish anonymously under a hidden identity online.

PARTICIPATION OF WOMEN AND OTHER MARGINALISED GROUPS

Political inclusion and participation among marginalised groups remain a significant challenge although INEC made some positive effort, notably for persons with disabilities. Other legal restrictions impair participation of marginalised groups and contrary to international commitments. For example, the right to stand depends on mandatory political party membership and minimum educational qualifications.

Women accounted for less than 10 per cent of candidates, a continuing decline since 2010, underscoring a lack of affirmative action at odds with the Convention on the Elimination of all Forms of Discrimination against Women and constitutional guarantees for equality. The defeat of proposed laws for inclusion in 2022 marked another setback for women's political rights. Ahead of these elections, at least two women candidates, including one for governor, faced unsuccessful efforts by their parties to exclude them. Incentives for women to contest party primaries free of charge were not followed by genuine supports, as those availing of such opportunities often faced criticism from their own party for not contributing to party funds. Impediments from abuse and intimidation, including on-line, are widely reported. EU EOM observers also noted that women candidates face significant challenges campaigning due to financial constraints and social resistance. INEC states that over 60 per cent of its staff are women, however key decision-making posts are overwhelmingly occupied by men. Among 36 RECs only three are women.

The courts have in recent years vindicated the right to vote of persons in detention, but this has not been acted upon. INEC took positive steps to improve outreach and voter education as well as enhancing facilities for voting for persons with disability.

INEC has a legal duty to ensure, as far as possible, Internally Displaced Persons (IDPs) are not disenfranchised. There is a lack of reliable data on IDPs, though estimates vary from 1.1 to 3 million IDPs, many dispersed in the population. INEC issued a brief framework document for voting by IDPs, though it lacked detail for assuring effective implementation. Ahead of elections, a lack of planning was evidenced in reports of non-distribution of PVCs to large numbers of IDPs, notable in Benue state. Additionally, EU EOM Observers reported inconsistent procedures for polling units and voter awareness for IDPs.

CITIZEN AND INTERNATIONAL OBSERVATION

A high number of civil society organisations observed different aspects of the election and issued several pre-election reports contributing to awareness. CODE deployed some 7,000 accredited observers, Yiaga some 4,000, and the Situation Room and the CDD approximately 5,000. Yiaga is conducting a parallel vote tabulation for the presidential election. The CLEEN Foundation monitored the role of the security services in elections. Kimpact plans to conduct a specific post-election observation of election petition tribunals. Election day observation was also conducted by various religious entities. International observer groups included ECOWAS, the African Union, the Commonwealth, and NDI/IRI.

VOTING, COUNTING AND TABULATION

The EU EOM observers assessed that the atmosphere during the voting was overall peaceful. There was late opening in almost all polling units observed, mainly due to delayed arrival of sensitive materials and polling staff. Most opened within two hours of the designated time. In several locations, particularly in the South-South and South-East, voting started as late as five hours after scheduled opening or not at all. Positively, EU EOM observers noted that voters queuing after 2.30 pm were allowed to vote.

Generally, voting went smoothly in most locations observed. Both PDP and APC were well represented, while, the LP had up to half as many agents present. Voters, who were reassigned to a new polling unit, had difficulties in identifying correct polling unit. In 100 of 240 observed polling units, the layout did not sufficiently protect secrecy of the vote; in more than half the voters did not mark the ballot in secrecy. BVAS was not functioning properly in 25 of 240 polling units observed. Observers reported that facial as opposed to fingerprint recognition was mostly used, similarly to the mock exercise. EU EOM observers reported that key polling procedures were not always followed. In 32 of observed polling units, the voter register was not always ticked. Observers reported underage voting in Sokoto and Kano.

The EU EOM observed that counting was undertaken in full public view. However, the overall conduct was negatively assessed by observers in 9 of 37 observations. It evidenced poor attention to procedures for completion of forms and for packing and sealing of sensitive materials. In 16 of 37 observed polling units, staff had difficulties understanding and completing results forms. The figures in the results forms did not reconcile in 9 out of 37 of observations. In 24 out of 37 units, the results were not posted publicly and in 22 of 37 units, the form was not uploaded using BVAS.

Both, security agencies and media recorded violent attacks on polling units, and harassment of voters in at least 16 states, with Lagos, Kano, Rivers, and Imo reportedly being most affected. INEC cancelled elections in seven polling units in Kogi and suspended voting in 141 units in Bayelsa, while audio-visual materials in media and online indicated a much larger scale of no voting or disruptions due to security problems and extremely late dispatch of election materials. On 26 February, voting continued in some polling units in at least six states. INEC did not provide comprehensive information on how many polling units had no or delayed voting, nor did it offer a clear solution on how to ensure the right to vote nation-wide.

On elections night, EU EOM observers witnessed chaotic, disorganised, and tense conditions at generally overcrowded collation centres. In many instances collation officers were not on the site as polling staff arrived, many with incomplete forms, non-transmitted data, and sensitive material not properly packed. Many collations centres at ward level were not opened at all, particularly in the South-South and South-East where presiding officers were sent directly to the LGA collation centres. The EU EOM is continuing its observation, while noting improvements in the organisation of the collation.

While the collation was ongoing, the presidential result forms from polling units were not on the IReV portal, though Senate and House of Representative results were slowly published. Presidential election result forms only started to be uploaded after 10 pm on election day raising concerns, with the total number of forms reaching only 20 per cent by noon 26 February and several were illegible. Only later the same evening, INEC explained the delay with “technical hitches.”

ELECTORAL DISPUTES

The Courts face significant financial resource challenges as well as numerous vacant judicial offices, while being overburdened by high volumes of election related cases. Before election day, some court decisions were made at the expense of electoral justice leading EU EOM interlocutors to criticise various rulings as too technical, some entailing belated primary re-runs or substitutions of perceived legitimate candidates. Such cases exposed the judiciary to allegations of political interference and poor decision-making eroding public trust.

By 23 February, there were at least 1250 pre-election cases, among them at least 600 in the Court of Appeal and at least 80 appealed to the Supreme Court, underlining a highly litigious electoral environment. Most cases involved aspirants and political parties disputing aspects of the 2022 primary processes. Court orders led to the inclusion to the candidate lists of at least 30 Senate and 22 House of Representative candidates. Many groundless and vexatious actions were also initiated by aspirants.

Positively, recent legal reforms moved original jurisdiction on pre-election cases from the state to Federal High Courts (FHC) in efforts to curtail conflicting decision-making. However, as cases kept emerging, appeals stacked up in the higher courts close to elections and not all such matters could be completed ahead of polls, thus leaving ongoing uncertainty for multiple candidates.

An electronic version of this Preliminary Statement is available at nigeria2023.eueom.eu.

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